

Boerne Unified Development Code

Preliminary Draft

October 6, 2020

Table of Contents

| | |
|---|------------|
| CHAPTER 1: GENERAL PROVISIONS | 1 |
| 1.1 TITLE..... | 2 |
| 1.2 ENABLING LEGISLATION | 2 |
| 1.3 PURPOSE OF THE UNIFIED DEVELOPMENT CODE | 2 |
| 1.4 EFFECTIVE DATE | 2 |
| 1.5 TRANSITION | 2 |
| 1.6 APPLICABILITY | 3 |
| 1.7 CONSISTENCY WITH THE MASTER PLAN | 3 |
| 1.8 INTERNAL CONSISTENCY..... | 3 |
| 1.9 CONSISTENCY WITH OTHER REGULATING DOCUMENTS | 3 |
| 1.10 AUTHORITY..... | 4 |
| 1.11 CONSTRUCTION AND INTERPRETATION | 4 |
| 1.12 DECISION AGENTS AND RULES GOVERNING DECISION-MAKING..... | 5 |
| 1.13 SEVERABILITY | 14 |
| 1.14 SAVINGS | 14 |
| 1.15 INDEBTEDNESS | 14 |
| 1.16 REPRESENTATION OF FACTS..... | 14 |
| CHAPTER 2: PROCEDURES | 15 |
| 2.1 GENERAL APPLICATION PROCEDURES..... | 16 |
| 2.2 AMENDMENTS TO THE UNIFIED DEVELOPMENT CODE | 24 |
| 2.3 AMENDMENTS TO THE COMPREHENSIVE PLAN..... | 25 |
| 2.4 VESTED RIGHTS AND RIGHTS OF CONTINUED USE | 26 |
| 2.5 ZONING PROCEDURES..... | 32 |
| 2.6 PLATTING PROCEDURE | 49 |
| 2.7 CONSTRUCTION PERMITS AND CONSTRUCTION PROCEDURES | 78 |
| 2.8 DEDICATIONS AND ASSESSMENTS..... | 89 |
| 2.9 FINANCIAL OBLIGATIONS..... | 97 |
| 2.10 SIGNAGE | 101 |
| 2.11 HISTORIC PRESERVATION | 105 |
| 2.12 PROPERTY OWNERS AND HOMEOWNERS ASSOCIATIONS | 116 |
| CHAPTER 3: ZONING | 121 |
| 3.1 ZONING PROVISIONS..... | 122 |
| 3.2 ZONING MAP | 125 |
| 3.3 NONCONFORMITIES..... | 125 |
| 3.4 BASE ZONING CATEGORIES..... | 129 |
| 3.5 DIMENSIONAL STANDARDS FOR BASE ZONING CATEGORIES | 134 |
| 3.6 PERMITTED USES OF BUILDINGS AND LAND | 139 |
| 3.7 PERMITTED USE TABLES | 164 |
| 3.8 FLEXIBLE ZONING TOOLS..... | 174 |
| 3.9 OVERLAY DISTRICTS | 178 |
| CHAPTER 4: RESIDENTIAL SITES..... | 194 |
| 4.1 GENERALLY | 195 |
| 4.2 RESIDENTIAL BUILDINGS..... | 195 |
| 4.3 RESIDENTIAL DRIVEWAYS AND PARKING AREAS | 196 |
| 4.4 RESIDENTIAL FENCES AND WALLS | 197 |
| 4.5 RESIDENTIAL GARAGES AND ACCESSORY STRUCTURES | 198 |

| | | |
|---|---|------------|
| 4.6 | RESIDENTIAL LANDSCAPING | 199 |
| 4.7 | RESIDENTIAL SCREENING | 201 |
| 4.8 | ON-SITE RESIDENTIAL AMENITIES..... | 201 |
| CHAPTER 5: NONRESIDENTIAL SITES | | 202 |
| 5.1 | GENERALLY | 203 |
| 5.2 | ACCESS AND ON-SITE CIRCULATION..... | 203 |
| 5.3 | NONRESIDENTIAL BUILDINGS | 208 |
| 5.4 | NONRESIDENTIAL FENCES AND WALLS | 208 |
| 5.5 | NONRESIDENTIAL LANDSCAPING..... | 209 |
| 5.6 | ON-SITE PARKING FOR NONRESIDENTIAL PROPERTIES | 214 |
| 5.7 | OUTDOOR STORAGE AND DISPLAY | 221 |
| 5.8 | SCREENING AND BUFFERS..... | 222 |
| CHAPTER 6: SUBDIVISION DESIGN | | 226 |
| 6.1 | GENERALLY | 227 |
| 6.2 | LOTS..... | 228 |
| 6.3 | BLOCKS..... | 231 |
| 6.4 | EASEMENT REQUIREMENTS | 233 |
| 6.5 | SURVEY REQUIREMENTS..... | 234 |
| 6.6 | PERIMETER STRUCTURES FOR RESIDENTIAL SUBDIVISIONS | 234 |
| 6.7 | PUBLIC AND COMMUNITY FACILITIES..... | 235 |
| 6.8 | CONSERVATION SUBDIVISIONS..... | 235 |
| CHAPTER 7: INFRASTRUCTURE DESIGN | | 237 |
| 7.1 | PROVISIONS | 238 |
| 7.2 | TRANSPORTATION NETWORK AND RIGHT OF WAY DESIGN | 239 |
| 7.3 | STREET SPECIFICATIONS AND CONSTRUCTION STANDARDS..... | 251 |
| 7.4 | ACCESS RESTRICTED ENTRANCE DESIGN STANDARDS | 254 |
| 7.5 | WATER AND SEWER | 255 |
| 7.6 | DRAINAGE | 257 |
| 7.7 | RECLAIMED WATER | 259 |
| 7.8 | GAS DISTRIBUTION | 260 |
| 7.9 | UTILITY EXTENSIONS AND OBLIGATIONS | 261 |
| 7.10 | PARK AND TRAIL DESIGN | 265 |
| CHAPTER 8: ENVIRONMENTAL DESIGN | | 269 |
| 8.1 | FLOODPLAIN MANAGEMENT | 270 |
| 8.2 | WATERSHED PROTECTION | 280 |
| 8.3 | TREE PRESERVATION..... | 288 |
| 8.4 | STEEP SLOPES | 291 |
| 8.5 | DESIGN CRITERIA FOR OPEN SPACES..... | 292 |
| 8.6 | RAINWATER HARVESTING | 295 |
| 8.7 | LOWER GLENROSE AQUIFER..... | 297 |
| CHAPTER 9: SIGNAGE..... | | 300 |
| 9.1 | GENERAL SIGN PROVISIONS | 301 |
| 9.2 | PROHIBITED SIGNS..... | 303 |
| 9.3 | EXEMPTIONS..... | 304 |
| 9.4 | NONCONFORMING SIGNS | 305 |
| 9.5 | SIGN ILLUMINATION..... | 305 |
| 9.6 | SIGN MEASUREMENT | 307 |
| 9.7 | GENERAL SIGN STANDARDS | 309 |

| | |
|---|------------|
| APPENDICES | 321 |
| APPENDIX A: DEFINITIONS | 322 |
| APPENDIX B: PLANT LISTS..... | 359 |
| APPENDIX C: SIGN MEASUREMENT ILLUSTRATIONS..... | 365 |
| APPENDIX D: DARK SKY LIGHTING REQUIREMENTS..... | 375 |

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Chapter 1 General Provisions

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1.1 TITLE

This Chapter shall be known and may be cited as “The General Provisions of the Unified Development Code of the City of Boerne”, or as “the General Provisions of the UDC,” or as the “General Provisions.”

1.2 ENABLING LEGISLATION

The regulations within this Unified Development Code (UDC) are authorized under the authority of the Constitution and other laws of the State of Texas, including Chapters 211 and 212 of the Texas Local Government Code, and the City's home rule authority as provided in the City Charter.

1.3 PURPOSE OF THE UNIFIED DEVELOPMENT CODE

The purpose of the Unified Development Code (UDC) is to:

- Promote the health, safety, morals and general welfare of the City;
- Implement the Master Plan, as it relates to land use and development;
- Consolidate the regulations pertaining to land use and development in a logical and orderly manner;
- Make the City's regulations and requirements more convenient to access, use, distribute and read;
- Preserve the urban form, historic architecture and culture of the City;
- Ensure continued stewardship of the natural resources of the City; and
- Coordinate infrastructure planning and design with site planning and design so that public infrastructure services are adequate and aligned with private development

1.4 EFFECTIVE DATE

The Unified Development Code shall be effective 120 days after its adoption. At that time, all former regulations of zoning, platting, signage, tree preservation, site construction, floodplain management and land development activity shall be fully repealed and replaced by the Unified Development Code.

1.5 TRANSITION

A. VIOLATIONS CONTINUE

Any violation of previous regulations in effect prior to the effective date of this Unified Development Code shall continue to be a violation under this Code and shall be subject to the penalties and enforcement set forth herein. Payment shall be required for any civil penalty assessed under the previous regulations, even if the original violation is no longer considered a violation under this Code.

B. NONCONFORMITIES

When a lot, structure, building or site was conforming to the regulations in effect prior to the effective date of this Unified Development Code, but is no longer conforming with City regulation, as of the effective date of this Code, such lot, structure, building site or sign shall be deemed nonconforming, and shall be controlled by 3.3 Nonconformities. Signs that are deemed nonconforming shall be controlled by 9.4 Nonconforming Signs.

C. COMPLETE APPLICATIONS

Applications that have been deemed complete prior to the effective date of this Unified Development Code shall be processed in accordance with the regulations in effect prior to the effective date of this Code.

D. PERMITS AND APPROVALS

Permits and approvals granted prior to the effective date of this Unified Development Code shall remain valid until their expiration date.

Permit renewals or extensions may require full compliance with the Unified Development Code, should the permit lapse or expire after the effective date of this Code.

1.6 APPLICABILITY

A. CONFORMITY REQUIRED

No building or structure shall be used or occupied, no land shall be subdivided, and no building, structure, land or part thereof shall be developed which does not conform to the Unified Development Code.

B. CORPORATE LIMITS

The Unified Development Code shall apply in its entirety to all land, buildings, structures and uses, except as otherwise stated, within the corporate limits of the City, as those limits may from time to time be adjusted through annexation, disannexation or otherwise.

C. EXTRATERRITORIAL JURISDICTION

The following chapters of the Unified Development Code shall apply, except as otherwise stated, within the extraterritorial jurisdiction of the City, as that area may from time to time be adjusted:

1. Chapter Two: Procedures, except for any procedures related to the use of land or buildings
2. Chapter Six: Subdivision Design
3. Chapter Seven: Infrastructure Design
4. Chapter Eight: Environmental Design
5. Chapter Nine: Signage

1.7 CONSISTENCY WITH THE MASTER PLAN

The UDC is consistent with the Boerne Master Plan. An amendment to the text of the UDC is considered consistent and in accordance with the Master Plan if it complies with the goals, objectives, policies and strategies contained therein, as the Master Plan may be amended from time to time. Rezoning, platting and development shall be in a manner consistent with the Master Plan.

1.8 INTERNAL CONSISTENCY

Whenever one or more provisions of this UDC are in apparent conflict, the provisions shall be construed, if possible, so that effect is given to each provision. The Planning Director shall be responsible for resolving any internal conflicts or inconsistencies. Appeals to such interpretations may be made to the Planning and Zoning Commission, and further appealed to City Council if necessary, except for interpretations pertaining to zoning regulations, which shall be made to the Board of Adjustment. Appeals shall be made in accordance with the procedure for appeals in Chapter Two: Procedures.

1.9 CONSISTENCY WITH OTHER REGULATING DOCUMENTS

A. BETWEEN PRIVATE PARTIES

The UDC does not abrogate or affect any easements, covenants, deed restrictions, property owner association rules or agreements between private parties. Where the UDC is more restrictive than such regulations or agreements, the UDC shall govern.

B. OTHER STATUTES

The use of buildings and land within the City is subject to all other federal, state and local governing regulations as well as the UDC, regardless of whether such other regulations are specifically referenced in the UDC.

1.10 AUTHORITY

Authority under this UDC is vested in and delegated to the officials and decision-makers designated in this Chapter, in the other chapters of the UDC, in the City Code, Charter and constitution, and in the laws of the State of Texas. The omission of a citation in the UDC to any authority conferred upon the officials and decision-makers under the Charter, Constitution or laws of the State of Texas, of the City Code, or the failure to identify in this Chapter authority conferred by other provisions of the UDC shall not be construed as limiting the actions of such officials and decision-makers taken in accordance with and in reliance upon such authority.

1.11 CONSTRUCTION AND INTERPRETATION

A. INTERPRETATION

The UDC shall be liberally interpreted in order to further its underlying purposes.

B. REFERENCES TO LAWS AND STATUTES

Any reference to federal or state laws or any other official code or regulation shall be construed to be a reference to the most recent enactment of the particular law, and shall include any amendments to it, as may be adopted from time to time.

C. DEFINITIONS

The meaning of any and all words, terms, or phrases in the UDC shall be construed in accordance with Appendix A, Definitions. Any word, term or phrase that is not defined in Appendix A shall be interpreted in accordance with common usage and with the context of the use.

D. ILLUSTRATIONS

The UDC contains numerous graphics, pictures, illustrations, and drawings in order to assist the reader in understanding and applying the code. To the extent that there is any inconsistency between the text of the UDC and any such graphic, picture, illustration, or drawing, the text controls, unless otherwise provided in the specific section.

E. CROSS REFERENCES

References to other regulations or provisions are for the convenience of the reader. Lack of a cross-reference does not exempt a land, building, structure or use from other regulations.

F. TERMINOLOGY

1. "Shall" is always mandatory and is not permissive.
2. "May" is permissive.
3. "Should" is advisory and is intended to inform applicants of preferred development forms and activity in the City.

G. TENSES AND NUMBERS

Unless the context clearly indicates to the contrary, words used in the present tense include the future, words used in the singular include the plural, and words used in the plural include the singular.

H. GENDER

Use of the masculine gender includes the feminine gender and the use of the feminine gender includes the masculine.

I. TIME

The time within which an action is to be completed shall be computed by excluding the first and including the last day, except that if the last day is a Saturday, Sunday or legal holiday, that day shall be excluded. Unless otherwise indicated, any references to days shall mean calendar days.

1.12 DECISION AGENTS AND RULES GOVERNING DECISION-MAKING

A. CITY MANAGER

The City Manager or his designee is hereby authorized and directed to enforce all the provisions of the UDC. Wherever authority is granted to the City Manager, such authority is likewise granted to the City department or staff person which the City Manager designates.

B. CITY COUNCIL

1. Role and Responsibilities

- a. Receives and acts upon reports and recommendations by the City Manager, the Planning and Zoning Commission, the Historic Landmark Commission and the Design Review Committee.
- b. Adopts amendments to the zoning maps and the text of the UDC.
- c. Acts to amend the City's Master Plan.
- d. Designates historic districts and landmarks.
- e. Grants ad valorem tax exemptions to historically significant sites in need of tax relief to encourage their preservation.

C. PLANNING AND ZONING COMMISSION

1. Role and Responsibilities

- a. The Planning and Zoning Commission recommends a comprehensive/master plan for the development of the City, recommends amendments to the zoning maps and the text of this ordinance, and conducts studies and makes recommendations on other matters relating to the planning and development of the City.
- b. The Planning and Zoning Commission decides all plats.

1. Establishment of the Planning and Zoning Commission

a. Appointment and Removal of Members

- i. Pursuant to Texas Local Government Code, Sec. 211.007 et. seq. there is hereby established a Planning and Zoning Commission which shall consist of seven (7) members, whom the Mayor shall appoint with the consent and approval of the City Council, for overlapping three-year terms.
- ii. The Commission members may be removed by the City Council for cause after a public hearing before the City Council and with reasonable notice of the charges.
- iii. Vacancies in the Commission membership shall be filled by City Council appointment for the unexpired term of the vacancy.

b. Term of Office

- i. The term of office of Commission members shall be three (3) years.

- ii. Each term shall begin on June 1 following the appointment and expire May 31.
- iii. Eligible members must reside within the City limits or within the extraterritorial jurisdiction of the City of Boerne. Members are subject to the City of Boerne's Ethics Ordinance. Each of the seven positions on the Commission shall be assigned a numbered place.
- c. The members of the Planning and Zoning Commission shall be identified by place numbers one through seven.
- d. Upon adoption of this ordinance, places one, four and seven existing appointments shall run through 6/30/2020 and places two, three, five and six existing appointments shall run through 6/30/2021. After these initial terms expire, all terms shall be for three years.

2. Powers and Duties of the Commission

The Commission shall exercise all powers vested in such bodies by Texas Local Government Code, Chapter 211. In addition, in order to effectuate and carry out the purposes of this ordinance, the Planning and Zoning Commission is also vested with the following powers and/or duties:

- a. To prepare and recommend to City Council for adoption a comprehensive plan for the City.
- b. To prepare and recommend to City Council for adoption subdivision regulations and to approve or disapprove subdivision plats.
- c. To prepare and recommend to City Council for adoption zoning regulations and to recommend zoning district boundaries, including the power to hold public hearings, enforce the regulations, and recommend changes in the regulations and district boundaries.
- d. To prepare and recommend adoption of urban conservation, rehabilitation and redevelopment programs allowed by state law.
- e. To report on planning and zoning problems that are referred to it for review by the City Manager or the City Council.
- f. To prepare such surveys, reports and studies as are required for the above and other authorized purposes.

3. Rules and Procedures of the Commission

- a. Selection of Officers
 - i. The officers of the Planning and Zoning Commission shall be a Chair, a Vice Chair, and a Secretary.
 - ii. The Chair shall be designated by the City Council.
 - iii. The Vice Chair and the Secretary shall be elected by the Commission members and begin serving during the Commission's regular meeting in June of each year, and they shall serve until the next election of officers.
- b. Presiding Officer and Secretary.
 - i. The Chair shall preside over all meetings of the Commission.
 - ii. The Vice Chair shall preside in the absence of the Chair, and the Secretary shall preside in the absence of both the Chair and the Vice Chair.
 - iii. In the absence of the Secretary, a Secretary pro tem shall be appointed by the Chair or Vice Chair as appropriate.
- c. Quorum

A quorum shall consist of four members of the Commission. In no case shall less than three votes in favor of a motion constitute a majority.

d. Commission Meetings

- i. Regular meetings shall be held at a regular location and time, or when called by the Chair. The Commission shall have at least one meeting each quarter.
- ii. Special meetings may be called by the Chair, Vice Chair or the City Manager (if the Chair or Vice Chair is not available) provided that written notice thereof is provided to each member 72 hours prior to the time of the meeting.
- iii. No approval, disposal or final action shall be taken on any zoning application unless all notice requirements mandated by state statute, this ordinance or any other ordinance pertaining to the application or notice requirements have been met.
- iv. Regular and consistent attendance is expected at monthly Planning and Zoning meetings, the first Monday of each month and any special meetings that may be called.
- v. Members missing three or more consecutive meetings or attending less than 75% of the posted meetings on a 12-month rolling average, are subject to removal by the City Council.

e. Motions and Discussion

- i. Any motion by a member shall require a second.
- ii. After a motion has been made and duly seconded, discussion of the motion may be had for a reasonable time.
- iii. Discussion by members or by opponents or proponents of a question before the Commission shall terminate whenever the Chair shall so rule.

f. Questions of Procedure or Qualification

Whenever any question of procedure or qualification is raised at a Commission meeting, the Chair shall rule thereon.

g. Voting on Motions

Voting on zoning applications shall be by record vote. Voting on all other questions may be by voice, provided that a roll-call vote shall be taken upon demand of any member.

h. Conflict of Interest

The Planning and Zoning Commission shall follow the same conflict of interest statement as outlined in the City Charter.

i. Staff Reports Required

The Commission shall take no final action on any matter before it without first obtaining reports from the City departments concerned.

j. Public Statements by the Commission

Releases and statements to the public and press in the name of the Commission shall be made only by the Chair or the Chair's designated representative.

k. Use of Robert's Rules

Any question of order or procedure not covered by this ordinance shall be decided according to the latest edition of Robert's Rules of Order, where it may be applicable.

l. Commission Records

Minutes and records shall be kept of all proceedings of the Commission as a matter of public record.

D. BOARD OF ADJUSTMENT

1. Establishment of the Board

There is hereby established a Zoning Board of Adjustment consisting of five members and four alternate members, whom the Mayor shall appoint with the consent and approval of the City Council. The Board shall be controlled by and have all powers vested by Texas Local Government Code, Sec. 211.008 et. seq.

2. Powers of the Board

a. The Board shall have the following powers:

- i. To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by an administrative official in the administration or enforcement of the UDC.
- ii. To hear and decide special exceptions to the terms of the UDC in those specific instances, if any, where allowed by the UDC.
- iii. To authorize variances from the terms of the UDC as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of the UDC will result in unnecessary hardship, and so that the spirit of the UDC shall be observed and substantial justice done.

b. In exercising these powers the Board may, in conformity with the provisions of the UDC, reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from and make such order, requirement, decision or determination as ought to be made, and to that end the Board shall have all the powers of the officer from whom the appeal is taken.

3. Board Bylaws and Rules of Proceeding

- a. The Board of Adjustment may adopt their own bylaws and rules of procedure for hearing cases, provided that such bylaws and rules are not in conflict with applicable laws or any provisions of the City Charter.
- b. All bylaws and procedures adopted by the Board of Adjustment shall be reviewed and approved by the City Council.

4. Terms and Removal of Members

All members of the Board, both regular and alternate, shall be appointed by the City Council and serve for a term of two (2) years. The term of office begins at the first meeting in June following the appointment. They shall be removable for cause by the City Council upon written charges and after a public hearing before the City Council following reasonable notice of the charges. Eligible members must reside within the City limits or its

Extra-Territorial Jurisdiction. Members are subject to the City of Boerne's Ethics Ordinance.

5. Vacancies

Vacancies in the regular or alternate memberships of the Board shall be filled by the Mayor for the unexpired term of the vacancy.

6. Appointment and Powers of Chair

The Mayor shall appoint from among the members of the Board a Chair and an Acting Chair, who shall serve in the absence of the Chair. The Chair, or in the Chair's absence the Acting Chair, may administer oaths and compel the attendance of witnesses.

7. Minimum of Four Members

All cases heard by the Board shall be heard by a minimum of four members. One or more of the alternate members of the Board shall serve in the absence of one or more regular members when requested to do so by the Mayor or the Mayor's duly authorized representative.

8. Board Meetings

- a. The Board may meet monthly or at the call of the Chair, or in the Chair's absence the Acting Chair, or at such other times as the Board may determine.
- b. Alternates shall only vote on cases brought before the Board. They shall not vote on board matters.
- c. Members missing three or more consecutive meetings or attending less than 75% of the posted meetings on a 12-month rolling average, are subject to removal by the City Council.
- d. All Board meetings shall be conducted in accordance with the Texas Open Meetings Act.

9. Minutes and Records

The Board shall keep minutes of its proceedings, showing the vote of each member upon each question, or, if absent or failing to vote, indicating such fact, and it shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the City Manager and shall be a public record.

10. Conflict of Interest

- a. Each member shall vote on all agenda items, except on matters involving a conflict of interest, substantial financial interest or substantial economic interest under state law. Restrictions on participation of members with a conflict of interest shall be in keeping with Chapter 171 of the Texas Local Government Code, Vote Required to Act.
- b. The concurring vote of 75 percent of the members or alternate members of the Board present and voting, at a meeting for which a quorum has been established, shall be necessary to reverse any order, requirement, decision or determination of an administrative official, or to decide in favor of the applicant on any matter upon which the Board is required to pass under the UDC, or to effect any variation in the UDC. A simple majority shall be required for board business matters.

11. Findings of Fact Required

- a. Every decision of the Board shall be based upon findings of fact and every finding of fact shall be supported in the record of the Board's proceedings.
- b. The enumerated conditions required to exist on any matter upon which the Board is required to pass under this Article or to affect any exception or variance to the UDC shall be construed as limitations on the power of the Board to act.
- c. A mere finding or recitation of the enumerated conditions unaccompanied by findings of specific facts shall not be deemed findings of fact and shall not be deemed to constitute compliance with this Article.
- d. The findings of fact and associated decisions of the Board shall be reported within 30 days to the City Council and the Planning and Zoning Commission.

12. Limitations

- a. All administrative remedies shall have been exhausted prior to hearing by the Board of Adjustment.
- b. The powers of the Board shall be so construed that the UDC and the official zoning map are strictly enforced.
- c. The Board of Adjustment shall not grant a variance for a use that is not permitted for a property, according to the zoning designation for said property.
- d. The Board of Adjustment shall not grant a variance for any parcel of property or portion thereof upon which a site plan, development plan, preliminary plat or final plat, where required, is pending before the Planning and Zoning Commission or City Council.

E. HISTORIC LANDMARK COMMISSION

1. Establishment of the Commission

There is hereby established a Commission to be known as the "Historic Landmark Commission" of the City of Boerne, Texas, hereinafter referred to in this Article as the "Landmark Commission".

2. Role and Responsibilities

The Historic Landmark Commission recommends the designation of historic districts and landmarks, recommends the granting of tax exemptions to historically significant sites in need of tax relief, approves the issuance of building permits and certificates of appropriateness for work involving landmarks and structures in historic districts, and works in general to preserve the City's historic heritage.

3. Qualifications of Commission Members

To the extent possible, the City Council shall appoint members to the Landmark Commission who have a background in architecture, urban design, history, or similar professions, or have an interest in historic preservation.

4. Terms of Office

The term of office shall be for four (4) years. The Commission consists of seven (7) members, whom the Mayor shall appoint with the consent and approval of the City Council. The Mayor shall appoint the Chairman and Vice Chairman. The term of office begins at the first meeting in June following the appointment. Eligible members must live within the City limits. Commission members are subject to the City of Boerne's Ethics Ordinance. Any vacancy occurring shall be filled by appointment only for the unexpired portion of the term. Any member may be removed by the City Council for cause after a

public hearing before the City Council and with reasonable notice of the charges. Members missing three or more consecutive meetings or attending less than 75% of the posted meetings on a 12-month rolling average, are subject to removal by the City Council.

5. Commission Meetings

The Historic Landmark Commission shall meet on a monthly basis, the first Tuesday of each month as necessary and at any special meetings as called.

a. Regular Meetings

Regular meetings shall be held at the call of the Chair or at the request of any four Landmark Commission members. All Landmark Commission members shall have seven working days prior notice of the meeting.

b. Special Meetings

The Chair shall call a special meeting within five working days of receiving notice from the City Manager to consider the issuance of a certificate of appropriateness.

6. Voting and Quorum

Four members present shall constitute a quorum. All issues shall be decided by a majority vote of those members present and voting, except that in those instances where only a quorum of four members is present at a meeting, all issues shall be decided by at least three affirmative votes.

7. Conduct of Business

The Landmark Commission shall adopt rules for the conduct of its business and election of officers other than the Chair and Vice-Chair. Minutes shall be kept of all meetings and shall be available for public inspection.

8. Hearing and Notice Requirements

The Landmark Commission shall not act upon any request for historic landmark designation or upon any application for a building permit or certificate of appropriateness without having first given the applicant for the designation, permit or certificate adequate notice of the Commission meeting and his/her right to be present and to be heard if so desired. All meetings, regular or special, shall be conducted in accordance with the Texas Open Meetings Act. Notice of meetings shall be posted on the appropriate bulletin board in City Hall prior to the meeting date in compliance with current State Laws. Notice shall be sufficient if either: (a) the party to be affected receives actual notice by any means; (b) notice is sent to the address shown on any application or permit filed by the applicant, by United States Mail, certified, return receipt requested; or (c) in the absence of any address provided by an applicant, notice is sent to the address for the registered owner as shown by the tax rolls of the Kendall County Appraisal District.

9. Investigation and Reports

The Landmark Commission may make such investigations and studies of matters relating to the protection, enhancement, perpetuation or use of historic landmarks, historic districts and included structures, and to the restoration of historic landmarks as the Commission may from time to time deem necessary or appropriate to effect the purposes

of this ordinance. The Landmark Commission may submit reports and recommendations as to such matters to the Mayor and other agencies of the City. In making such investigations and studies, the Landmark Commission may hold such public hearings as it may deem necessary or appropriate.

F. DESIGN REVIEW COMMITTEE

1. Establishment of the Committee

There is hereby established the Design Review Committee of the City of Boerne, Texas.

2. Role and Responsibilities

a. The Design Review Committee:

- i. Administers the design review process for properties within the overlay districts of the City.
- ii. Issues Certificates of Approval for properties and structures located within the overlay districts of the City.
- iii. Comments upon and provides recommendations on actions proposed to other City boards, committees and commissions for any plat or permit for a property located at least partially within any of the overlay districts of the City.

b. The Design Review Committee does not review or provide approval for historic landmarks or for properties in the historic district.

3. Membership

- a. The Design Review Committee shall consist of seven (7) members, whom the Mayor shall appoint with the consent and approval of the City Council.
- b. To the extent possible, members of the Design Review Committee shall have a background in architecture, landscape architecture, engineering, construction, land development, ecology and/or similar professions.
- c. Members shall be residents of the City of Boerne or its Extraterritorial Jurisdiction.
- d. At least one member shall have previously served on the Planning and Zoning Commission, the Historic Landmark Commission or City Council.
- e. At least one member shall be a registered architect or landscape architect.
- f. At least one member shall be a licensed civil engineer.

4. Compensation

The members of the Design Review Committee shall serve without compensation.

5. Officers

- a. The Design Review Committee shall elect a Chairperson and a Vice Chairperson, each of whom shall serve for one year or until his/her successor takes office.
- b. Both the Chairperson and Vice Chairperson shall be eligible for re-election.
- c. The Chairperson shall preside over all Design review Committee meetings.
- d. In the absence of the Chairperson, the Vice Chairperson shall preside.

6. Terms of Office

- a. The term of office shall be four years, or until a successor is appointed.

- b. No member shall serve more than three consecutive terms. Time served while fulfilling a partial term due to vacancy shall not count toward the three-term limit.
 - c. Members who have served three consecutive terms may be reappointed after having rotated off of the Committee for at least one term.
 - d. The term of office begins at the first meeting in June following the appointment.
 - e. Committee members are subject to the City of Boerne's Ethics Ordinance.
 - f. Any vacancy occurring shall be filled by appointment only for the unexpired portion of the term.
 - g. Any member may be removed by the Mayor with consent and approval of Council for cause after a public hearing before the City Council and with reasonable notice of the charges.
 - h. Members missing three or more consecutive meetings or attending less than 75% of the posted meetings on a 12-month rolling average are subject to removal by the City Council.
7. Committee Meetings
- a. The Design Review Committee shall meet on a monthly basis as necessary, and at any special meetings as called.
 - b. Regular meetings shall be held at the call of the Chair or at the request of any five Design Review Committee members.
 - c. All Design Review Committee members shall have seven working days prior notice of the meeting.
 - d. The Chair shall call a special meeting within seven working days of receiving notice from the City Manager to consider the issuance of a Certificate of Approval.
 - e. The Chairperson, or Vice Chairperson in the absence of the Chairperson, shall preside over the meeting, administer oaths and may request the attendance of witnesses.
8. Voting and Quorum
- a. Five members present shall constitute a quorum.
 - b. All issues shall be decided by a majority vote of those members present and voting, except that in those instances where only a quorum of five members is present at a meeting, all issues shall be decided by at least four affirmative votes.
9. Conduct of Business
- a. The Design Review Committee shall adopt rules for the conduct of its business and election of officers other than the Chair and Vice-Chair.
 - b. Minutes shall be kept of all meetings and shall be available for public inspection.
10. Hearing and Notice Requirements
- a. The Design Review Committee shall not act upon any request for a Certificate of Approval without having first given the applicant adequate notice of the Committee meeting and his/her right to be present and to be heard if so desired.
 - b. All meetings, regular or special, shall be conducted in accordance with the Texas Open Meetings Act.
 - c. Notice of meetings shall be posted on the appropriate bulletin board in City Hall prior to the meeting date in compliance with current State Laws.
 - d. Notice shall be sufficient if either:
 - i. the party to be affected receives actual notice by any means;
 - ii. notice is sent to the address shown on any application or permit filed by the applicant, by United States Mail, certified, return receipt requested; or

- iii. in the absence of any address provided by an applicant, notice is sent to the address for the registered owner as shown by the tax rolls of the Kendall County Appraisal District.

11. Investigation and Reports

- a. The Design Review Committee may make such investigations and studies of matters relating to the protection, enhancement, perpetuation or use of structures, or to environmental or landscape preservation of sites, as the Committee may from time to time deem necessary or appropriate to effect the purpose and intent of this Chapter.
- b. The Design Review Committee may submit reports and recommendations as to such matters to the Mayor, City Council, staff, and other agencies, boards, commissions and committees of the City. In making such investigations and studies, the Design Review Committee may hold such public hearings as it may deem necessary or appropriate.

1.13 SEVERABILITY

If any section, paragraph, subdivision, clause, phrase, or provision of the UDC shall be adjudged invalid or held unconstitutional, the same shall not affect the validity of the UDC as a whole, or any part or provision thereof, other than the part so decided to be invalid or unconstitutional.

1.14 SAVINGS

Adoption of the UDC shall neither:

- terminate, dismiss or abate any action now pending under, or by virtue of, prior existing regulations;
- discontinue, abate, modify or alter any penalty accruing or about to accrue;
- affect the liability of any person, firm or corporation at the time of the effective date of the UDC;
- waive any right of the City under any section or provision existing at the time of the effective date of the UDC; nor
- vacate or annul any rights obtained by any person, firm or corporation by lawful action of the City, except as expressly provided in this UDC.

1.15 INDEBTEDNESS

All outstanding taxes, fees, assessments and obligations associated with the property that are owed to the City shall be paid to the City before approval is granted to any application associated with the delinquent property. No approvals shall be granted for an application for any development activity where delinquent taxes, fees or assessments stand. Tax certificates shall be provided by the applicant as required by Section 12.002 of the Texas Property Code.

1.16 REPRESENTATION OF FACTS

It is a violation of the UDC for any person to knowingly or willfully misrepresent or, with intent to deceive, to knowingly or willingly fail to include, any information required by the UDC in any zoning, platting, or development application, or during any public hearing or meeting of the Planning and Zoning Commission, City Council, Board of Adjustment or other City decision-making body. Such a violation shall constitute grounds for denial of the application or revocation of a previously granted approval.

Chapter 2 Procedures

DRAFT

2.1 GENERAL APPLICATION PROCEDURES

This Section establishes general application procedures and internal review procedures that shall apply to all applications for a permit or approval that are set out in this Chapter.

A. KNOWLEDGE OF DEADLINES THE RESPONSIBILITY OF THE APPLICANT

Knowledge of the expiration date and initiation of a request for extension of approval time is the responsibility of the applicant. The City shall not be held accountable for notification of expirations, although it may notify an applicant of the date of expiration.

B. APPLICATION FEES

1. No application shall be reported as complete, and no notification of filing shall be given, unless all fees associated with the application have been received by the City.
2. Application fees shall be submitted to the City Manager.

C. CONCURRENT PROCESSING

1. When concurrent applications are accepted, the applications, though filed concurrently, shall be completed in accordance with the requirements for each individual application.
2. When applications and/or petitions are filed concurrently, the City Manager may:
 - a. process the applications concurrently;
 - b. schedule the applications for the same Planning and Zoning Commission meeting date; and
 - c. schedule the applications for the same City Council meeting date
 - d. If the denial of one application affects the concurrent application, then the concurrent application shall be automatically withdrawn

3. Multiple Zoning Applications

An applicant may concurrently file multiple applications for zoning or rezoning of separate properties, if those properties are part of a single development that is under common ownership or control.

4. Plat Application and Construction Release Permit Application

- a. An application for a Construction Release Permit may be filed concurrently with a final plat application, provided that
 - i. a master development plan has already been approved (without conditions) for the project;
 - ii. the applicant has already received a Letter of Certification for infrastructure documents; and
 - iii. a performance guarantee, if and as applicable, has already been executed for the project or for the phase of the project for which the plat application is being filed

5. Special Use Permits and Zoning

- a. An application for a Special Use Permit may be included as a part of an initial zoning application or a rezoning application, provided that all of the submittal requirements for the respective applications are met.
- b. A Special Use Permit may be granted as an amendment to an ongoing rezoning case before the Planning and Zoning Commission or City Council.

- i. Before granting the amendment, the City Council may issue a courtesy notice to affected parties of the proposed special use and will not require the applicant to submit a new application or pay additional fees other than for the difference (if any) between a conventional case and a special use permit case.
- ii. Such amendment shall then be considered at the next regularly scheduled Planning and Zoning Commission meeting or, in the case of the City Council, at the next regularly scheduled meeting at which zoning cases will be considered.

D. JOINT MEETINGS OF THE CITY COUNCIL AND THE PLANNING AND ZONING COMMISSION

1. Applicability

The City Council and the Planning and Zoning Commission are authorized to conduct joint meetings for, but not limited to, the following:

- a. Comprehensive Plan Amendments
- b. Unified Development Code Text Amendments
- c. Zoning Map Amendments

2. Initiation and Council Action

The City Manager may request expedited action by a request to proceed before the Planning and Zoning Commission and City Council at the same time. Following the conclusion of this joint public hearing, City Council may act on the matter without the necessity of a written report from the Planning and Zoning Commission.

E. PUBLIC NOTICE REQUIREMENTS

1. Content

Notice of hearings required under this chapter, unless otherwise specified in this Code, shall:

- a. identify the date, time, and place of the hearing;
- b. if applicable, describe the property involved in the application by street address, or by acreage and distance to the nearest cross street, or by legal description;
- c. describe the nature, scope, and purpose of the proposed action;
- d. indicate that interested parties may appear at the hearing and speak on the matter; and
- e. indicate where additional information on the matter may be obtained.

2. Mailed notice

- a. When public notice is required, the Director shall deposit such notice into first class mail to property owners within 200 feet of the subject property, not less than 15 days prior to the hearing before the Planning and Zoning Commission.
- b. In computing such period, the day of mailing shall not be counted, but the day of the hearing shall be counted.
- c. Written notice shall be provided to all persons listed on the records of the municipal tax assessor as owners of land subject to the application or as owners of the parcels within 200 feet of the outer boundary of the land subject to the application at the mailing addresses of such persons in the records of the tax assessor.
- d. Due to the "super majority" rule under Chapter 211 of the Texas Local Government Code, responses received after an imposed deadline for response shall not be counted in the record of response.

3. Published notice

When public notice is required, the Director shall cause a notice to be published in a newspaper of general circulation at least ten days prior to the scheduled meeting of the Planning and Zoning Commission, and at least 15 days prior to the scheduled meeting of the City Council. In computing such period, the day of publication shall not be counted, but the day of the hearing shall be counted.

4. Posted notice

- a. When public notice is required, the Applicant shall allow placement of a sign on the subject property at least ten days prior to the scheduled meeting of the decision-making body, and the sign shall remain until after the final scheduled meeting regarding the subject application.
- b. In computing such period, the day of posting shall not be counted, but the day of the hearing shall be counted.
- c. If no part of the subject property is visible from the public right-of-way, the notice shall be posted along the nearest street in the public right-of-way.
- d. Posted notices shall include all the content specified in paragraph a. above except for the legal description.
- e. A picture of the zoning sign placed on the property shall be retained for permanent record.

5. Constructive notice

- a. Minor defects in any notice shall not impair the notice or invalidate proceedings pursuant to the notice if a bona fide attempt has been made to comply with applicable notice requirements. Minor defects in notice shall be limited to errors in a legal description, typographical or grammatical errors, or errors of actual acreage that do not impede communication of the notice to affected parties.
- b. Failure of a party to receive written notice shall not invalidate subsequent action. In all cases, however, the requirements for the timing of the notice and for specifying the time, date, and place of a hearing shall be strictly construed.
- c. If questions arise at the hearing regarding the adequacy of notice, the decision-making body shall direct City Staff to make a formal finding as to whether there was substantial compliance with the notice requirements of this Code, and such finding shall be made available to the decision-making body prior to final action on the request.
- d. When the publication, mailing, and posting of notices as required by this section are documented in the records of the City, it shall be presumed that notice of a public hearing was given as required by this section.

F. PRE-APPLICATION MEETINGS

1. Generally.

Prior to the submission of an application for permit or approval, a pre-application meeting may be required or recommended between a potential applicant and the Planning Director, or a designated representative of either party, and any other pertinent representatives or staff. The pre-application meeting is intended for the City and potential applicant to exchange non-binding information to promote an efficient development review process. The Planning Director shall determine and publish which application types require a pre-application meeting.

2. Pre-Application Forms and Materials

The Planning Director may determine and publish forms or documents that include information requirements, materials checklist, contact information, and any other information necessary to sufficiently describe the potential application.

3. Vesting Rights.

Neither a pre-application meeting, nor any informal meeting, nor any forms, materials, and information submitted for a pre-application or informal meeting, shall be considered a vesting instrument or event, nor shall it vest a permit, application, or any type of approval.

G. APPLICATION FORMS

1. Generally

Every application for approval or permit required by these regulations shall be submitted on forms prepared by the Planning Director, along with supporting materials and the application fee.

2. Forms

In addition to the requirements outlined herein for each type of development application, the City is hereby authorized to prepare application forms to collect information and materials necessary to process each type of application.

- a. Application forms shall include specific information including, but not limited to, information requirements, checklists, architectural or engineering drawing sizes, language blocks for plats, applicant contact information, materials and any other information necessary to facilitate the review of the application for compliance with and administration of these regulations, as prepared by the Planning Director.
- b. The forms and paperwork are available in paper or digital format at the City office where applications are submitted and/or reviewed.
- c. The Planning Director shall periodically review and may revise forms for each type of application from time to time.
- d. It is the applicant's responsibility to be familiar with, and to comply with these procedures.

H. APPLICATION SUBMITTAL DATES

The Planning Director shall establish a minimum of 2 calendars days per month when an application will be accepted by the City for applications that are required to be approved by the Planning and Zoning Commission or the City Council. Such applications shall only be accepted on the designated days established for the filing of applications. Applications that can be approved administratively may be filed at any time.

I. FEES

1. Generally

Every application shall be accompanied by the prescribed fees set forth in City's Fee Schedule. The City shall not accept an application for review without the required application fee. The adopted fees may be revised from time to time by the City Council and shall not require amendment of these regulations.

2. Payable.

All required fees shall be made payable to: " City of Boerne."

3. Required for Administrative Completeness

All applications shall be accompanied by the prescribed fees to be considered administratively complete.

4. Fee Refunds

a. Withdrawn Applications

Withdrawn applications that have not been determined to be administratively complete may be refunded 100 percent of the application fee.

b. Administratively Complete Applications.

Once an application has been determined to be administratively complete, the prescribed fees shall not be refundable, except when submitted in error. If submitted in error, fees shall not be refundable once public notice has been sent.

J. DETERMINATION OF ADMINISTRATIVE COMPLETENESS

1. Generally

An application shall not be considered as officially submitted, accepted for review, or filed until it has been determined by the Planning Director to be administratively complete.

2. Considerations for Determination of Administrative Completeness

The Planning Director, or designee, shall review each submitted application to determine if the minimum items needed for proper review of such application are present. An application must be determined to be administratively complete in order to begin the review process.

a. A submitted application shall not be determined to be administratively complete until, at a minimum, the following has been received by the City:

- i. Completed application form;
- ii. Payment of all applicable fees; and
- iii. All the application requirements and supplemental information indicated as required per the application form for the specific type of application, or as indicated by Staff during the pre-application meeting.

b. A submitted application shall not be determined to be administratively complete until, at a minimum, the following has been completed by the applicant:

- i. Pre-application meeting with staff has been held (if required); and
- ii. All required preceding approvals (e.g., proper zoning, approved plats, vested rights determination, surveys, studies etc.) have been acquired.

c. Timeframe for Administrative Completeness Review

No more than five business days for an application related to platting, or ten business days after the receipt of an application for zoning by the City, the Planning Director shall review the application for administrative completeness. Failure by the Planning Director to make a determination of administrative completeness or to provide notice of administrative incompleteness, as set out in this section shall result in the application being deemed administratively complete on the sixth or eleventh business day, as applicable, following receipt.

3. Filing Date for Administrative Complete Application

The Official filing date for an Administratively Complete Application is the date the original application was filed.

4. Administratively Incomplete Applications.

- a. Applications that do not include all required information and materials shall be considered administratively incomplete.
- b. Incomplete applications are not filed.
- c. The Planning Director shall notify the applicant in writing of the determination and shall provide a written explanation of missing or incomplete items that are necessary to complete the application.
- d. The Planning Director may elect to extend the time period of determination of administrative completeness for the applicant to submit the missing or incomplete items. The Planning Director shall provide, in writing, a specified timeframe to the applicant for the incomplete item(s) to be resubmitted. If the item(s) is not resubmitted within this time period, the application shall be deemed rejected and shall not be reviewed for technical completeness, shall not be considered filed, and shall be returned to the applicant.
- e. The applicant may request an additional meeting for explanation of the missing or incomplete items.
- f. After an application has been determined to be administratively incomplete and rejected, a new application and fee shall be required for any future submittals.

5. Administratively Complete Applications

Administratively complete applications shall be processed according to the applicable development approval procedures of this Chapter. The determination of an administratively complete application does not constitute a determination of technical completeness or compliance with applicable regulations nor imply that the application successfully meets any review criteria.

K. DETERMINATION OF TECHNICAL COMPLIANCE

1. Generally

Upon receipt of an administratively complete application, the City shall commence technical compliance review of the submitted application. This may include review by a development review committee, which may be designated by the City Manager.

2. Determination of Technical Compliance

An application shall not be deemed to be technically compliant until staff has determined the application and any supporting documents meet all applicable requirements of these regulations and are in compliance with any other applicable City or State requirements.

3. Technically Incompliant Applications

- a. The Planning Director shall notify the applicant in writing of any revisions deemed necessary for the application to be determined to be technically compliant. The applicant may request a meeting for explanation of the missing or incompliant items.
- b. The applicant shall submit any necessary corrections to the City no later than fourteen (14) calendar days prior to the public meeting at which it is scheduled to be considered, if applicable. If the application can be approved administratively, the Planning Director, shall provide, in writing, a specified timeframe to the applicant for the incompliant item(s) to be resubmitted.
- c. An application presented to the Commission and/or City Council prior to determination of technical compliance may be subject to conditions of approval or denial. An application that can be administratively approved by the City staff and is deemed technically incompliant may be approved with conditions or denied.

4. Technically Compliant Applications

Technically compliant applications shall be processed according to the applicable development approval procedures of this Chapter. The determination of a technically compliant application by City staff does not constitute or imply an approval by the decision-making authority.

L. VARIANCES

1. Applicability

Exceptions to zoning, floodplain management or signage requirements shall be in the form of a Variance.

2. Decision Agent

The Board of Adjustment is authorized to grant variances.

3. Criteria for Approval

A variance may be granted by the Board of Adjustment where all of the following conditions are met:

- a. A literal enforcement of the provisions of the requirements will result in unnecessary hardship which does not include a financial hardship.
- b. Such variance will not authorize the operation of a use other than one which is specifically authorized for the district in which the subject property is located.
- c. The plight of the owner of the property for which the variance is sought is due to unique circumstances existing on the property, and the unique circumstances were not created by the owner of the property, and are not due to or the result of general conditions in the district in which the property is located.
- d. The variance will not substantially weaken the general purposes of this ordinance or the regulations herein, nor alter the essential character of the specific district.
- e. The variance will not adversely affect the public health, safety, or welfare.

4. Approval Process

- a. An application for a variance shall be submitted in writing to the City Manager or designee and accompanied by all required information and the fee for processing a variance application.
- b. Once the application is complete, the City Manager or designee shall conduct a technical review of the application and give a report to the Board of Adjustment on the date of the scheduled public hearing.
- c. Notice shall be mailed, in accordance with the Public Notice requirements of this Chapter.
- d. The Board of Adjustment shall hold a public hearing and shall make a written finding of approval, approval with conditions or disapproval.
- e. A $\frac{3}{4}$ vote shall be required to approve or approve with conditions an application for a variance.

5. Expiration

- a. If a variance is granted and no building or construction is started, pursuant to the variance, within one year of the date that the variance is approved or approved with conditions, the variance shall expire.
- b. If a variance expires, a new variance application must be submitted for approval by the Board of Adjustment, in accordance with the requirements of this section.

6. Resubmittals

No application for a variance shall be received or filed, if six months prior thereto, the same request for a variance has been denied.

M. APPEALS

1. Initiation

- a. Any aggrieved person or any officer, department, board, or bureau of the City affected by any order, requirement, determination or decision of an officer may initiate an appeal by filing a Notice of Appeal.
- b. A Notice of Appeal shall be filed within 30 days of the action which is appealed.

2. Decision Agent

- a. The Board of Adjustment shall hear and decide appeals of administrative decisions.
- b. City Council shall hear and decide appeals of decisions by the Planning and Zoning Commission.

3. Notice of Appeal

A Notice of Appeal shall:

- a. be on a form prescribed by the City and shall be filed with the City Manager;
- b. specify the grounds for the appeal; and
- c. be accompanied by the filing fee established by the City.

4. Procedure

- a. The officer from whom the appeal is taken shall transmit to the decision agent all of the papers constituting the record upon which the appealed action was taken.
- b. An appeal stays all proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the Board that by reason of facts stated in the certificate a stay would, in his/her opinion, cause imminent peril to life or property.
- c. In such case proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board or by a court of record on application, on notice to the officer from whom the appeal is taken and on due cause shown.
- d. A public hearing shall be held before granting any appeal, at which any person may appear either in person or by agent or attorney.
- e. Notice of the hearing, stating its time, place and subject matter, shall be published one time in a newspaper of general circulation in the city at least ten days before the date of the hearing.
- f. In addition, similar notice shall be mailed to the petitioner, to the owners of all property which lies within 200 feet of any point on the lot or tract of land which is the subject of the action, and to any other person whom the decision agent deems to be affected by the matter.
- g. Owners and other persons to be notified by mail shall be determined according to the current County tax roll.

5. Decisions of the City Council or the Board of Adjustment may be appealed to a District Court.

N. POSTPONEMENT REQUESTS

- 1. A postponement of the public hearing on an application may be granted upon request.

2. A request for postponement of a public hearing on a plat application, or any step in the platting process, may be made by the applicant.
3. A request for postponement of a public hearing on any other application or request may be made by any of these parties:
 - a. The applicant;
 - b. Staff; or
 - c. A party in opposition to the application.
4. A postponement shall be written and submitted to the City Manager not later than the seventh day before the scheduled public hearing.
5. The request shall specify the reasons for the postponement.
6. The City Manager shall provide a recommendation regarding the postponement.
7. If the postponement is granted, the Secretary shall enter the postponement in the minutes, with a notation of the identity of the party requesting the postponement.
8. The decision-making body shall set the time and date of the new hearing at the time the postponement is granted.
9. A postponement request for applications associated with platting will not be granted if the granting of same would cause the application to violate state law.

2.2 AMENDMENTS TO THE UNIFIED DEVELOPMENT CODE

A. GENERALLY

1. The City Council may establish rules governing times for submission and consideration of amendments to the Unified Development Code.
2. The UDC shall only be amended by ordinance.
3. The procedure for amending the zoning map is prescribed by 2.5 Zoning Procedures.
4. Staff may make changes to correct errors in spelling, grammar and formatting without public notice and public hearing, and without City Council approval.

B. UDC AMENDMENTS THAT ARE NOT ZONING MAP AMENDMENTS

1. Other than a zoning map amendment, the UDC may be amended twice a year. However, Council may initiate an off-cycle amendment to the UDC that is not a zoning map amendment.
2. The City Council shall hear and decide any proposed amendment to the Unified Development Code. City Council may only amend the Unified Development Code after a public hearing, and after receiving a recommendation from Planning and Zoning Commission, as well as from Historic Landmark Commission, if their recommendation is required.
3. The Planning and Zoning Commission shall review any proposed amendment to the Unified Development Code. The Planning and Zoning Commission shall hold a public hearing on the proposed amendment before making a recommendation to the City Council.
4. For a proposed amendment that affects historic districts, historic landmarks, or certificates of appropriateness, review and recommendation by the Historic Landmark Commission is required. Historic Landmark Commission review shall occur before the Planning Commission's review of the proposed amendment. The Historic Landmark Commission shall forward its recommendation to the Planning Commission and to City Council. Public hearings and notice of public hearings shall be in accordance with the requirements of this Chapter.

C. CRITERIA FOR APPROVAL

In determining whether to approve, approve with modifications or conditions, or disapprove amendments to this code, the City Council shall consider and make findings regarding the proposed amendment, using the following criteria:

1. The amendment is consistent with:

- a. The City Charter;
 - b. State and Federal law;
 - c. the City's Comprehensive Plan;
 - d. other plans and initiatives of the City; and
 - e. regional planning initiatives, as applicable
2. The amendment enables the City to more effectively fulfill a stated purpose of the UDC; and
 3. The amendment will improve city management or city governance.

2.3 AMENDMENTS TO THE COMPREHENSIVE PLAN

A. PUBLIC INVOLVEMENT AND THE MASTER PLAN

1. The Comprehensive Plan (Plan) is a reflection of the vision, goals and priorities of the community. As such, any updates or amendments to the Plan, other than minor amendments, shall require a public outreach plan, accompanied by public meetings and public sharing of information prior to any updates or amendments.
2. Staff recommendations shall reflect and reference the input gathered through public outreach.

B. REVIEW SCHEDULE AND PLAN IMPLEMENTATION MONITORING

1. 20-year Complete Plan Replacement
 - a. The City Manager shall initiate the creation of a new Plan at least once every 20 years, based on new analyses and a complete process of public involvement and goal setting.
2. 3-Year Review and Plan Update
 - a. The City Manager may initiate a staff-led Plan update once every 3 to 5 years.
 - b. The update shall focus on aligning the Master Plan with new data, City-wide policy changes, and/or major changes to community goals and priorities.
 - c. The City Manager may retain the services of outside consultants if and as needed.
3. Annual Review
 - a. Staff shall provide an annual review of the Plan to the Planning and Zoning Commission and City Council to include the following:
 - i. Progress report on Plan implementation;
 - ii. Any conflicts, inconsistencies and items within the Plan that merit consideration for revision; and
 - iii. any proposed changes to the Future Land Use Map.
 - b. The implementation strategy, including projects and their prioritization, shall be reviewed and updated at this time.
 - c. Off-Cycle Amendments to the Master Plan
 - i. In addition to the Plan updates described above, the City Manager may propose a plan amendment at any time in response to one of the following:
 - (a) Addition of new zoning categories or redefinition of zoning categories which render the Plan and zoning regulations out of alignment;
 - (b) Large-scale zoning map changes which are initiated by the City;
 - (c) Reference to or incorporation of another plan or policy document that impacts development in the City or its ETJ.
 - (d) Annexation of land that is not included in the Future Land Use Map of the Master Plan; or

- (e) Changes to state or federal law where compliance with the law would require changes to the Master Plan.

C. BEFORE THE PLANNING AND ZONING COMMISSION

1. Review

All amendments to the Plan shall be reviewed by the Planning and Zoning Commission. The Planning and Zoning Commission shall make recommendation to City Council following a public hearing.

2. Notice and Public Hearing Required

No amendment, supplement, change, modification or repeal of any provision of the Plan shall become effective until after a public hearing in relation thereto before the Commission, in keeping with the public hearing and public notice requirements of this Chapter.

D. BEFORE THE CITY COUNCIL

1. Report by Planning and Zoning Commission

Following the public hearing to amend the Plan before the Planning and Zoning Commission, the Commission shall file its report on the matter with City Council.

2. Notice and Public Hearing Required

Following the receipt by City Council of the report of the Planning and Zoning Commission, City Council shall hold a public hearing on the matter at which interested parties and citizens shall have an opportunity to be heard. Public hearings shall comply with the public hearing and public notice requirements of this Chapter.

3. Time Limitation

All amendments to the Plan which have been recommended by the Planning and Zoning Commission shall be presented to the City Council within 60 days of the date of the Commission's recommendation.

2.4 VESTED RIGHTS AND RIGHTS OF CONTINUED USE

A. PURPOSE AND INTENT

1. This section establishes a process whereby an owner can request and demonstrate that the development of property is entitled to be reviewed and approved in accordance with regulations that pre-date the effective date of this UDC per Chapter 245 or Section 43.002 of the Texas Local Government Code. This section shall not apply to a claim of a right under any other federal or state statute.
2. To the extent a project is entitled to vested rights or the right of continued use, as determined under this Section, it may be exempt from the requirements of current regulations of the City.
3. The purpose of these requirements is to:
 - a. Establish a clear and consistent process for evaluating vested rights claims;
 - b. Ensure that vested rights determinations are based on accurate and complete information about the project; and
 - c. Recognize legitimate claims of vested rights under state law, while ensuring that new development complies to the greatest extent possible with current regulations.

4. This section is further intended to establish provisions related to time limits and the expiration of vested rights.
5. A project is not eligible for vested rights if any of the following are found to be true:
 - a. The area for which the petition is submitted does not fall within the area addressed by the documents establishing grounds for the vested rights claim;
 - b. the original project has been completed or changed; or
 - c. the development activity on the site was not permitted by the City.
6. Continued Use Petitions
 - a. General Standard

A property is entitled to rights of continued use under Section 43.002 of the Local Government Code to the extent that current regulations would prohibit:

- i. continued use of the land in the manner in which it was being used on the date that annexation proceedings were instituted, if the use was legal at that time; or
- ii. the initial use of land in the manner that was planned before the 90th day before the effective date of the annexation if:
 - (a) one or more licenses, certificates, permits, approvals, or other forms of authorization by a governmental entity were required by law for the planned land use; and
 - (b) a completed application for the initial authorization was filed with the governmental entity before the date the annexation proceedings were instituted.

B. JURISDICTION

1. For zoning applications and building permits and certificates, vested rights are applicable within the corporate limits of the City and shall further apply to any and all legal annexations of land or additions made to the City subsequent to the effective date of this chapter.
2. For platting and construction permits, vested rights are applicable within the corporate limits and extraterritorial jurisdiction of the City and shall further apply to any and all legal annexations of land or additions made to the City or its extraterritorial jurisdiction, subsequent to the effective date of this Chapter.

C. VESTED RIGHTS PETITION REQUIRED

1. An applicant shall be required to file a petition for vested rights in order to provide the City with Fair Notice of the project.
2. A petition for vested rights shall be submitted by a landowner or a landowner's agent in order to request that an application for a permit be reviewed under ordinances, regulations, or rules other than those in effect on the date the application is filed. The application shall conform to the requirements of Contents of Vested Rights Petitions.
3. A vested rights determination or a right of continued use determination shall not waive or modify regulations or otherwise provide relief that is not required by Chapter 245 or Section 43.002 of the Local Government Code.

D. CONTENTS OF VESTED RIGHTS PETITIONS

A petition for vested rights shall be submitted on a form approved by the City Manager and must include, at a minimum, the following information, in addition to any processing fee established by the City for review of the petition:

1. the name, mailing address, and phone number of the person claiming vested rights;

2. identification of the project, as that term is defined in Chapter 245 at § 245.001(3), for which vested rights are claimed;
3. identification of the permit applications for which the applicant is seeking relief through the vested rights petition;
4. the date on which the applicant claims that vested rights accrued;
5. the permit application submitted on the claimed date, upon which the petition for vested rights is based;
6. identification of the original application for the first permit required for the project, as described in Chapter 245 at § 245.001(1) and § 245.002(a) and (b);
7. a list of permits for the property, by type and date filed or approved, that were issued by the City or applied for after the date the applicant claims that vested rights accrued;
8. Identification of all pertinent City regulations in effect at the time the original application for the first permit was filed, which the Petitioner contends control the approval, disapproval, or conditional approval of the application(s) for a permit for which relief is sought, pursuant to Chapter 245 at § 245.002(a) and (b);
9. Identification of all current City regulations that the petitioner contends do not apply to the project due to the vested rights provided the person by Chapter 245 or other applicable vested rights laws. Global references to an ordinance, statute or set of criteria, may be deemed insufficient and the City may consider the request for vested rights to be incomplete and, hence, not subject to a staff determination at that time; and
10. Identification of any exemptions under the City's Development Code or ordinances to which the petitioner believes are applicable to the project defined.

E. VESTED RIGHTS PREVIOUSLY ESTABLISHED

The City Manager may allow an applicant to omit information required under this section, if, an application can be demonstrated to be in association with a project for which vested rights have been conclusively established by a court order, by a settlement agreement, or by a project consent agreement already approved by the City Council.

F. COMPLETENESS REVIEW FOR VESTED RIGHTS PETITION

A Vested Rights Petition and associated submittal or permit application are treated as a single application for purposes of completeness review and expiration and shall be reviewed according to the procedure for completeness review for the associated submittal or permit application.

G. VESTED RIGHTS DETERMINATION

1. Once the application is deemed complete, the Director shall forward the vested rights petition to the City Manager and the City Attorney for review.
2. The City Manager may request a pre-determination conference with the applicant to discuss the nature of the petition and the project in question.
3. The City Manager shall consult with the City Attorney prior to rendering a decision on a vested rights petition and shall render the decision not later than 30 days after the petition is deemed complete.
4. In acting on a petition, the City Manager may:
 - a. approve the petition and require the development applications necessary to initiate, continue, or complete the project to be reviewed in accordance with regulations in effect on the vesting date, except for those regulations exempt from vesting under state law;
 - b. deny the petition and require the development application associated with the project to be reviewed under current regulations of this title; or
 - c. approve the petition in part, if:
 - i. a project is legally entitled to some, but not all, of the rights asserted in the petition; or

- ii. a change in the scale or intensity of development is necessary to maintain conformity with the original project.
- 5. The City Manager shall provide a written determination to the applicant, which must state:
 - a. Whether the petition is approved or denied, in whole or in part, and the basis for the decision;
 - b. Findings of fact in support of the decision and information sufficient to identify the permit or fair notice application on which the petition is based; and
 - c. If the petition is approved:
 - i. a description of the project for which vested rights are recognized;
 - ii. a description of prior regulations that are applicable to the project; and
 - iii. a vesting date.
- 6. An applicant may request that the City Manager reconsider a vested rights determination at any time before the application expires. The City Manager's decision on a reconsideration request is final and not subject to further reconsideration.
- 7. A vested rights determination under this section does not affect the availability of a variance or other administrative remedy authorized by this title, but requesting a variance is not required to exhaust administrative remedies for purposes of challenging a determination by the City Manager that a project is not entitled to vested rights.

H. APPEALS

The petitioner shall have the right to appeal the vested rights determination of the City Manager to the City Council, pursuant to the requirements for Appeals as established in this Chapter.

I. CRITERIA FOR APPROVAL

- 1. The criteria in this section are intended to assist the City Manager and the City Attorney in reviewing petitions for vested rights, but do not limit the City Manager or City Attorney from considering other factors relevant to the determination of rights for a particular project.
- 2. In determining whether a petition meets the standard for approval under this subsection, the City Manager shall consider:
 - a. Whether the City received fair notice of the project and the nature of the permit sought;
 - b. Whether the permit application submitted in connection with the vested rights petition is related to and consistent with the original project for which vested rights is asserted;
 - c. Whether any statutory exception to a right asserted, pursuant to Chapter 245, is applicable to one or more of the current regulations;
 - d. Whether project is exempt from the current regulation in question;
 - e. Whether the permit or permit application has expired in accordance with the provisions for expiration in this article or other applicable regulations.
 - f. Whether the project is dormant or whether progress toward completion of the project has occurred within the last 5 years
 - g. For right of continued use, the nature and extent of development that had occurred on the property prior to initiation of annexation proceedings, including photographs or other evidence substantiating the use, or that was proposed in one or more required applications that have been approved by the City.

J. EFFECT OF VESTED RIGHTS DETERMINATION

If the City Manager approves a vested rights petition, any permit required to initiate, continue, or complete the project shall be entitled to the development or continuing use rights recognized by the vested rights determination, unless the project expires under the provisions of this section or other applicable regulations.

K. EXPIRATIONS

1. During the timeframes established under this division, a vested rights determination applies to any permit application required to initiate, continue, or complete the project.
2. If any permit for a project expires, a new permit must be obtained.
3. A project expires if no progress toward completion of the project has occurred within five years from the date the project commenced.
4. A permit application submitted after a project expires constitutes a new project and is subject to the current regulations of this Chapter.
5. The expiration of a project associated with an approved final plat does not affect the validity of the plat.

L. DORMANT PROJECTS

1. This section is adopted under Section 245.005 of the Local Government Code to provide expiration dates for permits that lack an expiration date under applicable regulations. This section does not apply to a permit that is subject to an expiration date under the regulations applicable to the permit. For purposes of this section, a permit that is not subject to an expiration date is an "unexpired permit."
2. If an unexpired permit was approved prior to the effective date of this ordinance, it shall expire five years after the effective date of this ordinance, unless the applicant submits evidence sufficient to show that progress towards completion of the project was made prior to expiration.
3. Any permit or plan that is approved on or after the effective date of this ordinance that does not have an expiration date shall expire five years after the approval date.
4. For purposes of this section, progress towards completion of a project includes any one of the following:
 - a. an application for a final plat or plan has been submitted and deemed complete;
 - b. a good-faith attempt has been made to file with the City or other regulatory agency an application for a permit necessary to begin or continue towards completion of the project;
 - c. costs have been incurred for developing the project including, without limitation, costs associated with roadway, utility, and other infrastructure facilities designed to serve, in whole or in part, the project (but exclusive of land acquisition) in the aggregate amount of five percent of the most recent appraised market value of the real property on which the project is located;
 - d. fiscal security has been posted with the City or other regulatory agency to ensure performance of an obligation required by that regulatory agency; or
 - e. utility connection fees or impact fees for the project have been paid and the account is in good standing.

M. PROJECT CONSENT AGREEMENTS

1. This section provides a voluntary mechanism for determining applicable regulations where the extent of a project's vested rights is unclear and for incentivizing projects with clearly established vested rights to achieve greater compliance with current regulations.
2. After the City Manager issues a Vested Rights Determination and before the application expires, an applicant may submit a request in writing for a Project Consent Agreement to the City Manager. The request shall identify:
 - a. current regulations for which compliance would be required, other than regulations exempt from vested rights protections under state law;
 - b. additional restrictions on the nature and intensity of the proposed development; and
 - c. any modifications or waivers requested as a condition to the agreement, including but not limited to changes to the original project that increase compatibility with adjacent land uses, with the master plan, or with the other master plans of the City.
3. The City Manager may recommend a Project Consent Agreement for approval to the City Council if the City Manager finds that the Agreement achieves a greater degree of compatibility

with adjacent land uses and city plans than would occur if a project developed to the full extent of vested rights that have been verified or are reasonably likely to exist for the project.

4. The City Manager shall consider:
 - a. the degree to which vested rights for the project have been established; and
 - b. the importance of particular regulations in the achievement of adopted planning goals or policies for the area in which the project is located.
5. The City Council may consider approval of a Project Consent Agreement under this section only if the agreement is recommended by the City Manager or initiated by the Council. Before the Council acts on a consent agreement, the City Manager shall seek a recommendation from the Planning and Zoning Commission, and the Council shall hold a public hearing. The City Manager shall provide notice of the hearing in accordance with the public notification requirements of this Chapter.
6. In acting on a Project Consent Agreement, the City Council may approve, deny, or modify the agreement based on the standard applicable to the City Manager's review. A Project Consent Agreement may waive or modify site development regulations applicable to a project as deemed appropriate by the City Council.
7. A Project Consent Agreement for a project located in the extraterritorial jurisdiction may include a development agreement as authorized under Section 212.172 of the Local Government Code. The City Manager shall review a proposed development agreement concurrent with an application for a Project Consent Agreement, but Council may consider the agreements separately or as a single agreement.

2.5 ZONING PROCEDURES

A. GENERALLY

1. Authority

- a. The provisions of this Section are adopted pursuant to Chapter 211 of the Texas Local Government Code and the City Charter.
- b. The zoning map of the City may from time to time be amended, supplemented, changed, modified, or repealed.

2. Property Zoning and Subsequent Development Approvals

- a. A plat shall not be granted to a property inside the corporate limits of the City that is not in compliance with the zoning classification of the property and its respective requirements.
- b. A construction permit shall not be granted to a property inside the corporate limits of the City that is not in compliance with the zoning classification and its respective requirements.
- c. A building permit shall not be granted to a property that is not in compliance with the zoning classification and its respective requirements.
- d. A certificate of occupancy shall not be granted to a property that is not in compliance with the zoning classification and its respective requirements.

B. ZONING OF NEWLY ANNEXED LAND

1. Annexed property shall be zoned in accordance with the procedures required by state law and this Section, as the initial zoning classification of a property.
2. Zoning of annexed land shall be in keeping with the Comprehensive Plan of the City, particularly the Future Land Use Plan.
3. Unless otherwise provided in this Section, annexed property is designated as a Holding (HOL) district from the date of annexation until the property is permanently zoned.
4. Property that is included in an approved plat shall be zoned in accordance with that plat.
5. Concurrent processing of property annexation and zoning shall be in accordance with the requirements of this Chapter.

C. PROPERTY ZONING AND REZONING

1. Initiation of Property Zoning or Rezoning

a. Filing

All petitions, applications, recommendations, or proposals for zoning shall be filed with the Planning Department.

b. Initiation

The zoning or the rezoning of a property may be initiated by:

- i. City Council by its own motion;
- ii. Planning and Zoning Commission by its own motion;
- iii. For a historic landmark, a historic district, or a cultural conservation district, Historic Landmark Commission by its own motion;
- iv. Recommendation of the Planning Director; or
- v. The owner or owner's agent by application. For a PUD, PDD or Cluster Development, the zoning amendment requires initiation by the owners of at least 51 percent of the land by land area, or at least 51 percent of the owners of individual properties in the proposed district.

- vi. Property owned by the City of Boerne or another governmental entity shall be fully excluded from the area subject to petition by property owner(s).

2. Pre-Application Meeting

- a. A pre-application meeting with the Planning Department is required when the rezoning is initiated by the property owner or owner's agent.
- b. The pre-application meeting provides the applicant with information regarding the procedure and submittal requirements associated with the application, and with the opportunity to discuss the conceptual plan for the proposed development.
- c. The pre-application meeting shall be held at least 7 days prior to filing a zoning application.
- d. The Planning Department shall provide the applicant with the appropriate application form, which will detail the submittal requirements.
- e. The Planning Department shall present and review the application checklist with the applicant.
- f. The owner or developer may present a concept plan of the development associated with the zoning request to the Planning Department at the pre-application meeting.
- g. Eligible concurrent applications may be reviewed at the same pre-application meeting.
- h. A preliminary concept plan shall be required for a Planned Unit Development, a Planned Development District or a Cluster Development. The preliminary concept plan need not be engineered, but it must contain at least the following information in sufficient detail to permit understanding of the proposal:
 - i. A map of the site, drawn to scale and showing north point, the boundaries of the proposed development, adjacent subdivisions, and the streets in the vicinity of the site.
 - ii. A map showing general topographic considerations affecting the site, floodplains and watercourses on the site and in the vicinity, and any other significant environmental features that may affect the site.
 - iii. The general layout proposed for the proposed development, delineating the areas that are designated for residential development, the forms and densities proposed in each such area; the areas proposed for non-residential development, and the general nature of the uses proposed in each such area; and the areas proposed as community open space, and the general character proposed for each such area.
 - iv. The total acreage of the site, the number of acres to be developed in each type of residential and non-residential development that is proposed, and the number of acres proposed to be dedicated as community open space.
 - v. The total number of residential dwelling units of each type proposed, and the approximate gross square footage of each type of non-residential development proposed.

3. Application Submittal Requirements

Applications for property zoning or rezoning shall include:

- a. Payment of required fees.

No application shall be deemed complete, and no notification of filing shall be given, unless and until all fees associated with the application have been received by the City.

- b. Letter of intent written by the owner or designated agent, indicating:
 - i. a legal description of the property;
 - ii. the development intent and proposed use of the property;
 - iii. the name, address and phone number for the owner or designated agent; and
 - iv. the address of the subject property, if applicable; and

- v. a property survey or site plan
- c. Certificate of agency or power of attorney if someone other than the owner is submitting the application.
- d. Any and all covenants binding the property, including a map and legal description of the area(s) affected.
- e. Legal description and exhibit of the property showing the property boundary.
- f. Identification of all pending zoning applications for the property, including legislative and quasi-judicial applications, if any.
- g. All accompanying applications, if filing concurrently.
- h. Additional requirements for PUDs:
- i. PUD Plan

The PUD plan for a proposed planned unit development must be drawn on reproducible Mylar by a registered architect or registered engineer and must include the following:

- (a) Date, scale, north point (with north to the top if possible), name of developer, and name of the person preparing the PUD plan.
- (b) The location of the City limit lines and the outer border of the City's extraterritorial jurisdiction if either traverses the Planned Unit Development or is contiguous to the PUD boundary.
- (c) The location, right-of-way width, name and description of all existing or recorded streets and alleys within or adjacent to the PUD, as determined from existing records, and the location of all intersections adjacent to the PUD.
- (d) The location, right-of-way, and type or purpose of all existing easements within and adjacent to the PUD.
- (e) The centerline of existing watercourses, creeks and drainage structures within and adjacent to the PUD, and the limits of the local flood plain and 25-year and 100-year flood plains, if applicable.
- (f) The centerline of proposed watercourses, creeks and drainage structures, and the general nature and extent of any other water features which are proposed to be developed and setbacks of the drainageway protection zone as required by this Code.
- (g) The area and acreage in each distinct type of proposed land use.
- (h) Any publicly owned land within the plan area.
- (i) The areas and acreages which are to be dedicated as community open space, including an indication whether the dedication is to be as a public park or as common area owned and managed by a community association.
- (j) The location, type and height of the fences, walls or other screening devices, which are proposed to buffer the PUD from adjacent developments and, within the PUD, to buffer one land use from another.
- (k) If more than one base zoning category is to be assigned, provide a map indicating assignment of base zoning categories to the parcels or tracts of the proposed project area.

ii. Accompanying Information

The information that is presented graphically in the PUD plan must be accompanied by the following information in narrative or tabular form:

- (a) The base zoning category to be assigned to the area(s) of the PUD.
- (b) The total number of dwelling units in each distinct type proposed, the total acreage in each distinct type of residential development or unit of

development if the PUD shall be developed as separate units, and the resulting densities in dwelling units per net developable acre (total area minus dedicated rights of way).

- (c) The total acreage and gross square feet proposed in each distinct type of non-residential development.
- (d) Descriptions of the number, size and character of any active recreational facilities and community meeting spaces that are to be included in the community open space.
- (e) Calculations showing the minimum total area of community open space, which is required by this ordinance, and the actual areas, which are proposed to be dedicated as community, open space. A narrative justification must accompany any request for a reduction in the community open space requirement.

i. Additional requirements for PDDs:

i. PDD Plan

The PDD plan for a proposed planned development district shall be drawn on reproducible Mylar by a registered architect or registered engineer and must include the following:

- (a) Date, scale, north point (with north to the top if possible), name of developer, and name of the person preparing the PDD plan.
- (b) The location of the City limit lines and the outer border of the City's extraterritorial jurisdiction if either traverses the Planned Development District or is contiguous to the PDD boundary.
- (c) The location, right-of-way width, name and description of all existing or recorded streets and alleys within or adjacent to the PUD, as determined from existing records, and the location of all intersections adjacent to the PDD.
- (d) The location, right-of-way, and type or purpose of all existing easements within and adjacent to the PDD.
- (e) The centerline of existing watercourses, creeks and drainage structures within and adjacent to the PDD, and the limits of the local flood plain and 25-year and 100-year flood plains, if applicable.
- (f) The centerline of proposed watercourses, creeks and drainage structures, and the general nature and extent of any other water features which are proposed to be developed and setbacks of the drainageway protection zone as required by this Code.
- (g) The area and acreage in each distinct type of proposed land use.
- (h) Any publicly owned land within the plan area.
- (i) The areas and acreages, which are to be dedicated as community, open space, including an indication whether the dedication is to be as a public park or as common area owned and managed by a community association.
- (j) The location, type and height of the fences, walls or other screening devices, which are proposed to buffer the PDD from adjacent developments and, within the PDD, to buffer one land use from another.
- (k) If more than one base zoning category is to be assigned, provide a map indicating assignment of base zoning categories to the parcels or tracts of the proposed project area.

ii. Accompanying Information

The information that is presented graphically in the PDD plan must be accompanied by the following information in narrative or tabular form:

- (a) The base zoning category to be assigned to the area(s) of the PDD.
- (b) The total number of dwelling units in each distinct type proposed, the total acreage in each distinct type of residential development or unit of development if the PDD shall be developed as separate units, and the resulting densities in dwelling units per net developable acre (total area minus dedicated rights of way).
- (c) The total acreage and gross square feet proposed in each distinct type of non-residential development.
- (d) Descriptions of the number, size and character of any active recreational facilities and community meeting spaces that are to be included in the community open space.
- (e) Calculations showing the minimum total area of community open space, which is required by this ordinance, and the actual areas, which are proposed to be dedicated as community, open space. A narrative justification must accompany any request for a reduction in the community open space requirement.

j. Additional requirements for Cluster Development Districts (CDDs):

i. Cluster Development Plan

The cluster development plan for a proposed planned unit development must be drawn on reproducible mylar by a registered architect or registered engineer and must include the following:

- (a) Date, scale, north point (with north to the top if possible), name of developer, and name of the person preparing the cluster development plan.
- (b) The location of the city limit lines and the outer border of the city's extraterritorial jurisdiction if either traverses the planned unit development or is contiguous to the cluster development boundary.
- (c) The location, right-of-way width, name and description of all existing or recorded streets and alleys within or adjacent to the cluster development, as determined from existing records, and the location of all intersections adjacent to the cluster development.
- (d) The location, right-of-way, and type or purpose of all existing easements within and adjacent to the cluster development.
- (e) The centerline of existing watercourses, creeks and drainage structures within and adjacent to the cluster development, and the limits of the local flood plain, 25-year and 100-year flood plains, if applicable.
- (f) The centerline of proposed watercourses, creeks and drainage structures, and the general nature and extent of any other water features which are proposed to be developed and setbacks of the drainageway protection zone as required by this Code.
- (g) The area and acreage in each distinct type of proposed land use.
- (h) Any publicly owned land within the plan area.

ii. Accompanying information

The information that is presented graphically in the cluster development plan must be accompanied by the following information in narrative or tabular form:

- (a) Total acreage of land to be developed for residential lots.
- (b) Net density of the project, expressed as dwelling units per acre, calculated as total number of units divided by total number of acres.
- (c) Open space preservation plan, the vehicle to be used for preservation, such as a deed restriction, easement or dedication, and an indication of whether

the dedication is to be as a public open space or as common area owned and managed by a community association.

(d) Administrative Completeness section deleted.

4. Staff Report

- a. The Planning Director shall prepare for the Planning and Zoning Commission and for City Council a report on each zoning application, including a recommendation.
- b. The Planning Director shall review the proposed zoning amendment in light of the Approval Criteria of this Section.
- c. The report shall be filed with the Planning and Zoning Commission at the next meeting following notification requirements as stated in this Code.
- d. A single report shall be prepared for concurrent applications.

5. Approval Criteria

- a. In making a determination regarding a proposed zoning amendment, City Staff, the Planning and Zoning Commission, the Historic Landmark Commission and the City Council shall consider the criteria of this section. No single factor shall be controlling in the decision-making process.
- b. Criteria for Approval of a Zoning Amendment:
 - i. The proposed zoning amendment is consistent with the Comprehensive plan;
 - ii. The proposed amendment will not prevent the use and enjoyment of a neighboring property that is currently exercising a permitted use;
 - iii. The City is able to adequately service the new use or new development with the needed streets, water supply, sanitary sewers, and other public services and utilities, or mitigation measures are in place to ensure the City's ability to adequately service the change in use of the subject property, or documentation from the service provider verifying ability to provide adequate service, if utility service is provided by an entity other than the City;
 - iv. The proposed amendment will not inhibit the preservation and protection of, or negatively impact the view, accessibility or performance of historical or cultural places and areas that are of value to the community;
 - v. The proposed amendment meets a significant, city-wide public need or purpose (affordable housing, economic development, etc.); and/or
 - vi. Any other factors which will substantially affect the public health, safety, morals, or general welfare of the City.
- c. Additional Criteria for Approving a Planned Unit Development (PUD)
 - i. The Planning and Zoning Commission may recommend and the Council may impose such conditions to the PUD regulations and Concept Plan as are necessary to assure that the intent of the PUD is implemented, and that the PUD does not have an adverse effect on the life, health, safety, economy and welfare of the City.
 - ii. To approve a PUD, the following criteria shall apply to the project and be clearly demonstrated in the application:
 - (a) The project size is less than 10 acres. Slight variations in total project area may be allowed if the property is characterized by documented conditions that significantly limit the development of the property, such as topography, floodplain, or preservation of historically significant uses or structures.
 - (b) The PUD is generally consistent with the densities, uses and traffic patterns of the surrounding area.
 - (c) The PUD relieves a community-wide concern or fulfills a community-wide objective.

- (d) The PUD resolves or mitigates a compatibility issue with surrounding development, or adds a defined public benefit (employment, park facilities, improved accessibility, landscape preservation, soil conservation, stormwater management capacity, etc.), which, under base zoning, the site would not be able to provide.
- d. Additional Criteria for Approving a Planned Development District (PDD)
 - i. The Planning and Zoning Commission may recommend and the Council may impose such conditions to the PDD regulations and Concept Plan as are necessary to assure that the PDD district does not have an adverse effect on the life, health, safety, economy and welfare of the City, particularly with regard to the impact of the proposed development on:
 - (a) Health and welfare of the community at large (in terms of traffic, property values, safety, and community character);
 - (b) Employment;
 - (c) Economic development; and
 - (d) Public utility systems, and the adequacy of the proposed mitigation measures
 - ii. In addition, Planning and Zoning Commission may recommend and Council may impose such conditions as are necessary to ensure that the PDD demonstrate conformity with the Master Plan and the overall goals and priorities of the City through any combination of the following measures:
 - (a) development standards that achieve equal or greater consistency with the goals of the master plan than development under the standards of the associated base zoning district(s);
 - (b) exclude detention or filtration areas from the open space calculation unless it is designed as an amenity;
 - (c) consistency with applicable historic area and landmark regulations;
 - (d) compatibility with adjacent property and land uses;
 - (e) exceeding the City's requirements under the comparable base zoning classification(s) for at least one of the following:
 - (i) Storm water management
 - (ii) Energy efficiency (through voluntary LEED accreditation)
 - (iii) Tree preservation
 - (iv) Parkland dedication or open space amenity
 - (f) providing for public facilities and services that are adequate to support the proposed development, including schools, fire protection, emergency services, and police facilities;
 - (g) exceeding the minimum landscaping requirements of the Code;
 - (h) incorporating alternative transportation modes into the site design, such as bike paths and trails, that connect to areas adjacent to the proposed district;
 - (i) demonstrating traffic mitigation measures beyond the minimums of the UDC
- e. Additional Criteria for Approving a Cluster Development (CD)
 - i. The Planning and Zoning Commission may recommend and the Council may impose such conditions to the CD regulations and Concept Plan as are necessary to assure that the CD district positively contributes to the life, health, safety, economy and/or welfare of the City, particularly with regard to:

- (a) Access to the open space created by the development
- (b) Means of dedication and maintenance of the open space
- (c) Impervious cover in the project area
- (d) Access/egress for public safety

ii. Requirements for all Cluster Developments (CD):

- (a) demonstrate development standards that achieve equal or greater consistency with the goals of the master plan than development under the standards of the associated base zoning district(s);
- (b) maintain a gross residential density that is comparable with either surrounding neighborhoods or with the underlying zoning of the property;
- (c) exclude detention or filtration areas from the open space calculation;
- (d) be consistent with applicable historic area and landmark regulations;
- (e) be compatible with adjacent land uses;
- (f) provide for public facilities and services that are adequate to support the proposed development, including school, fire protection, emergency service, and police facilities;
- (g) exceed the minimum landscaping requirements of the Code;
- (h) provide for alternative transportation modes, such as bike paths and trails, that connect to areas adjacent to the proposed district;
- (i) protect, enhance and preserve structures or sites that are of architectural, historical, archaeological, or cultural significance;
- (j) exceed the City's requirements under the comparable base zoning classification(s) for at least two of the following:
 - (i) Storm water management
 - (ii) Energy efficiency (through voluntary LEED accreditation)
 - (iii) Tree preservation
 - (iv) Parkland dedication or open space amenity

6. Public Hearings and Decisions

- a. The Planning and Zoning Commission and the City Council shall hear applications for all amendments to the zoning of a property.
- b. Public hearings for zoning amendments shall be legislative hearings.
- c. Notice of Public Hearings

Notice required for a public hearing before the Planning and Zoning Commission or the City Council shall be in accordance with the requirements for public notice established by this Chapter.

- d. Planning and Zoning Hearing and Recommendation
 - i. The Planning and Zoning Commission shall hold a public hearing on an application for a zoning amendment not later than thirty days after the date the application is filed.
 - ii. The Planning and Zoning Commission shall make a recommendation to City Council on the application at the next City Council meeting and not later than the 20th day after the Commission closes the public hearing on the application.
 - iii. The Planning and Zoning Commissions may recommend that the Council:
 - (a) Approve the application as proposed
 - (b) Approve a more restrictive zoning classification than what is requested in the application
 - (c) Approve the proposed classification subject to conditions, if applicable

- (d) Deny the application
- e. Council Hearing and Action
 - i. City Council shall hold a public hearing on an application for a zoning classification not later than the forty-fifth day after the date of the recommendation of the Planning and Zoning Commission.
 - ii. After a public hearing on the application for zoning classification, Council may:
 - (a) Approve the zoning as requested;
 - (b) Approve a more restrictive zoning classification;
 - (c) Approve the requested classification subject to conditions if applicable;
 - (d) Send the request back to Planning and Zoning Commission for reconsideration; or
 - (e) Deny the proposed zoning classification.
- f. Requirements for Approval by Three-fourths Vote

The affirmative vote of three-fourths of the members of the City Council is required for approval of a proposed zoning amendment if:

- i. The proposed zoning classification is protested in writing by the owners of at least 20% of the area of land that is either included in the proposed zoning classification or at least twenty percent (20%) of the area of land immediately adjoining the area included in the proposed zoning classification and extending 200 feet from that area. In computing the percentage of land area, the area of streets and alleys shall not be included in the computation.
- ii. Written protests must be received by the City Manager no later than 12:00 p.m. of the previous business day prior to the posted date and time for the zoning hearing on the city council's agenda.
- iii. If the written protests appear to be at least twenty percent (20%) of either the area of the lots or land covered by the proposed change or the area of the lots or land immediately adjoining the area covered by the proposed change and extending two hundred (200) feet there from, the applicant shall be entitled to, but is not required to, request an automatic continuance if all members of the City Council are not present.

7. Recording Procedure

- a. The ordinance amending the zoning of real property shall be filed in accordance with the City's recording and filing procedures for Ordinances in the Charter.
- b. When the zoning classification involves changes to the existing zoning district boundaries, the form of the amending ordinance shall contain a narrative description of the land to be reclassified, including survey metes and bounds, or reference to an accompanying plat of such land showing the new zoning classifications and indicating their boundaries.
- c. The attested ordinance shall serve as a record of the current zoning status until such time as the zoning map can be changed.

8. Variances

Zoning variances shall be processed in accordance with the procedural requirements for Variances, as established in 2.1.L.

9. Appeals

Appeals of zoning decisions shall be in accordance with the procedures for Appeals in 2.1.M.

10. Subsequent Applications

- a. The provisions of this subsection do not apply to any zoning application that is initiated by the City Council.
- b. Applications recommended by Planning and Zoning Commission

If a zoning application is recommended by the Planning and Zoning Commission, but is subsequently withdrawn by the applicant before action is taken by City Council, the applicant may not file a zoning application for the same zoning classification for the property, or a portion of the property, for three months from the date on which the application was withdrawn.

- c. Applications not recommended by Planning and Zoning Commission

- i.
- ii. If a zoning application is not recommended by the Planning and Zoning Commission, and is subsequently withdrawn by the applicant before action is taken by City Council, the applicant may not file a zoning application for the same zoning classification for the property, or a portion of the property, for six months from the date on which the application was withdrawn.
- iii. If a zoning application is not recommended by the Planning and Zoning Commission, and is subsequently denied by City Council, the applicant may not file a zoning application for the same zoning classification for the property, or a portion of the property, for twelve months from the date on which the application was denied.

11. Subsequent Amendments

- a. Any subsequent map changes that would consist of a rezoning of a property shall require a new application and shall be processed as such.
- b. Minor Amendments

- i. Minor amendments shall be administrative amendments.
- ii. The following are considered minor amendments:
 - (a) Corrections in spelling, distances and labeling
 - (b) Changes in the proposed property lines, provided the original total project acreage is not exceeded, and the area of any zoning district is not changed by more than five percent.
 - (c) Changes in parking layout, provided the modified layout conforms to the standards of the Unified Development Code.

- c. Subsequent Major Amendments

- i. Any subsequent amendment which is not classified as a minor amendment is considered a major amendment.
- ii. Furthermore, a major amendment to a Planned Unit Development, a Planned Development District or a Cluster Development is any of the following, and shall require initiation of a new application:
 - (a) A change that would add a land use other than parks or open spaces that was not previously approved as part of the PUD, PDD or CD.
 - (b) A change that would alter the land use in an area within 200 feet of a boundary of the project area.

- (c) A change that would increase the overall gross density or intensity by gross square footage of the project area by 10 percent (10%) or more.
 - (d) A change that would reduce the total area to be dedicated as community open space, or that would alter the location of that area by 10 percent or more.
 - (e) Any other change which, in the judgment of the Planning Director, would significantly alter the general character or overall design of the subdivision.
- iii. Unless expressly prohibited in the development agreement, major amendments to only one tract or phase of a Planned Development District, a Planned Unit Development or a Cluster Development shall require initiation of a new zoning application for that particular tract or phase. The remainder of the project area shall not be considered subject to a major amendment. Any future major amendments beyond that of the one tract shall require initiation of a new application and shall be processed as such.

12. Scope of Approval

- a. The granting of a Zoning Amendment does not authorize the development of land.
- b. A zoning approval defines the uses approved for the property and the standards that will apply to all development of that property.
- c. A zoning approval does not supersede any requirement for subdivision plat approval by the City.

13. Expiration of Approval

- a. For zoning and rezoning of a property not involving a PUD, a PDD or a Cluster Development, once approved, the plan, uses, development standards, and any added terms and/or provisions of the approved zoning amendment shall not expire unless the property is rezoned to a district other than that which was approved.
- b. Expiration of a PUD, PDD or Cluster Development
 - i. An approved PUD plan shall lapse and be of no further force and effect if a final subdivision plat is not submitted for approval by the Planning and Zoning Commission or Planning Director within three years of the date of approval of the PUD plan by City Council.
 - ii. Upon application by the developer, the Planning and Zoning Commission may grant one extension of this time limit of up to two years if the Commission finds that the additional time is warranted.
 - iii. A developer's failure to initiate development by filing a final subdivision plat within the approved time period shall void the PUD plan, and no building permits shall be issued and no utility connections shall be made until a new or revised PUD plan has been resubmitted and approved, as provided by the Zoning Chapter.
 - iv. In the case of a PUD subdivision which is divided into stages, each stage following the first stage to be developed must be initiated by the submission to the City Manager of a final subdivision plat for that stage, and approved by the Planning and Zoning Commission, within three years of the date of approval by the Commission of the final subdivision plat for the previous stage.
 - v. Failure to initiate development of a second or later stage within this time period shall void the PUD plan with respect to the undeveloped stages, but development may continue in previously initiated stages.

D. SPECIAL USE PERMITS

1. Purpose and Applicability

A Special Use Permit (SUP) allows for certain uses that are not permitted in a particular base zoning category by right, but which may be permitted under certain circumstances and application of certain conditions. SUPs require individual, discretionary review of location, design, configuration and operation in order to demonstrate compatibility with neighboring uses, adequate mitigation or resolution of negative impact, consistency with the master plan, and adequate offsets of any disproportionate burden upon the public infrastructure systems of the City.

2. Special Use Permits

An owner of real property, or that owner's authorized representative, may initiate a SUP for that property by filing an application with the Planning Department. The SUP request may, upon owner's discretion, be included as a part of an overall zoning or rezoning application, provided that all of the requirements of this Chapter are met. SUPs will be processed and considered in accordance with the procedures described in Section 2.6

3. Pre-Application Meeting

The owner or owner's authorized representative shall meet with the Planning Director designee prior to submittal of the SUP application. At this pre-submittal meeting, the owner will present a preliminary, non-binding plan (conceptual or sketch plan) to the Planning Director, for discussion purposes only. The official will provide the owner or owner's authorized representative with a checklist of submittal requirements for the SUP application, including impact mitigation factors that should be addressed. The particular requirements for impact mitigation will depend on the special use being proposed, the scale of the project, and the location of the property in question.

a. Application Contents

i. General Content Required for All Zoning Applications

The SUP application shall be organized into the sections defined for all zoning applications.

ii. Project Checklist, provided at the pre-application meeting

iii. Letter of Justification

The applicant shall include in the SUP Application, in accordance with the SUP Application Checklist, a Letter of Justification that describes the proposed project. The letter should be a summary of application content, and should include, at a minimum:

- (a) Project owner and/or developer
- (b) Project description
- (c) Benefits of the proposed project to neighboring properties and to the community at large
- (d) Description of consistency with the master plan
- (e) Description of consistency with the other master plans of the City, including thoroughfares, utilities, parks and economic development
- (f) Measures taken to ensure compatibility of the proposed project with surrounding (existing) uses

iv. Development Impact

Each SUP application shall also include information indicating how potential impacts of the requested special use will be addressed, according to the particular

land use district in which the property is located, in order to promote the character, intent and right of use of neighboring properties. These potential impacts will be identified during the pre-submittal meeting and provided as a part of the checklist of application requirements and will be included in the application. For more information, see the SUP Application Checklist.

- (a) The potential impacts of special use projects on neighboring properties will be selected from the list of factors below and identified on the submittal checklist that the applicant receives from the City at the pre-submittal conference. It is the property owner's responsibility to demonstrate adequate treatment of these issues either through design or operation of the proposed special use. Council reserves the right to accept, reject, or require modification to any measures proposed in the application.

- (i) Community safety;
- (ii) Traffic;
- (iii) Parking;
- (iv) Loading;
- (v) Driveways;
- (vi) Building setbacks;
- (vii) Access and curb cuts;
- (viii) Development density (may include footprint, height, people dwelling onsite, or other factors);
- (ix) Hours of operation;
- (x) Property values;
- (xi) Viewshed protection;
- (xii) Impervious cover;
- (xiii) Noise;
- (xiv) Light;
- (xv) Vibration;
- (xvi) Hazardous or flammable materials;
- (xvii) Special solid waste disposal requirements;
- (xviii) Discharge/water contamination; and
- (xix) Other

b. Application copies

In the SUP Application Checklist, the Planning Director shall identify the number of printed copies of the SUP application, as well as any large-scale prints that will be required as a part of the submittal. In addition to these printed documents, a digital copy of the application in its entirety will also be required as a part of the submittal package.

4. Criteria for Approval

- a. Planning and Zoning Commission may recommend, and City Council may approve the application for a Special Use Permit if:
 - i. the proposed special use is determined to comply with all applicable requirements of the Code and with adopted plans and policies of the City;
 - ii. the application demonstrates mitigation of potential impacts; and
 - iii. the following general criteria are met:
 - (a) The use complies with the purpose and intent of the zoning classification of the property, as well as any applicable supplemental regulations as required by Council.
 - (b) The use is consistent with the Master Plan.

- (c) The establishment, maintenance, or operation of the proposed use shall not endanger or be detrimental to the public health, safety, morals, comfort, or general welfare of the community.
- (d) The use shall have no more adverse effects on health, safety, or comfort of persons living or working in neighboring properties or shall be no more injurious to neighboring properties than would any other use generally permitted under the same categorical zoning designation.
- (e) The use will not result in traffic volumes or circulation patterns that negatively affect streets and intersections likely to be used by traffic to and from the proposed development without approved mitigation of impact;
- (f) The proposed use shall not injure the use and enjoyment of the property in the immediate vicinity for the purposes already permitted nor substantially diminish or impair the property values within the neighborhood.
- (g) The proposed use shall not impede the orderly development and improvement of surrounding property for uses permitted therein.
- (h) The use will not create detrimental operational impacts, through hours of operation, management of traffic, servicing and loading operations, and any on-site operations associated with the ongoing functions of the use on the site, on neighboring properties.
- (i) The use will not create detrimental health and safety impacts, such as noise, emissions, or vibrations, through functions within the proposed site.
- (j) The use will not create detrimental impacts on the potential for future development of neighboring properties; and
- (k) The public interest and welfare supporting the use shall be sufficient to outweigh the individual interests that are adversely affected by the establishment of the proposed use.

5. Public Hearings and Decisions

- a. The Planning and Zoning Commission and the City Council shall hear applications for Special Use Permits.
- b. Public hearings on applications for Special Use Permits.
- c. Notice of Public Hearings

Notice required for a public hearing before the Planning and Zoning Commission or the City Council shall be in accordance with the requirements for public notice established by this Chapter.

- d. Hearing and Recommendation by the Planning and Zoning Commission

The Planning and Zoning Commission shall hold a public hearing on the Special Use Permit application at the next meeting following notification requirements as stated in this Code. After the public hearing, the Commission shall recommend to approve, approve with conditions, approve in part, deny or deny in part the application. Where the Commission fails to render its decision within the period required by this subsection, or fails to hold the required public hearing the decision shall be deemed to have been rendered in denial of the applicant, unless the applicant has agreed in writing or on the record to an extension of time. When a decision had been rendered in denial due to failure of the Commission to meet or render a decision as hereinabove provided, the City shall give public notice of said decision within ten (10) days of expiration of the thirty-day period. Nothing in this subsection shall prejudice the right of any party opposing the application to appeal for reconsideration.

- e. Negative Recommendation of Planning and Zoning Commission

If the Planning and Zoning Commission recommends denial of a Special Use Permit application, the permit application shall require approval by a simple majority vote by City Council.

f. Hearing and Action by City Council

City Council shall hold a public hearing on the Special Use Permit application within forty-five (45) days of the Planning and Zoning Commission's action on the application. After the public hearing, Council shall act to approve, approve with conditions, approve in part, deny or deny in part the application, within forty-five (45) days of the council hearing. In taking action, the City Council shall consider the criteria for approving a Special Use Permit. Where Council fails to render its decision within the period specified by this subsection, or fails to hold the required public hearing within forty-five (45) days from the date of the decision of the Planning and Zoning Commission, the decision shall be deemed to have been rendered in denial of the applicant, unless the applicant has agreed in writing or on the record to an extension of time. When a decision is rendered in denial of the applicant because of the failure of Council to meet or render a decision as hereinabove provided, the Planning Director shall give public notice of said decision within ten (10) days of expiration of the forty-five (45) days following the council hearing. Nothing in this subsection shall prejudice the right of any party opposing the application to appeal for reconsideration.

g. Requirements for Approval by Three-fourths Vote

The affirmative vote of three-fourths of the members of the City Council is required for approval of a proposed Special Use Permit if:

- i. The proposed Special Use is protested in writing by the owners of at least 20% of the area of land that is either included in the proposed zoning classification or at least twenty percent (20%) of the area of land immediately adjoining the area included in the proposed zoning classification and extending 200 feet from that area. In computing the percentage of land area, the area of streets and alleys shall not be included in the computation.
- ii. Written protests must be received by the City Manager no later than 12:00 p.m. of the previous business day prior to the posted date and time for the zoning hearing on the city council's agenda.
- iii. If the written protests appear to be at least twenty percent (20%) of either the area of the lots or land covered by the proposed change or the area of the lots or land immediately adjoining the area covered by the proposed change and extending two hundred (200) feet there from, the applicant shall be entitled to, but is not required to, request an automatic continuance if all members of the City Council are not present.

6. Subsequent Applications

a. When an application has been withdrawn

An application for a SUP may be withdrawn at any time. If the application has been advertised in compliance with State Law, an application requesting substantially the same use on all or part of the same described land shall not be reconsidered within three months of withdrawal.

b. When an application has been denied

In the event that the City Council denies an application for a Special Use Permit, a similar application shall not be refiled within one year from the date of the denial, unless

the Planning and Zoning Commission, upon petition by the applicant, determines that significant physical, economic or land use changes have taken place within the immediate vicinity, or a significant zoning regulation text change has been adopted, or when the reapplication is for a different use than the original request. The applicant shall submit a statement in detail setting out those changes which he or she deems significant and upon which he or she relies for refiling the application.

7. Scope of Approval

- a. Once a SUP has been granted, the approved use may only be enlarged, extended, increased in intensity or relocated under the conditions of a major or minor amendment, unless, in approving the initial application for a SUP the City specifically established an alternative procedure for future expansion or enlargement. The provisions for nonconforming uses and vested rights do not supersede this requirement, unless the specially permitted use is no longer a use permitted by right or as a special use in the assigned zoning category.
- b. The terms of approval shall be set by City Council. Unless otherwise indicated by City Council, Special Use Permits are granted to the property, and not to the landowner. Therefore, the Permit shall be transferable upon sale.

8. Expiration of Approval of Special Use Permits

- a. A Special Use Permit shall automatically lapse and become null and void if:
 - i. the applicant fails to satisfy any condition that was imposed as part of the approval of the SUP or that was made under the terms of any development agreement, within the time limits established for satisfaction of such condition or term;
 - ii. the applicant fails to submit a subsequent development application required by the Code within the time so required. If no time limit for satisfaction of conditions is specified in the decision on the development application, the time shall be presumed to be one year from the date the decision was made;
 - iii. the Special Use involves physical improvements that have not been substantially initiated within one (1) year of the date of approval or authorization approval of the SUP;
 - iv. after starting construction, the construction is discontinued for a period of one (1) year or more; or
 - v. No physical improvements are made, and a Certificate of Occupancy is not issued for the Special Use within two (2) years of the date of approval or authorization.
- b. Effect of Expiration
 - i. No Certificate of Occupancy shall be issued after approval lapses unless the approval or authorization is renewed.
 - ii. No physical improvements shall be made after approval lapses unless the approval or authorization is renewed.
 - iii. Upon the expiration of a SUP, all previously approved permits for the same land also shall expire on the expiration date if (1) the expired permit is subordinate to such previously approved permits and (2) the filing of an application for or approval of the expired permit was required to avoid expiration for the previously approved permit or permits. Thereafter, a new application for each permit deemed expired under this Section must be approved subject to regulations in effect at the time the new application is accepted for filing.
- c. Renewal after lapse

The City Council may renew its approval of a SUP for which approval has lapsed, provided that no more than one (1) year has elapsed since the date of expiration of the

original approval or, in the case of discontinuance of work, since the date of discontinuance. Renewal shall require formal action, but it shall not require public notice or hearings. Renewal shall have the same effect as the original approval. If no renewal is granted with the one-year period allowed for renewals, the original approval shall be void and no further effect. Occupancy Permits shall be automatically renewed coincidentally with and for the same time periods and limitations as prescribed for SUP renewals.

9. Minor SUP Amendments

A SUP amendment is a request for any enlargement, expansion, increase in intensity, relocation, or modification of any condition of a previously approved and currently valid SUP. Amendments shall be processed as follows: shifts in on-site location and changes in size, shape, intensity, or configuration of less than 5 percent, or a 5 percent or less increase in either impervious surface or floor area over what was originally approved, may be authorized by the Planning Director, provided that such minor changes comply with the following criteria:

- a. No previous minor modification has been granted pursuant to this section;
- b. There will be no detrimental impact on any adjacent property caused by significant change in the appearance or use of the property or any other contributing factor;
- c. Nothing in the currently valid SUP precludes or otherwise limits such expansion or enlargement; and
- d. The proposal conforms to all applicable requirements of Title XV and is in keeping with the spirit and intent of the Master Plan.

10. Major SUP Amendments

All amendments, other than those amendments provided for in this Section, shall be considered major SUP amendments and shall require approval in the same manner and under the same procedures as are applicable to the issuance of the original SUP approval.

2.6 PLATTING PROCEDURE

A. GENERALLY

1. Short Title

This Section shall be known and may be cited as the Platting Procedure of Boerne, Texas.

2. Authority

This chapter is adopted under the authority of the City Charter and of Chapter 212 of the Texas Local Government Code, which chapter is hereby made a part of these regulations.

3. Jurisdiction

These regulations shall govern every owner or developer of any tract of land situated within the corporate limits of the city or within the extraterritorial jurisdiction of the city who may seek to develop land or subdivide property into two or more parts for the purpose of creating a buildable lot or lots, or for the purpose of laying out any subdivision of or additions to the city, or for the purpose of laying out streets, alleys, parks, squares, easements, or other parts that are to be dedicated for public use or the use of the owners or purchasers of adjacent lots.

4. Plats Required for Development and Subdividing Land

No person shall develop or subdivide land unless the development is made within an approved platted lot or subdivision which has been recorded and which fully complies with this chapter. The owner or proprietor of any tract of land within the corporate limits of the City of Boerne or within its extraterritorial jurisdiction who desires to develop or subdivide land shall submit a plat application in accordance with this chapter.

5. Subdivision or Development Name

The proposed name of a subdivision or development shall not use a name that is the same as, similar to, or pronounced the same as a name of any other subdivision or development in the City or its ETJ, unless the land being platted is part of an approved master development plan or is contiguous to and platted by the same applicant who platted the existing subdivision bearing the name, or the applicant has obtained the written consent of the party who platted the subdivision bearing that name, or the Planning Director requires the use of the same name for purposes of clear identification.

6. Approval Required

- a. It shall be unlawful for any person, firm, corporation, or organization to construct or cause to be constructed any streets, utilities, buildings or other improvements to any tract of land unless that land has been lawfully platted, in accordance with this Section, and no permit for such improvements, or for service or connections of public utilities to said land, shall be granted until the applicable plat has been approved, in accordance with this Section.
- b. No building permits will be issued for the construction of any building on any unplatted land within the city. Minor repair permits may be issued, in accordance with the building regulations of the City.

7. Plat Exemptions, Exceptions, Waivers and Appeals

- a. Exemptions

A plat is not required for:

- i. Altering an existing building or structure, unless the alteration causes the building or structure to cross property boundaries;
- ii. Restoring any building or structure previously destroyed by fire, explosion, or any other casualty or act of God, where the extent of the destruction is not more than 50% of the reasonable market value.

b. Administrative Exceptions

- i. The City hereby finds and determines that some of the standards of this Code are routinely modified due to exceptional circumstances that occur on a site, and that, although such exceptions may be in the public interest, administrative review and approval is needed in order to ensure preservation of the intent of the comprehensive plan and of the Unified Development Code.
- ii. When granting a Letter of Certification, the Director of Development Services Director may grant an administrative exception to technical design requirements found in any of the following sections of the Unified Development Code or of the Engineering Design Manual:
 - (a) Traffic Impact Analysis
 - (b) Stormwater Management
 - (c) Floodplain Development Standards
 - (d) Parking Standards
 - (e) Loading Standards
- iii. In concurrence with the Public Works Director, the Director of Development Services may grant administrative exceptions to technical design requirements for:
 - (a) Transportation and Street Design
 - (b) Utilities
- iv. No administrative exception shall be granted unless:
 - (a) The Director of Development Services certifies that the proposed exception does not conflict with the comprehensive plan.
 - (b) The applicant demonstrates, through documentation or studies, that, based on generally accepted engineering principles, the proposed exceptions would not pose a threat to health and safety.
- v. Administrative exceptions do not require a waiver from the Planning and Zoning Commission.
- vi. Applicants who are denied an administrative exception may seek a Plat Waiver from the Planning and Zoning Commission.

c. Plat Waivers

There sometimes arise occasions where conformity to the standards of this chapter would create a hardship or significantly limit the use and enjoyment of private property. To preserve such rights while also protecting the interests of the community at large, a Plat Waiver shall only be granted when it complies with this section.

- i. Initiation of Request
 - (a) The developer shall submit to the Planning Director a written waiver request for each waiver which is requested and shall include specific facts supporting the waiver request, 14 calendar days prior to the pre-application meeting,

along with the filing fee for a Plat Waiver, as established by City Council. The Planning and Zoning Commission shall not consider any action on the waiver request until this fee has been paid.

- (b) If a Master Development Plan (MDP) is required, a waiver request shall be included in the Master Development Plan application packet and so noted on the MDP Application form.
- (c) If a Master Development Plan is not required, a waiver request shall be submitted prior to the submittal the Final Plat Application.

ii. Completeness Review

- (a) The Planning Director shall review the Application to ensure that the waiver request is appropriately documented.
- (b) The Application form shall state fully and demonstrate the special conditions and circumstances that cause such waiver to be sought.
- (c) Additional information, in the form of studies, analyses and other demonstrations shall be included to confirm the hardship and/or justification for the requested waiver.

iii. Decision

Once the Plat Waiver application is complete, it will be reviewed and decided concurrently with the Master Development Plan. If a Master Development Plan is not required, the Plat Waiver shall be decided prior to submitting the Final Plat Application, but after the Pre-Application Conference.

iv. Approval Criteria

- (a) Monetary interests standing alone shall not be justification for the granting of a waiver.
- (b) Plat waivers shall only be granted when all of the following hold true:
 - (i) An inappropriate design may result from strict compliance with these regulations due to unusual topographic or other physical conditions of the land or surrounding area, and these conditions are not typical to other lands in the area; and
 - (i) The condition is beyond the control of the developer and shall not be due to the convenience or needs of a specific application or development proposal; and
 - (ii) The requested waiver is the minimum deviation from the required standard necessary to allow a more appropriate design; and requested waiver shall not alter, negate or negatively impact the ability to meet any specific standard contained in the City of Boerne Zoning Ordinance; and
 - (iii) Demonstrate the proposed alternative design solution or standard equally or better meet the goals and policies of the City's comprehensive plan and the purpose and intent of the Unified Development Code; and
 - (iv) Conformity to the platting standards and regulations would deprive the applicant of reasonable use of, access to or enjoyment of the land that is to be developed; and
 - (v) The requested waiver will not be detrimental to the public health, safety, and welfare; and
 - (vi) The waiver does not hinder the use of, access to or enjoyment of any adjacent property not belonging to the applicant; and

(vii) The waiver conforms with all other applicable standards of the Unified Development Code.

d. Appeals

- i. Applicants who are denied a Plat Waiver from the Planning and Zoning Commission, who are within the jurisdiction of City Council may appeal the decision of the Commission to City Council within 30 days of the date that the Commission's decision was made. In matters of platting, the jurisdiction of City Council is defined as area encompassing the installation of any and all public improvements owned, operated or maintained by the City.
- ii. All such requests for appeals must be in writing and submitted to the Planning Director within the aforementioned time frames.
- iii. Applicants who are denied a Plat Waiver for land in the City's extraterritorial jurisdiction may appeal the Commission's decision to a District Court.

8. Approvals of Plat Applications

- a. Pursuant to State law, and except as provided in subsection 2, all Platting and Plan applications must be processed and approved, approved with conditions or disapproved within 30 days after the date the application is filed.
- b. This 30-day requirement applies to each step in the Platting Process, except for the pre-application meeting.
- c. Notwithstanding, the parties may extend the 30-day period for an additional period, not to exceed 30 days, if the applicant requests the extension in writing to the governing authority responsible for the approval of the application and the governing authority agrees to the extension request.
- d. If a platting application is not approved with conditions or disapproved within these time frames, the application shall be deemed approved.
- e. The governing authority that conditionally approves or disapproves a platting application shall provide the applicant with a written statement of the conditions of the conditional approval or the reasons for the disapproval.
- f. Each condition or reason specified in the written statement must be directly related to the requirements set out in state law, federal law, the Comprehensive Plan, or the City's Code of Ordinances and include a citation to the section(s) of such laws or plans that is the basis for the conditional approval or the disapproval and may not be arbitrary.
- g. Applicant's Response to Conditional Approval or Disapproval
 - i. After the conditional approval or disapproval of an application related to the platting process, the applicant may submit to the municipal authority responsible for the approval a written response that satisfies each condition for the conditional approval or remedies each reason for the disapproval.
 - ii. The governing authority responsible for the decision regarding the application may not establish a deadline for an applicant to submit the response.
 - iii. If a response to the conditioned approval or disapproval is received by the governing authority, it shall have 15 days after the response is received to approve, approve with conditions or disapprove the application. If the governing authority does not approve the application with conditions or disapprove the application prior to the expiration of the 15-day period, the application is deemed approved.
 - iv. If a response is deficient in meeting the conditions of the conditional approval or the disapproval, the governing authority responsible for the decision shall provide a written statement to the applicant and follow the requirements for a Plat Application set out in subsection XX.XX. Conditional approval or disapproval is limited to the specific conditions or reasons provided to the applicant in the written statement.

9. Steps in the Platting Process

- a. There shall be five steps involved in platting.
- b. Unless specifically indicated in this section, or unless waived by Staff at the Pre-Application Meeting, all of the steps shall be required for a plat application to be approved.
- c. Each step has decision agent and particular submittal requirements indicated.
- d. The steps are sequential in nature and, unless otherwise indicated, completeness of any one step requires either certification or approval of the prior step.
- e. The steps involved in the platting process are:
 - i. Pre-Application Conference
 - ii. Land Study
 - iii. Master Development Plan
 - iv. Letter of Certification for Infrastructure Documents
 - v. Final Plat Application

10. Types of Plats Established

The types of plats are in accordance with Chapter 212 of the Texas Local Government Code.

- a. Minor Subdivision Plat
 - i. A minor subdivision plat is a subdivision plat resulting in four or fewer lots that does not create any new street nor necessitate the extension of any municipal facilities, except sidewalks, to serve any lot within the platted area.
 - ii. A minor subdivision plat does not require submittal of a Master Development Plan.
 - iii. Staff will provide applicants with a checklist that outlines which steps are required, and the documents to be submitted for each step.
 - iv. Minor subdivision plats generally follow a more abbreviated process than major plats.
 - v. Minor subdivision plats do not require submittal of a Master Development Plan.
 - vi. Minor subdivision plats may be administratively approved by the Planning Director.
- b. Major Subdivision Plat
 - i. A Major Subdivision Plat shall include all other plats involving the subdivision of land, which are not exempted by this Section or by state or federal law.
 - ii. A Major Subdivision Plat requires completion of all of the steps of the platting process.
- c. Major Development Plat
 - i. A Major Development plat shall apply if the following hold true:
 - (a) The plat is for a single tract of land described by metes and bounds;
 - (b) Requires the extension of public infrastructure such as utilities and streets; and
 - (c) Is not already platted, is not part of a recorded subdivision plat, and is not being subdivided.
 - ii. A Major Development Plat requires the completion of all of the steps of the platting process.
- d. Minor Development Plat
 - i. A Minor Development Plat may be applicable if all of the following hold true:
 - (a) The plat is for residential use;
 - (b) The plat is for a single tract of land, described by metes and bounds;

- (c) The plat does not require any extension of major public infrastructure such as utilities and streets;
 - (d) The plat is not for any land that is part of a recorded subdivision plat;
 - (e) The plat does not require any subdivision of land;
 - (f) A major development plat is not required; and
 - (g) The property is not part of a master development plan.
- ii. A Minor Development Plat does not require the submittal of a Master Development Plan.
- iii. Staff will provide applicants with a checklist of which steps are required and the documents to be submitted for each step.
- iv. Minor Development Plats generally follow a more abbreviated process than major plats.
- v. Minor Development Plats may be administratively approved.
- e. Amending Plat

The purpose of an amending plat shall be to provide an expeditious means of making minor revisions to a recorded plat, consistent with provisions 212.016 of the Texas Local Government Code. Amending plats may be administratively approved.
- f. Replat

A replat is required when a property is already platted, and the intent is to alter or create new lot lines, to remove a restriction or covenant, or to make changes to the layout of the lots or reserves.
- g. Minor Replat

A minor replat is required when a property is already platted with 4 or fewer lots, and the intent is to alter or create new lot lines, to remove a restriction or covenant, or to make changes to the layout of the lots or reserves. Minor replats may be administratively approved.

B. PRE-APPLICATION CONFERENCE

Before any application for a plat is submitted for filing, and at least two weeks before the next official application submittal date, an applicant shall meet with the Planning Director or other designated city staff to review the following matters:

- 1. the sequence of applications required for the plat;
- 2. any claim of exemption for a contemplated division of land;
- 3. prerequisites or certifications required in advance of filing the initial application;
- 4. any request for a waiver to the platting; and
- 5. complete application requirements for each step in the platting process.
- 6. For Master Subdivision Plats and Master Development Plats, the applicant should also be prepared to discuss:
 - a. How the development plan complies with the official comprehensive plan of the City, as well as any specific area plan that impacts the project area;
 - b. General plans for improvements and correspondence with any City capital improvement plans; and
 - c. Additional requirements of utility providers and/or Kendall County requirements for road improvements or setbacks.

C. LAND STUDY

1. Content of the Land Study

- a. The Land Study documents existing conditions present on the property that is to be platted. Once an applicant has attended the Pre-Application Conference and received the checklist of plat submittal requirements, the Land Study may be submitted. The Land Study shall include:
 - i. Completed Land Study Form, provided by the City;
 - ii. Certificate of agent or power of attorney if other than owner;
 - iii. TIA worksheet for existing conditions;
 - iv. Drainage Study for existing conditions;
 - v. Vested rights determination;
 - vi. Current Property Deed with legal description;
 - vii. Boundary Survey – one (1) hard copy and one (1) PDF of a signed and sealed boundary survey of property;
 - viii. Tree Survey – one (1) hard copy and one (1) PDF of a tree survey showing all trees on the site, per the requirements of this UDC;
 - ix. Aerial Photo exhibit – one (1) hard copy and one (1) PDF;
 - x. Zoning status letter;
 - xi. Approved Waivers;
 - xii. Inventory of natural features;
 - xiii. Slope Map, or letter stating “no slope greater than 15%”;
 - xiv. Geological Assessment, if required per Chapter 8;
 - xv. Habitat Assessment, if required per Chapter 8; and
 - xvi. Fees required by the City
- b. The City requires proof of land ownership with submittal of application.

The applicant shall provide deed or a notarized Agent Authorization form such that City can verify the applicant is the owner of record or is the property’s owners duly authorized agent. If provided, property deed cannot establish proof of ownership, the City shall have the authority to deny the application on the basis of protecting public interest. The applicant may submit a new application for the property at any time following such denial.

2. Format of the Land Study

- a. Seven (7) hard copies and one (1) PDF copy of the Land Study, in compliance with all applicable provisions of this Article, shall be delivered to the City.
- b. The Land Study shall be prepared by a qualified professional engineer, certified land planner, registered architect or registered professional land surveyor.
- c. Maps shall be rendered at a scale no smaller than one inch (1”) equals two hundred feet (200’) and on sheets no larger than twenty-two inches (22”) by thirty-four inches (34”) in size. The following information shall be included with the maps:
 - i. Title block on each page of the land study with the proposed name of the development, name and address of the owner/ and the person responsible for preparing the land study;
 - ii. Date of preparation;
 - iii. Graphic and written scale of the drawing;
 - iv. Basis of bearing used and North arrow; and
 - v. Date the drawing was prepared;
- d. Location of the tract per the abstract and survey records of Kendall County, Texas;
- e. Vicinity map, at scale not less than 1” =2,000’, that shows the location of the subject tract within the City or its extraterritorial jurisdiction in relationship to existing major roadways. The location map is to be located in the top left-hand corner of the sheet;

- f. Total area of property;
- g. Limits of the subject tract in heavy lines;
- h. Names of adjacent additions or subdivisions or the name of the owners of record and recording information for adjacent parcels of unplatted land, including parcels on each side of an adjoining road, creek, easement or the like.
- i. Depiction of all contiguous holdings of the property owner(s);
- j. Existing uses of the subject property;
- k. Existing buildings located on the subject property and any protected or heritage trees, as prescribed in this UDC;
- l. Generalized existing vehicular and pedestrian circulation plan for the subject property;
- m. Existing zoning for the subject property existing zoning and existing/proposed uses on adjacent land;
- n. Existing driveways and median openings within two hundred feet (200') of the subject property and the location, width, paving material, and names of all existing or platted streets or other public ways within two hundred feet (200') of the subject property;
- o. Existing easements or rights-of-way, with street names, located on or within two hundred feet (200') of the subject property. This information shall include the type, dimension, ownership, and recording information;
- p. Existing topography at two-foot (2') intervals with existing drainage channels or creeks;
- q. Existing one percent (1%) annual chance (100-year) storm local and FEMA floodplain areas and floodways; and
- r. Signature Block for the dated signature of the Planning Director;

3. Staff Review and Approval

- a. Technical review of the Land Study shall occur administratively by the Planning Director, or designee once the application is deemed administratively complete. The Planning Director, or designee, shall approve a Land Study if it meets all of the requirements of this Chapter.
- b. Any revisions to the Land Study which occur after the initial application shall be identified by highlighting or clouding by hand the changes made on the Land Study and shall be reviewed by the Planning Director, or designee.
- c. Upon completion of Land Study review, and if approved by City staff and after requested corrections have been made by the applicant, the applicant shall submit two (2) original, signed Mylars of the Land Study within 14 calendar days of receiving staff approval. Original Mylars must be received by the City prior to an application being filed for the Master Development step.

4. Effects of Approval

- a. Following the approval of a Land Study and submission of the original Mylars, the applicant may proceed with the Master Development Plan (MDP) Submittal.
- b. A land study may be submitted for review concurrently with a Master Development Plan application, provided that the respective requirements for both types of applications are satisfied as specified by this UDC as amended. If the Land Study cannot not be reviewed by the City in time for the Master Development Plan to be scheduled on the Planning and Zoning Commission agenda, then the Master Development Plan may be denied or approved with conditions which include a condition that the Land Study be approved, unless the applicant has executed a notarized written waiver of the 30-day review period for the Master Development Plan.
- c. An approved Land Study shall expire within twelve (12) months from the date of approval, unless a MDP approval has been obtained by the applicant.

D. MASTER DEVELOPMENT PLAN

1. Purpose

- a. Following approval of a Land Study by the Planning Director, the applicant may submit a Master Development Plan (MDP) to the City Manager.
- b. The Master Development Plan establishes the overall development plan of a project across all phases.
- c. Preliminary studies and plans related to infrastructure and public improvements are required components of the Master Development Plan.
- d. Final plat applications shall comply with the approved Master Development Plan.
- e. A Master Development Plan is not required for Minor Development Plats.

2. Timing

The applicant shall deliver the Master Development Plan to the Planning Director a minimum of 21 calendar days prior to the Commission's consideration of the Master Development Plan.

3. General Content of the Master Development Plan

A Master Development Plan shall include these components:

- i. Complete Application Form containing all of the applicable information and submittals described in this section;
- ii. Certificate of agent or power of attorney if other than owner;
- iii. City required review fees;
- iv. Open Space plan;
- v. Parkland Dedication Plan;
- vi. Full TIA;
- vii. Drainage Study – masterplan level;
- viii. LID analysis – masterplan level;
- ix. Transportation Network Plan;
- x. CCR's – draft;
- xi. Fire protection concept plan;
- xii. Groundwater Availability Report (GAR), if required;
- xiii. Texas Department of Transportation approval for any contemplated modifications to a state-maintained roadway or driveway cuts off of state highways;
- xiv. Approval for any contemplated dedication of parkland;
- xv. Approval of amendments to the City's adopted Thoroughfare Plan or other master plan for public facilities and services necessary to serve the proposed development;
- xvi. Approval of Plat Waivers.
- xvii. For water and sanitary sewer systems provided by entities other than the City of Boerne, the applicant shall provide the City with a current letter of approval from the TCEQ certifying that the water or sanitary sewer system serving the development is in compliance with the rules and regulations of the TCEQ and that the public water or sanitary sewer system provider holds a current valid Certificate of Convenience and Necessity (CCN) for the area proposed for development. The letter of approval from the TCEQ shall be accompanied by a map delineating the boundaries of the CCN in the vicinity of the development.

4. Format and Detailed Content of the Master Development Plan

- a. The Master Development Plan shall be prepared by a qualified professional engineer, certified land planner, registered architect or registered professional land surveyor at a scale no smaller than one inch (1") equals two hundred feet (200') and on sheets no larger than twenty-two inches (22") by thirty-four inches (34") in size.
- b. Seven (7) hard copies and one (1) .pdf copy of the Master Development Plan in compliance with all applicable provisions of this Chapter.
- c. The following information shall be submitted:

- i. Title block on each page of the land study with the proposed name of the development, name and address of the owner/ and the person responsible for preparing the land study;
- ii. Date of Preparation;
- iii. Graphic and written scale of the drawing;
- iv. Basis of bearing used and North arrow;
- v. Date the drawing was prepared;
- vi. Location of the tract per the abstract and survey records of Kendall County, Texas;
- vii. Vicinity map, at scale not less than 1" =2000', that shows the location of the subject tract within the City or its extraterritorial jurisdiction in relationship to existing major roadways. The location map is to be located in the top left-hand corner of the sheet;
- viii. Total area of property;
- ix. Limits of the subject tract in heavy lines;
- x. The exterior boundaries as indicated from deeds or other instruments of the development area giving lengths and bearings of the boundary lines. Where curving boundaries are used, sufficient data to establish the boundary on the ground shall be given; including the curve's radius, central angle, and arc length.
- xi. Names of adjacent additions or subdivisions or the name of the owners of record and recording information for adjacent parcels of unplatted land, including parcels on each side of an adjoining road, creek, easement or the like.
- xii. Depiction of all contiguous holdings of the property owner(s);
- xiii. Existing/Proposed driveways and median openings within two hundred feet (200') of the subject property and the location, width, paving material, and names of all existing or platted streets or other public ways within two hundred feet (200') of the subject property;
- xiv. Existing easements or rights-of-way, with street names, located on or within two hundred feet (200') of the subject property. This information shall include the type, dimension, ownership, and recording information;
- xv. Existing topography at two-foot (2') intervals with existing drainage channels or creeks;
- xvi. Existing one percent (1%) annual chance (100-year) storm local and FEMA floodplain areas and floodways;
- xvii. Designation of those areas within the subject property covered by tree canopy areas of ten thousand (10,000) square feet or more;
- xviii. The applicant shall depict the types of land uses, planned densities for residential areas, and any non-residential uses anticipated. This information shall not include a lot pattern nor specify lot sizes or lot dimensions;
- xix. Total number of dwelling units, by development phase;
- xx. Residential density and units per acre, for each development phase;
- xxi. Generalized proposed vehicular and pedestrian circulation plan for the subject property.
- xxii. Two (2) points identified by Texas Planes Coordinates;
- xxiii. The location and widths of all proposed public and private streets major thoroughfares, collectors and local streets within the development's boundaries;
- xxiv. The location of the pedestrian circulation system including walkways and bicycle paths, where applicable;
- xxv. The location, dimensions, and area of all parcels of land proposed to be set aside for park or playground use or other public use, or for the use of property owners in the proposed subdivision, where applicable;
- xxvi. The location, acreage, category and type of improvements, if any, for active and passive open space, including Greenbelt and active recreation space areas, private recreational areas;
- xxvii. The location and size in acres of school sites, amenity center areas, or non-single-family lots as applicable;
- xxviii. A development phasing schedule including the sequence for each phase; approximate size in area of each phase; and proposed phasing of construction of public improvements, recreation and common open space areas;

- xxix. Centerline and widths of any drainageway protection zones;
- xxx. Locations and required storage volumes of Stormwater facilities (detention, LID, etc.); and
- xxxi. Signature block for the dated signature of the chairperson and secretary of the Planning Zoning Commission.

5. Staff Review

- a. Any revisions made to the Master Development Plan after the initial submittal shall be reviewed by the City Staff.
- b. After an initial Master Development Plan submittal is deemed complete, revisions thereafter shall be identified by highlighting or clouding by hand the changes made on the Master Development Plan.

6. Approval

- a. Planning and Zoning Commission shall consider approval of the Master Development Plans, following staff review.
- b. The Planning and Zoning Commission shall approve a Master Development Plan provided it meets all requirements of this UDC.
- c. Upon approval, or approval with conditions, of the Master Development Plan by Planning and Zoning Commission, the applicant shall submit two (2) original, signed Mylars of the Master Development Plan within 14 calendar days after receiving approval.

7. Effects of Approval

- a. Approval of the Master Development Plan (MDP) authorizes the applicant to proceed to the final step in the platting process unless the applicant makes major modifications to the MDP as described in this section. If major modifications to an approved MDP are requested by the applicant, i.e. changes in the total number of lots by more than 10%, modifications to open, recreational space or drainageway protection zones that staff judges to be significant or right-of-way alignment modifications as identified in the MDP, it may be cause to require that a new MDP be submitted and approved by the Planning and Zoning Commission prior to submission of a final plat application, or approval of the final plat may be subject to conditions or the final plat may be denied. The approved plan shall be filed with the City of Boerne.
- b. An approved Master Development Plan (MDP) shall be valid for a period of five (5) years, from the date of MDP approval by the Planning and Zoning Commission. Prior to the lapse of approval for a MDP, the property owner may petition the Planning and Zoning Commission to extend the MDP approval. Such petition shall be considered at a public meeting before the Planning and Zoning Commission and an extension may be granted by the Planning and Zoning Commission at such meeting. If no petition for extension of MDP approval is submitted by the property owner prior to the expiration date, the MDP shall be deemed to have expired and shall become null and void. In the case of a phased development, a MDP will not be deemed to have expired if the development is progressing in accordance with the phasing schedule of the original MDP approved by the City, or if the delay in completing the MDP is necessitated by the timing of public improvements required to adequately serve properties in the affected property.
- c. In determining whether to grant a request for extension, Planning and Zoning Commission shall take into account the reasons for the lapse, the ability of the property owner to comply with the conditions attached to the original approval, and the extent to which the UDC in effect at the time of the extension request shall apply to the MDP. In the event the Planning and Zoning Commission denies a request for extension, the property owner must thereafter submit a new MDP application for approval and shall conform to all applicable regulations then in effect.
- d. The Planning and Zoning Commission may grant extension of the MDP subject to additional conditions based upon the applicable City regulations and/or State legislation

in effect at the time that the extension is requested, or such as are necessary to ensure compliance with the original conditions of approval. In granting an extension, the Planning and Zoning Commission will require that the MDP adhere to all UDC requirements in effect at the time that the extension is requested.

- e. The Planning and Zoning Commission may specify a shorter time for extension of the MDP than the original five-year (5-year) approval period.

8. Revisions to a Master Development Plan

a. Minor Revisions to a Master Development Plan

- i. The following shall be considered minor amendments to a Master Development Plan.
 - (a) Changes to lot size or configuration, provided that the total number of lots does not increase;
 - (b) A change in total number of lots by no more than 3% of the total number of lots of the approved Master Development Plan;
 - (c) Changes to the width or alignment of a street other than an arterial or a collector;
 - (d) Changes to a utility or access easement;
 - (e) The splitting of a proposed phase of the Master Development Plan into two phases, if the separation does not affect access or utilities of a later phase;
 - (f) The combining of two sequential proposed phases of the Master Development Plan;
 - (g) A change in the sequence of phases of the Master Development Plan, provided that Staff determines that adequate public infrastructure, including parkland, is available and is maintained for subsequent phases;
- ii. Minor revisions to an approved Master Development Plan shall require resubmittal of a Master Development Plan application, accompanied by the information identified in the checklist provided by the City.
- iii. The Planning Director may administratively approve minor amendments to an approved Master Development Plan.

b. Major Revisions to a Master Development Plan

- i. A major revision to a Master Development Plan shall be any change to an approved Master Development Plan that is not a minor revision.
- ii. Major revisions to an approved Master Development Plan shall require resubmittal of a Master Development Plan application, accompanied by the information identified in the checklist provided by the City.
- iii. The Planning and Zoning Commission shall approve, approve with conditions or deny major revisions to an approved Master Development Plan.
- c. Any changes or revisions that are not approved shall require submittal and approval of a new Master Development Plan.
- d. Approval of a revision to a Master Development Plan shall not cause the expiration date established by the original Master Development Plan approval to be extended.

9. Exception to the Requirement for Submittal of a Master Development Plan

- a. The requirement to obtain approval of a Master Development Plan prior to submitting a final plat application shall not be required when the proposed application for final plat contains the entire Land Study limits as one plat.
- b. A Minor Development Plat does not require submittal of a Master Development Plan.

E. INFRASTRUCTURE DOCUMENTS: LETTER OF CERTIFICATION

1. Procedure for Submission

- a. Upon approval of the Master Development Plan (MDP) and prior to filing a Final Plat Application, the applicant shall apply for a Letter of Certification (LOC) for infrastructure documents.
- b. Although a single Master Development Plan shall be required for an entire project, the Infrastructure Documents shall be certified by phase.
- c. Department of Development Services shall issue all Letters of Certification of Infrastructure Documents.
- d. The application shall comply with the requirements of the Engineering Design Manual and of this Unified Development Code.

2. Content

The application shall include, but not be limited to:

- a. A completed application form
- b. Payment of application fees
- c. Engineering reports, studies and engineering/construction plans, conforming to the requirements of the Engineering Design Manual and the Unified Development Code, for all proposed:
 - i. streets;
 - ii. storm drains;
 - iii. drainage structures;
 - iv. water and wastewater facilities;
 - v. electric and gas facilities;
 - vi. retaining walls;
 - vii. sidewalks; and
 - viii. any other required public improvements for the area that is to be included in the final plat.

3. Completeness

- a. The Infrastructure Documents shall be submitted to the Development Services Department for certification after the Master Development Plan is approved, unless otherwise indicated.
- b. Once submitted, the application for a Letter of Certification of Infrastructure Documents shall be reviewed for completeness, in accordance with the procedure for completeness review in this Chapter.
- c. Infrastructure Documents shall include all of the required information and supporting documents to constitute a complete submittal.
- d. City staff will notify the applicant, developer or engineer of record via email or formal letter if the submittal is administratively complete. Any missing information in the submittal shall be specifically identified in the notice.
- e. If the applicant, developer or engineer of record is notified that the application is incomplete, the Infrastructure Documents shall not be reviewed.

4. Review

- a. City staff conduct a technical review of an administratively complete application for a Letter of Certification of Infrastructure Documents.
- b. If changes are requested by City staff, the application shall not be considered officially filed with the City until such changes are made and the application re-submitted to the City.

- c. Any follow up revisions to the Infrastructure Documents shall be delivered directly to the City for review.
- d. After an initial Infrastructure Document submittal, revisions thereafter shall be identified by highlighting or clouding the changes made on the Infrastructure Documents.

5. Approval and Effect

- a. Within 30 days of submittal, the Director of Development Services or their designee shall either approve or deny the Infrastructure Documents, in accordance with the rules for Approvals of Plat Applications established in 2.6.A.
- b. If an application for a Letter of Certification is denied, the applicant may choose to:
 - i. Resubmit the application, in keeping with 2.6.A; or
 - ii. Appeal the decision of the Director of Development Services. Appeals of denial of a Letter of Certification of Infrastructure Documents shall be heard and decided by the Planning and Zoning Commission.
- c. Upon approval of the Infrastructure Documents, the Department of Development Services will issue a Letter of Certification (LOC). This Letter of Certification is a prerequisite of the Final Plat Application.
- d. Approval of the Infrastructure Documents shall not constitute a construction permit or acceptance of a final plat.

6. Extension of Approval

- a. An approved Infrastructure Documents LOC shall be valid for a period of one (1) year unless the Construction Release Permit for the project has been issued. Prior to the lapse of approval for the Infrastructure Documents LOC, the design engineer may petition the City Manager to extend the Infrastructure Documents approval. If no petition for extension of Infrastructure Documents approval is submitted by the design engineer prior to the expiration date, the Infrastructure Documents LOC shall be deemed to have expired and shall become null and void.
- b. In determining whether to grant a request for extension, City Manager, shall take into account the reasons for the lapse, the ability of the property owner to comply with the conditions attached to the original approval, and the extent to which the UDC in effect at the time of the extension request shall apply to the Infrastructure Documents. In the event the City Manager denies a request for extension, the property owner must thereafter submit a new Infrastructure Document LOC application for approval and shall conform to all applicable regulations then in effect.
- c. The City Manager may grant extension of the Infrastructure Documents LOC subject to additional conditions based upon the applicable City regulations and/or State legislation in effect at the time that the extension is requested, or such as are necessary to ensure compliance with the original conditions of approval. In granting an extension, the City Manager will require that the Infrastructure Documents adhere to all UDC requirements in effect at the time that the extension is requested.

F. FINAL PLAT APPLICATIONS

1. Minor Development Plats

- a. Steps in the Platting Process that apply for Minor Development Plats

Before a Minor Development Plat can be approved, the applicant shall have completed these steps as part of the platting process:

- i. Preapplication Meeting; and
- ii. Submittal of a Final Plat Application

b. Final Plat Application Submittal Requirements

- i. A completed Minor Development Plat Application;
- ii. Application fee;
- iii. Ownership information;
- iv. Property information, in the form of a survey;
- v. Development constraints, such as:
 - (a) existing easements
 - (b) burial grounds
 - (c) railroad rights of way
 - (d) rivers, lakes, and other watercourses
 - (e) oil and gas lines, wells and pad sites
 - (f) any other easement or constraining use that influences the development of the proposed subdivision; and
- vi. Any other information staff requires, as identified at the pre-application conference.

c. Decision

- i. The City delegates to the Planning Director the authority to approve Minor Development Plats and amendments to Minor Development Plats.
- ii. The Planning Director may, for any reason, elect to present the plat to the Planning and Zoning Commission for approval.
- iii. The Planning Director shall not disapprove the Minor Development Plat and shall be required to refer any Minor Development Plat that cannot be approved administratively to the Planning and Zoning Commission for consideration.
- iv. A final decision shall be rendered within 30 days of filing of the complete application.

2. Minor Subdivision Plats

a. Steps in the Platting Process that apply for Minor Subdivision Plats

Before a Minor Subdivision Plat can be approved, the applicant shall have completed these steps as part of the platting process:

- i. Preapplication Meeting;
- ii. Submittal of a Land Study, if indicated at the Preapplication Meeting;
- iii. Submittal of Infrastructure Documents, if indicated at the Preapplication Meeting; and
- iv. Submittal of a Final Plat Application

b. Final Plat Application Submittal Requirements

A completed minor subdivision plat application shall be submitted to the Planning Director for administrative approval, and shall include:

- i. A boundary survey establishing the limits of the parcel.
- ii. Any improvements, existing or proposed, that are not shown on the boundary survey, which impact impervious cover, shall also be indicated on the plat.
- iii. All fees associated with a minor subdivision plat at the time of submittal.
- iv. Existing zoning of the property if applicable
- v. Thoroughfares. Indicate all streets that are adjacent to the property.

c. Criteria for Approval

- i. An application for minor plat has been filed with the Planning Director and deemed complete.
- ii. The proposed plat conforms to the City's Master Plan and adopted plans.
- iii. The proposed plat conforms to the standards and provisions of the Unified Development Code.

d. Decision

- i. The City delegates to the Planning Director the authority to approve Minor Subdivision Plats and amendments to Minor Development Plats.
- ii. The Planning Director may, for any reason, elect to present the plat to the Planning and Zoning Commission for approval.
- iii. The Planning Director shall not disapprove the Minor Subdivision Plat and shall be required to refer any Minor Subdivision Plat that cannot be approved administratively to the Planning and Zoning Commission for consideration.
- iv. A final decision shall be rendered within 30 days of filing of the complete application.

3. Major Subdivision Plats

a. Steps in the Platting Process that apply for Major Subdivision Plats

Before a Major Subdivision Plat can be approved, the applicant shall have completed these steps as part of the platting process:

- i. Preapplication Meeting;
- ii. Submittal of a Land Study;
- iii. Approval or Approval with Conditions of a Master Development Plan;
- iv. Receipt of a Letter of Certification of Infrastructure Documents; and
- v. Submittal of a Final Plat Application

b. Final Plat Applications for Major Subdivision Plats, Generally

- i. An approved plat shall be required before a Construction Release Permit is issued within the project boundaries of the Major Subdivision Plat.
- ii. Prior to submitting a final plat application for a Major Subdivision Plat, the applicant shall secure letters of certification (LOCs) from all reviewing entities, including but not limited to utility providers (water, sanitary sewer, electric) other than City of Boerne, Kendall County and pertinent state agencies including the Texas Department of Transportation (TxDOT).
- iii. The Major Subdivision Plat shall be approved by the Planning and Zoning Commission before the plat can be recorded.
- iv. The Major Subdivision Plat shall constitute only that portion of the approved Master Development Plan which the applicant proposes to record and develop at the time.
- v. The Major Subdivision Plat shall substantially conform to the approved Master Development Plan.
- vi. Deviations from the Master Development Plan
 - (a) Minor revisions shall be reviewed by staff and are permissible.
 - (b) Major revisions require approval from Planning and Zoning Commission and may require a new Letter of Certification of Infrastructure Documents.
 - (c) Any deviation from the Master Development Plan, other than a previously approved major or minor revision, shall require submittal of a new application and the approval of a new Master Development Plan.

c. Initiation

- i. As required by 212.008 of the Texas Local Government Code, an application for a Major Subdivision Plat shall be filed with the Planning and Zoning Commission.
 - ii. The Planning Director shall serve as the agent for the Commission for purposes of accepting plat applications pursuant to this Section.
- d. Content of the Major Subdivision Plat Application

A complete Major Subdivision Plat Application shall include:

- i. A completed Plat Application Form;
- ii. Payment of Fees
- iii. Ownership Information
 - (a) Names and lot numbers of adjacent plats, if the application is for a secondary or subsequent phase of a master development project, for which the platting of an earlier phase was previously submitted.
 - (b) Certification of Consent letter, including a legal description of the boundaries of the proposed development and the dedication of public ways or spaces. This certificate shall be signed, dated and notarized by the owner or the designated agent of the owner.
 - (c) Tax certificates, indicating that all taxes on the land being subdivided have been paid to the current year for the proposed subdivision.
 - (d) Notation of any restrictions or conditions that were imposed as a contingency of Subdivision Plat approval.
- iv. Property Information
 - (a) A location map at a scale of 1 inch to no more than 2,000 feet, indicated the location and distance relation to all surrounding major thoroughfares.
 - (b) Legal description and exhibit of the property at a scale of 1 inch to no more than 50 feet, showing the property boundary.
 - (c) Property survey prepared by a professional land surveyor with two points identified by State Plane Coordinates, the basis of bearings used and a north point.
 - (d) In addition to the location of property lines, the following development constraints shall be identified in the subdivision plat Application:
 - (i) existing easements
 - (i) burial grounds
 - (ii) railroad rights of way
 - (iii) rivers, lakes, and other watercourses
 - (iv) oil and gas lines, wells and pad sites
 - (v) any other easement or constraining use that influences the development of the proposed subdivision
 - (e) A map that identifies all adjacent parcels and any parcels with a portion of land falling within 200 feet of the property in question.
 - (f) Final location, arrangement and dimensions of all proposed and existing lots
 - (g) Lots numbered, as assigned by applicant and approved by the City of Boerne.
 - (h) Sufficient data to determine readily and reproduce accurately on the ground, or to ascertain by physical inspection of the property, the location, bearing and length of every street and alley line, lot line, building line and easement, as well as every boundary line of reserved or dedication areas.
- v. Subdivision Plat Maps, Plans, Specifications, Drawings and Illustrations.

- (a) All monuments erected and corners established in the field shall be identified, noting the material of which the monuments, corners and other points are made. Lot corners need not be shown.
- (b) Right of way lines, streets, easements and property lines
- (c) Building setback lines, if/as required by the zoning ordinance
- (d) Location and dimensions of all easements
- (e) Location and dimensions of all lots and blocks
- (f) Location, dimensions and right of way width, across and to the centerline, of all streets, public and private, within the property boundary
- (g) Name of each street, including those adjacent to the property
- (h) Numbers assigned to all blocks, lots and sites
- (i) Surveyor's certificate and seal, including the date, on the plat

vi. Demonstration of Sustainable Community Development Activity

The applicant shall include documentation of the following measures along with the subdivision plat Application:

(a) Parkland Dedication

The applicant shall identify parks and trails, demonstrating consistency with the allocations included in the Subdivision Plat submittal. The location, dimensions, type and area of all parcels of land set aside for parks and open space, or for public spaces for uses of the residents of the proposed development, shall be identified.

(b) Traffic Mitigation

The applicant shall demonstrate mitigation of traffic impacts identified in the Traffic Impact Analysis and approved as part of the Subdivision Plat submittal.

(c) Tree Preservation

The applicant shall demonstrate employment of preservation measures identified in the Tree Preservation Plan as approved as part of the Subdivision Plat submittal.

(d) Stormwater Management

The applicant shall demonstrate execution of any and all measures for stormwater management identified in the Stormwater Management Plan submitted and approved as part of the Subdivision Plat Submittal.

vii. Plan Tabulation

Any modifications to the plan tabulation presented in the Major Plat shall be noted in this section of the subdivision plat application, according to those same categories addressed in the Major Plat Application. If no modifications are present, a page shall be included indicated that the final counts are equal to the preliminary counts.

viii. Any approved Plat Waivers, Administrative Exceptions or Zoning Variances must be submitted with the Major Subdivision Plat application.

e. Approval Criteria

- i. The Major Subdivision Plat application shall be approved upon demonstration that:
 - (a) The subdivision plat complies with the approved Master Development Plan.
 - (b) The proposed subdivision conforms to all relevant requirements of the Unified Development Code and variances have been requested for any nonconformance.
 - (c) In no way does the subdivision plat create a violation of any applicable regulations of the City or of state or federal law.
 - (d) The vehicular and pedestrian system is consistent with adopted transportation plans, including the Master Thoroughfare Plan and the street layout standards set forth in the Unified Development Code,
 - (e) The proposed subdivision will not have detrimental impacts on the safety or exercise of permitted uses on adjacent properties.
 - (f) The subdivision name and numbering on all subdivision plats shall be consistent with the approved Master Development Plan. Block numbers shall run consecutively throughout the entire subdivision, even though such subdivision may be finally approved in sections.
 - (g) Any land located within 100 year local or FEMA floodplain, as shown on the currently adopted flood boundary and floodway maps of the flood insurance study, is determined to be suitable for its intended use, and the proposed subdivision adequately mitigates the risks of flooding, inadequate drainage, soil and rock formations with severe limitations for development, severe erosion potential, or any other floodplain-related risks to the health, safety, or welfare of the future residents of the proposed subdivision in a manner consistent with The Unified Development Code.
- f. Decision
 - i. The Planning and Zoning Commission shall hear and decide all Major Subdivision Plats, in accordance with the Plat Approvals requirements of this Section.
- g. Certification of Approval of the Major Subdivision Plat
 - i. The subdivision plat shall be certified before it is recorded.
 - ii. The Chairman and Secretary of the Planning and Zoning Commission shall certify the plat once the following criteria have been met:
 - (a) Planning and Zoning Commission has approved the subdivision plat; and
 - (b) The applicant and the City have executed all agreements that are to accompany the subdivision plat.
- h. Scope of Approval
 - i. The developer shall not proceed with infrastructure improvements until the Major Subdivision Plat is approved.
 - ii. No building permits may be issued, and no infrastructure improvements shall be considered accepted by the City except as otherwise provided in this Chapter.
 - iii. The final approval of a Major Subdivision Plat is not considered an acceptance of any proposed dedication for public use or use by persons other than the owner of the property covered by the plat and does not impose on the City any duty regarding the maintenance or improvement of any purportedly dedicated parts until the City's governing body makes an actual appropriation of the dedicated parts by formal acceptance, entry, use, or improvement.
- i. Validity of Approval

Approval of the Major Subdivision Plat shall not expire, and the terms and conditions under which the approval was granted shall not be changed.

4. Major Development Plats

a. Applicability

- i. The City hereby chooses by ordinance to be covered by Subchapter B of Chapter 212 of the Texas Local Government Code.
- ii. A property is not eligible for a Major Development Plat if a subdivision plat is required under an ordinance of the City of Boerne or under Subchapter A of Section 212 of the Texas Local Government Code.

b. Plat required for development activity

New development may not begin on the property until a plat is recorded with the County.

c. Initiation

- i. An application for a Major Development Plat shall be filed with the Planning and Zoning Commission.
- ii. The Planning Director shall serve as the agent for the Commission for purposes of accepting plat applications pursuant to this Section.

d. General Content of the Plat Application

- i. Completed Plat Application Form
- ii. Payment of Plat Application Fee, as set by the City
- iii.
- iv. Two (2) copies of a Traffic Impact Analysis meeting the City's TIA requirements.
- v. Three (3) complete bound sets of design and construction documents required by this Chapter, each bound with a copy of the plat.
- vi. Letters/memos/emails from all the following agencies that either have jurisdiction over improvements required or desired in the development plat or that need to be notified that development is occurring, including:
 - (a) County Fire Marshal (if in the ETJ);
 - (b) Bandera Electric Co-op and/or Pedernales Electric Co-op (if not served by the City of Boerne);
 - (c) Texas Department of Transportation (if any state right-of-way is involved in streets or access points);
 - (d) Cow Creek Ground Water Conservation District (if a well exists or is proposed on the site);
 - (e) Cable and telephone wire services;
 - (f) Kendall County (if any county right-of-way is involved in streets or access points);
 - (g) Kendall County Development Office verifying approval of the On-site sewage facilities (OSSF) design for the intended use (if in the county); and
 - (h) any other State or public agency approval with jurisdiction over improvements desired in the subdivision.

vii. An Illumination Plan

viii. Parkland Dedication

A Parkland Dedication Plan, if applicable, including the location and proposed area of all public or common open spaces, including a table of requirements based on the proposed development and typical service areas for each Type.

ix. Tree Preservation

- (a) Identify on the plat the location and species of all Legacy Heritage and Standard trees.
- (b) A tree survey for all property subject to the application that documents the presence of all Legacy Standard and Heritage Trees.

x. Drainage

A minimum of two (2) copies of the drainage study per City standards.

xi. Steep Slopes

If a steep slope is present on the site, provide a Slope Map.

xii. Fire Protection

- (a) If in the city limits, a Fire Protection Plan shall be submitted with the plat.
- (b) If in the ETJ, a County approved Fire Protection Plan shall be submitted with the plat.

e. Format and Detailed Content of the Plat

- i. The Major Development Plat shall be prepared by a registered public surveyor and bear his/her seal.
- ii. Five separate blue or black line 18" x 24" copies of the development and one PDF copy.
- iii. Copies required, by format:
 - (a) Five (5) folded copies of the final plat
 - (b) One copy of the digital file of the final plat, in a format specified by the City,
 - (c) One (1) copy of the final Major Development Plat in .pdf format.
 - (d) At least three (3) original signed and sealed Mylars of the final plat for recording, plus an original, notarized affidavit showing the taxes have been paid, including copies of the paid tax statement from the Kendall County Appraisal District.

iv. The plat shall show or be accompanied by the following information:

The plat shall be drawn to a scale of one inch to 100 feet or one inch to 50 feet. The development plat shall generally include the entire tract intended to be developed at one time. When more than one sheet is necessary, an index sheet showing the entire subdivision at a scale of one inch to 400 feet shall be attached to the plat.

- (a) Each existing or proposed building, structure, or improvement or proposed modification of the external configuration of the building, structure, or improvement involving a change of the building, structure, or improvement;
- (b) The name of the development, which shall be approved by the City Manager or his designee.
- (c) The names and addresses of owners of record.
- (d) A location map showing the relation of the development to well-known streets in all directions.
- (e) North point, with north to the top of the sheet if possible, and the bearing of record.
- (f) Name and location of adjacent subdivisions, watercourses on or adjacent to the proposed development, and the property lines and names of the property owners in all adjoining unsubdivided tracts.

- (g) The total acreage in the proposed development.
 - (h) The location, right-of-way width, name and description of all existing or recorded streets, alleys, or other transportation features or similar reservations which are adjacent to the development, as determined from existing records.
 - (i) Two-foot contour interval surveys tied to City Control Monuments or USGS Benchmarks. Where conditions exist that make the use of two-foot contours impractical, alternate intervals may be used upon approval of the City Manager or his designee.
 - (j) The location of the City limit lines and the outer border of the City's ETJ if either traverse the development or are contiguous to the development boundary.
 - (k) The centerline of watercourses, creeks and existing drainage structures within and adjacent to the development. Pertinent drainage data and the limits of areas subject to flooding shall be shown, delineating the 25-year and the 100-year flood limits if applicable.
 - (l) A note as to whether any part of the development is located within a drainage basin which is upstream from a City water supply lake, and if so, a map at a convenient scale showing the location of the entire development in relation to the drainage basin.
 - (m) If the development is located within a drainage basin which is upstream from a City water supply lake, calculations showing the maximum allowable area covered by impervious surfaces in the area of the subdivision.
 - (n) The locations, dimensions and purposes of all recorded and proposed easements to include necessary sanitary control easement (100') required by Kendall County.
 - (o) The total acreage of open space required by the City's Subdivision Ordinance.
 - (p) If applicable, areas identified as steep slope with a slope of 15% or greater
 - (q) Applicable Notes required under this Chapter.
- f. Criteria for Approval
- i. The proposed development conforms to all standards and requirements of the Unified Development Code and variances have been requested for any nonconformance.
 - ii. In no way does the development plat create a violation of any applicable regulations of the City or of state or federal law.
 - iii. The vehicular and pedestrian system is consistent with adopted transportation plans, including the Master Thoroughfare Plan and the street layout standards set forth in The Unified Development Code,
 - iv. The proposed development will not have detrimental impacts on the safety or exercise of permitted uses on adjacent properties.
 - v. All required securities and guarantees have been paid, and all applicable agreements with the City have been executed.
- g. Decision
- i. The City delegates to the Planning & Zoning Commission the authority to approve major development plats.
 - ii. A final decision shall be rendered within 30 days of filing of the plat application in accordance with the Action within Thirty Days provision.
- h. Certification of Approval of the Major Development Plat

- i. The Chairman and Secretary of the Planning and Zoning Commission shall certify the Major Development Plat once the following criteria have been met:

- (a) Planning and Zoning Commission has approved the plat; and
- (b) The applicant and the City have executed all agreements that are to accompany plat.

- i. Scope of Approval

- i. The developer shall not proceed with infrastructure improvements until the Major Development Plat is approved.
- ii. No building permits may be issued, and no infrastructure improvements shall be considered accepted by the City except as otherwise provided in this Chapter.
- iii. The final approval of a Major Development Plat is not considered an acceptance of any proposed dedication for public use or use by persons other than the owner of the property covered by the plat and does not impose on the City any duty regarding the maintenance or improvement of any purportedly dedicated parts until the City's governing body makes an actual appropriation of the dedicated parts by formal acceptance, entry, use, or improvement.

- j. Validity of Approval

Approval of the Major Development Plat shall not expire, and the terms and conditions under which the approval was granted shall not be changed.

G. RECORD PLAT

1. Recordation of Unapproved Plat Prohibited

The Planning Director shall not file or record any subdivision plat until the plat is approved in accordance with the regulations set forth in this chapter.

2. Eligibility

The following requirements shall be satisfied before a plat shall be filed or recorded.

- a. Documentation of payment of any fee in lieu of parkland dedication;
- b. Documentation of acceptance by the City of land dedicated for parks and trails within the development;
- c. Documentation of rough proportionality payment identified in the traffic impact assessment;
- d. Documentation of payment of any impact fee associated with the proposed development
- e. Payment of any and all bonds and financial guarantees required for the proposed; and development, or construction, dedication and acceptance of public improvements, should construction be completed in lieu of payment of bonds and financial guarantees.
- f. Payment of plat recording fee.
- g. Provide tax certificates and owner affidavit for filing with the County.

3. Recording Procedures

- a. The approved plat of record shall be filed by the city in the plat records of Kendall County within 12 months of final plat approval.
- b. The City shall file the approved development plat for record and provide the developer with one reproducible recorded tracing of the final plat within 14 calendar days of unconditional approval by the Planning and Zoning Commission or satisfaction of the conditional approval as identified by the Planning and Zoning Commission.
- c. The approved plat shall expire within 12 months unless the City of Boerne has granted an extension.

- d. The Planning Director may grant up to two extensions of plat approval, each up to 12 months. All requests for an extension of time must be submitted to the Planning Director at least 30 days prior to expiration of the approved plat.
- e. Failure to record the approved plat or secure an extension within 12 months shall cause the plat approval to be void.

H. AMENDING PLATS, REPLATS AND PLAT VACATION

1. Amending Plats

a. Eligibility

- i. Subdivision Plats and Replats are eligible for an amending plat, provided the amendment meets the criteria contained in this section.
- ii. Plat amendments shall only be allowed for any of the following:
 - (a) To correct an error in a course, a distance or a real property description that is shown on a preceding plat;
 - (b) To add a course or distance that was omitted on a preceding plat;
 - (c) To indicate monuments set after the death, disability or retirement from practice of the professional engineer or surveyor responsible for setting monuments;
 - (d) To show the change in location or character of a monument previously set;
 - (e) To correct an error in the documentation, location or character of a monument previously set;
 - (f) To correct an error in a real property description shown on the preceding plat;
 - (g) To correct an error or omission in a previously approved plat that impacts the lots of the subdivision. This could include lot numbers, acreage, street names and identification of adjacent recorded plats;
 - (h) To relocate a lot line to eliminate an inadvertent encroachment of a building or other improvement on a lot line or easement; or
 - (i) To amend a lot line between two adjacent lots, provided that:
 - (i) The owners of both impacted lots jointly file the application for plat amendment;
 - (ii) Neither lot is abolished and the number of lots does not change;
 - (iii) No recorded covenant or restriction is removed; and
 - (iii) The amendment does not have materially adverse effects on the property rights of owners of other parcels within the plat in question
- iii. No amendment may be authorized that:
 - (a) Creates a new lot;
 - (b) Changes the uses that are permitted in the preliminary plat;
 - (c) Increases the number of dwelling units;
 - (d) Increases the total square footage of non-residential building area, including all expressions of commercial and industrial uses;
 - (e) Increases the demand for public utilities;
 - (f) Decreases the total area of parks and open spaces; or
 - (g) Increases the volume or velocity of stormwater runoff from the development.

iv. All other changes or amendments to an approved plat shall be submitted as a replat.

b. Initiation and Completeness Review

- i. An applicant wishing to amend an approved plat shall file an Amending Plat Application with the Planning Director, together with a copy of the approved plat for which the change is requested.
- ii. The Planning Director shall notify the applicant by writing within 10 days of receipt of the plat submittal whether the submittal has been deemed complete. The mailing date of the notification of completeness shall serve as the filing date.
- iii. Amending Plats may be approved by the Planning Director without filing a new plat.

c. Plat Amendment Submittal Requirements

Applications for Plat Amendments shall require the following:

- i. Completed Plat Amendment Application;
- ii. A tax certificate that verifies ownership, and that all taxes are paid and up to date, shall be submitted with the required amendment. Should the amendment require verification of another party, or of the validity of the requested correction, such documentation shall be included as a part of the submittal.; and
- iii. The applicant shall pay all fees associated with a plat amendment at the time of the submittal.

d. Criteria for Approval

- i. An application for plat amendment has been filed by the Planning Director and deemed complete.
- ii. The applicant has paid all fees associated with an application for a minor subdivision plat.
- iii. Original official tax certificates, showing no outstanding or delinquent taxes, have been submitted for all parcels contained within the plat.
- iv. The amendment does not alter the density, design, boundaries, street types, public facilities or right of way assignments of the previously approved plat.

e. Decision

Notice, a hearing, and the approval of other lot owners are not required for the approval and issuance of an amending plat. The amending plat shall be processed by the Planning Director in the same manner as a minor plat.

f. Recording a Plat Amendment

- i. If the plat being amended has been previously recorded, the amending plat shall be clearly marked as follows:

This plat amends the plat previously recorded in the plat records of Kendall County, Volume _____, Page _____, Document Number _____.

- ii. The amending plat shall then be recorded if all requirements have been met, in accordance with the requirements for recording a plat.
- iii. If the plat being amended has not been previously recorded, the approved replat shall be annotated with the following statement:

“This plat includes amendments approved by the Planning Director.”

2. Replat

a. Classification

A replat is a subdivision of any portion of an already approved and recorded final plat. A Replat shall be classified as one of the following:

i. Minor replat

All minor replats shall follow the procedure for a minor plat.

ii. Replat of recorded subdivision plat, not vacated

A replat of a subdivision or part of a subdivision may be recorded and is controlling over the preceding plat without vacation of that plat, provided that the replat:

- (a) Is signed and acknowledged by all the owners of the property being replatted;
- (b) Is approved following a public hearing, if required by State law and by this Code; and
- (c) Does not attempt to amend or remove any covenants or restrictions that run with the land.

iii. Replat of a recorded subdivision, where plat has been vacated

- (a) The procedure for a replat if the original plat has been vacated is the same as the corresponding procedure for initiating a plat, except that, if required, the Master Development Plan may be administratively approved.

b. Pre-Application Meeting Required

For all replats, a Pre-Application Meeting is required. The applicant and the Planning Director shall attend the meeting. The Planning Director shall provide the applicant with the Plat Application and Code Compliance forms and shall review the Replat Checklist with the applicant to determine the documents that will be required for the Replat Submittal. The Replat Checklist shall be signed by both the Planning Director and the applicant.

c. Initiation and Completeness Review

- i. Copies of the replat application shall be submitted to the Planning Director not less than 30 days prior to the Planning and Zoning Commission meeting at which consideration is desired.
- ii. The Planning Director shall receive applications for replat and conduct a completeness review, in accordance with the submittal requirements for a Replat.
- iii. The replat shall be considered officially filed after it is accepted by the Planning Director and found to be in compliance with the submittal requirements. The Planning Director shall provide notification to the applicant within 10 days as to whether the application is deemed complete. The stamped mailing date of the notification shall serve as the filing date for the replat. From this official filing date on which completeness is determined, the Commission shall have 30 days to act on the replat application.

d. Submittal Requirements

Except for certain replats, an application for a replat shall be bound by the same submittal requirements as an application for a subdivision plat.

e. Criteria for Approval and Decision

Except for certain replats, the criteria for approval and decision shall be the same as those for a subdivision plat.

f. Public hearing and written notice requirements for certain replats

i. A public hearing and written notice shall be required if:

- (a) Any part of the area to be replatted was limited by an interim or permanent zoning classification to single-family or duplex residential use at any time during the preceding five years; or
- (b) Any lot in the preceding plat was limited by deed restriction to single-family or duplex residential use.

ii. Notice of a public hearing regarding replats subject to this sub-section shall be as follows:

- (a) Notice of the hearing shall be given before the 15th day before the date of the hearing by:
 - (i) Publication in the official newspaper of the city; and
 - (i) By written notice to the owners of lots that are in the original subdivision and that are within 200 feet of the lots to be replatted as indicated on the city's most recently approved Kendall County Appraisal District tax roll.
- (b) If the proposed replat requires a variance and is protested by petition in accordance with state law, the proposed replat must receive, in order to be approved, the affirmative vote of at least three-fourths of the commission or council members present.
- (c) For a legal protest or petition to be valid:
 - (i) The petition must be signed by the owners of at least 20 percent of the area of the lots or land immediately adjoining the area covered by the proposed replat and extending 200 feet from that area but within the original subdivision;
 - (i) The petition must be submitted to the commission or council, or both, prior to close of the public hearing; and
 - (ii) The signatures on the petition must correspond with actual names listed on the most recently approved Kendall County Appraisal District tax roll.

g. The Action within Thirty Days provision of this Chapter applies to replats.

h. The Resubmittal Requirements of this Chapter apply to replats.

i. Exemptions

Compliance with this section is not required for approval of a replat if the area to be replatted was designated or reserved for a use other than single or duplex family residential use by notation on the plat or in the legally recorded restrictions applicable to the plat.

j. Denial of Replats

If the Commission determines that the replat does not comply with the requirements of this chapter, then the replat shall be denied. Failure or refusal to comply with all conditions of approval attached to the replat shall automatically cause the replat to be deemed denied as of the date of its conditional approval. The developer, at any time

thereafter, may submit a new design for approval, following the same procedures as required for the original application, including the payment of application fees.

k. Recording of replat

- i. Prior to recording the replat, the applicant shall demonstrate compliance with requirements of this ordinance, including compliance with all comments and all conditions of approval.
- ii. Replats shall be recorded within one year from the approval date. The Commission may extend the recording deadline by up to one year upon written request of the developer.
- iii. The city shall record the plat with Kendall County when the following are complete:
 - (a) Three copies of the plat on mylar reproducible film or other permanent material have been submitted and the plat has been signed by the Planning Director.
 - (b) All necessary fiscal agreements have been approved by the city;
 - (c) All fees have been received;
 - (d) All engineering plans and specifications, if applicable, have been approved;
 - (e) An electronic or digital copy of plat drawing in a format acceptable to the city has been provided;
 - (f) Original official tax certificates, showing no outstanding or delinquent taxes, from Kendall County for all parcels contained within the plat have been submitted; and
 - (g) A community facilities contract for the public infrastructure has been executed by the owner and contractor, if applicable.

3. Plat Vacation

a. Generally

The plat is vacated when a signed, acknowledged instrument declaring the plat vacated is approved and recorded in the manner prescribed for the original plat. If lots within the plat have been sold, the plat, or any part of the plat, may be vacated on the application of all the owners of the lots in the plat, upon approval in the manner prescribed for the original plat.

b. Initiation

The applicant or owner of any lot in an approved subdivision shall initiate a plat vacation by filing a petition and a declaration with the Planning Director to vacate the plat with respect to the property in question.

- i. The applicant may file the vacating declaration and an application requesting re-subdivision at the same time, so that the two requests may be processed simultaneously.
- ii. The Planning Director shall review the Petition for Plat Vacation for completeness, according to the submittal requirements
- iii. If the Petition for Plat Vacation and a new plat application are jointly filed, the filing fee for plat vacation shall be waived.

c. Submittal Requirements for Plat Vacation

- i. Petition for Plat Vacation. The applicant shall complete these forms and include them in the submittal.

- ii. Fees. The applicant shall pay the applicable plat vacation fee at the time the application is submitted to the Planning Director.
- d. Decision
 - i. The Planning Director shall present the Petition for Plat Vacation at a Planning and Zoning Commission meeting within 30 days of the filing date of the Petition for Plat Vacation.
 - ii. The Commission shall approve, approve with conditions or deny the Petition based on the Approval Criteria for Plat Vacation.
- e. Recording a Vacated Plat
 - i. The vacated plat shall have the word “vacated” written on it, as well as a reference to the volume and page at which the vacating instrument is recorded.
 - ii. Upon execution and recording of the vacation, the vacated plat has no effect.
- f. Re-subdivision of a Vacated Plat
 - i. A vacated plat may be re-subdivided (replatted) once the vacation of the original plat is recorded.
 - ii. Re-subdivision of a previously vacated plat shall follow the procedures prescribed for plat initiation in this chapter. However, a copy of the vacating declaration shall accompany any application for re-subdivision.

2.7 CONSTRUCTION PERMITS AND CONSTRUCTION PROCEDURES

A. CONSTRUCTION PERMIT REQUIREMENTS

1. Tree Removal and Land Clearing permit

a. Permits and Inspection

- i. Permits are required prior to the removal of any trees from a tract of land, unless otherwise indicated in this section. The permits needed to satisfy this requirement are:
 - (a) A Tree Removal Permit; and
 - (b) Either
 - (i) A Building Permit or
 - (ii) A Standard or Heritage Tree Removal Permit
- ii. The Permit application and required attachments shall be submitted with the fee established by City Council to the Code Enforcement office for review.
- iii. Prior to issuance of any Permit the property shall be inspected by either a representative of the Planning Department or Code Enforcement department.

b. Building Permits

i. Commercial

- (a) A Tree Removal Permit must be approved before removal of any Standard or Heritage tree.
- (b) A property/developer shall submit a Tree Preservation Plan (TPP) at such time they submit a building permit application for a commercial, industrial or multi-family development on any real property in the City of Boerne.
- (c) The Building Permit shall not be issued until such time as the City Manager has approved the TPP, the Code Enforcement Department has been notified and the required tree protection is in place and approved by the Code Enforcement department. If, prior to completion of construction, the tree protection is removed, a Stop Work Order will be imposed until the tree protection has been replaced and approved.
- (d) A heritage tree shall be preserved if it was identified on the final subdivision plat that contains the lot.

ii. Residential

- (a) A property owner who plans to construct a residence on any real property shall apply for a Building Permit. The Permit application shall include a plot plan, in lieu of a TPP, the plot plan will include the identification of Standard or Heritage trees located on the lot. Movement of the proposed structure on the lot within the building envelope may be adjusted by the City Manager taking into consideration the location of the Standard trees on the lot. Mitigation of Standard trees removed on residential lots is not required.
- (b) Heritage trees shall be preserved if it was identified on the final subdivision plat that contains the lot.

c. Standard or Heritage Tree Removal Permit

- i. Standard or Heritage Tree Removal Permit shall be applied for and approved before removal of any Standard or Heritage tree from any real property within the City. An application for the removal of a Standard or Heritage tree shall be made by the owner/developer of the property on which such tree is located.
- ii. When an applicant submits a Standard or Heritage Tree Removal Permit application, they shall present either a TPP or, if a TPP is not required, a survey or plot plan identifying the Standard and Heritage trees and trees to be removed to the City Manager.
- iii. A valid reason for removal of a Standard or Heritage tree shall be submitted to the City Manager in writing.
- iv. If on-site Legacy trees are to be used for mitigation for removal of Standard or Heritage trees, the mitigating trees shall be identified on the Plan.
- v. If mitigation includes replacement trees, the Permit shall include a tree replacement plan that reflects the location, circumference and placement of replacement trees. If payment shall be made in lieu of replacement trees, a statement of such shall be attached.
- vi. The Standard or Heritage Tree Removal Permit shall not be issued until such time as a City Manager approval has been received by the Code Enforcement department and the required tree protection, if necessary, is in place and approved by the Code Enforcement department.
- vii. Such other information as may be reasonably required by the City Manager.

d. Standard and or Heritage Tree Removal Permit Approval

The City Manager may approve an application to remove a Standard or Heritage tree after determining that the tree:

- i. Prevents reasonable access to the property;
- ii. Prevents a reasonable use of the property;
- iii. Is a hazard to life or property, and the hazard cannot reasonably be mitigated without removing the tree;
- iv. Is dying or dead;
- v. the restoration to sound condition is not practical;
- vi. disease may be transmitted to other trees and endanger their health; or
- vii. For a tree located on public property or a public street or easement:
 - (a) prevents the opening of necessary vehicular traffic lanes in a street or alley; or
 - (b) prevents the construction of utility or drainage facilities that may not feasibly be rerouted.

e. Tree Removal Permit

- i. If a property owner desires to selectively remove non-Legacy trees or Legacy trees that are smaller than 12 caliper inches, measured as diameter at breast height (DBH), from any real property that does not require a Building Permit (is not being developed), they shall be required to obtain a Tree Removal Permit. The removal of trees that are dead or dying (as documented by an arborist or landscape architect) and cannot be restored to sound condition do not require a Tree Removal Permit.
- ii. A valid Tree Removal Permit application must be filed with the City Manager and approved by the Planning Department before a property owner begins to remove trees.
- iii. The TPP shall be prepared without items (iii), (x), and (xi) of the Tree Preservation Plan Requirements unless they are existing on the lot.
- iv. The property shall be inspected by either a representative of the Planning Department or the Code Enforcement department. After said inspection the Tree Removal

Permit shall be issued if the trees marked on the site correspond to the submitted on the TRP at which time the appropriate trees can be removed.

f. Inspections

The Code Enforcement department shall inspect each site for conformance with the approved Tree Preservation Plan prior to the issuance of a Certificate of Occupancy.

g. Tree Preservation Plan Requirements

The Tree Preservation Plan (TPP) shall be prepared and signed by a Certified Arborist or Landscape Architect and shall include the following:

- i. The date, scale, north point, project title, and name of property owner.
- ii. The location of existing lot lines, setback lines and dimensions of the lot.
- iii. The location of all proposed buildings and parking areas on the lot/tract of land.
- iv. The location and size of existing and proposed streets and alleys and existing and proposed easements on or adjacent to the lot.
- v. The approximate center lines of existing water courses, the location of the 100-year flood plain, and the approximate location of significant drainage features on the lot.
- vi. All Standard or Heritage trees as defined by this ordinance shall be numbered, marked with a metal tag and enumerated by species on the site as well as on the plan.
- vii. The plan shall identify those Legacy trees for which a removal Permit shall be requested as well as and a mitigation plan.
- viii. The trees shall be measured using trunk circumference (TC).
- ix. The following information shall be submitted with the TPP:
 - (a) A list of Standard or Heritage trees that show the species, classification, and the TC of the tree;
 - (b) A list of those Standard or Heritage trees that may have been identified for removal on the plan by species and TC;
 - (c) If on-site trees are to be used for mitigation for the removal of a Standard or Heritage tree the TPP shall include a list of trees that are to be suggested for mitigation by species and TC;
 - (i) If replacement trees are to be planted on-site for the removal of a Standard or Heritage tree, the TPP shall contain a list of those trees by species and TC.
 - (i) Approximate delineation of the root protection zones and notes indicating how the applicant plans to protect from damage during grading and construction the existing trees which are proposed to be retained.
 - (ii) A description of the proposed watering methods for each part of a landscaped area.
 - (iii) Other proposed landscape plants and features.

h. Plan Review by City Manager

The City Manager shall review the Tree Preservation Plan (TPP) within 10 working days to determine whether it meets the requirements of this Ordinance. Upon completion of this review, the City Manager shall approve or disapprove the Tree Preservation Plan and shall notify the Code Enforcement office of such.

2. Grading Permit

a. Applicability

- i. A grading permit shall be required prior to the disturbance of land by grading, filling, or dredging within the city or its extraterritorial jurisdiction.
- ii. Grading permits can include erosion control, grading, drainage systems, detention and water quality facilities. Grading permits do not allow for flatwork (paving, sidewalks, slabs, etc.), structures, or the preparation or the installation of utilities.
- iii. Projects utilizing a grading permit must meet the drainage requirements of the UDC and require complete Infrastructure Documents approval specific for the intended grading.
- iv. Unless otherwise indicated, no person may commence with the disturbance of 0.10 acre or more of land unless that person has a valid grading permit from the City for such disturbance.

b. Eligibility

- i. Any one of the following documents or approvals is required before a grading permit may be granted:
 - (a) Letter of Certification of Infrastructure Documents;
 - (b) Subdivision Plat;
 - (c) Minor Plat;
 - (d) Major Development Plat; or
 - (e) Replat
- ii. A tree removal and land clearing permit is required before a grading permit may be granted.
- iii. All grading completed prior to the subdivision plat is at the risk of the developer/applicant and is subject to change based on the approval of the subdivision plat by the City Planning and Zoning commission.
- iv. All erosion control and tree protection devices must be in place and inspected by City staff prior to issuing permit.

c. Scope of Approval

- i. A grading permit is authorization for grading only. No utility or street work can take place under a grading permit.
- ii. All work must be in conformance with the approved tree removal and land clearing permit, tree protection plan and tree mitigation plan.

d. Permit Submittal Requirements

- i. An application for a Grading Permit shall include each of the following:
 - (a) A completed Application Form as provided by the City.
 - (b) The Checklist of Submittal Requirements received at the Pre-Construction Meeting, signed by the City Engineer and the developer and/or the prime contractor.
 - (c) Notice of Intent (NOI) for sites greater than five (5) acres
 - (d) Payment of all applicable fees.
 - (e) Grading and Stormwater Management
- (i) An applicant for a grading permit shall submit grading plans and a drainage study prepared by a professional engineer with the permit application. The City Manager shall review these documents for conformance with drainage design policies of the City.

- (i) Any fill material placed in existing or proposed right-of-way must conform to the requirements of the city's standard specifications for street and storm drain construction. If testing and certification is not performed in conjunction with City infrastructure inspection, the City may require the same by an independent soils laboratory and/or removal of the fill material at the expense of the applicant.
- (ii) The placement of fill shall be in strict conformance to the plans and specifications approved for the project.
- (iii) All construction activity, including grading, which falls within the local and FEMA floodplain is subject to the floodplain regulations of the City and requires a Floodplain Development Permit. Unless otherwise indicated and authorized by the City, no grading shall take place in the one percent (1%) annual chance (100-year) floodplain or the local floodplain.

e. Penalty

- i. A person commits an offense if land disturbance of an area greater than 0.5 acres occurs without a valid grading permit.
- ii. No other permit or approvals may be granted to a person or for a property in violation of the City's grading permit requirement.

3. Floodplain Development Permit

a. Establishment of Development Permit.

A floodplain development permit shall be required to ensure conformance with the provisions of this chapter.

b. Permit Submittal Requirements

- i. An application for a Floodplain Development Permit shall include each of the following:
 - (a) A completed Application Form as provided by the City.
 - (b) An approval letter from FEMA for either a Conditional Letter of Map Revision (CLOMR) or Letter of Map Revision (LOMR).
 - (c) Payment of all applicable fees.

c. Permit Procedures

- i. Application for a floodplain development permit shall be presented to the floodplain administrator on forms furnished by him/her and may include, but not be limited to, plans in duplicate drawn to scale showing the location, dimensions, and elevation of proposed landscape alterations, existing and proposed structures, including the placement of manufactured homes, and the location of the foregoing in relation to areas of special flood hazard. Additionally, the following information is required:
 - (a) Elevation (in relation to mean sea level), of the lowest floor (including basement) of all new and substantially improved structures;
 - (b) Elevation in relation to mean sea level to which any nonresidential structure shall be floodproofed;
 - (c) A certificate from a registered professional engineer or architect that the nonresidential floodproofed structure shall meet the floodproofing criteria of the City;

- (d) Description of the extent to which any watercourse or natural drainage will be altered or relocated as a result of proposed development;
 - ii. Approval or denial of a floodplain development permit by the floodplain administrator shall be based on all of the provisions of this chapter and the following relevant factors:
 - (a) The danger to life and property due to flooding or erosion damage;
 - (b) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
 - (c) The danger that materials may be swept onto other lands to the injury of others;
 - (d) The compatibility of the proposed use with existing and anticipated development;
 - (e) The safety of access to the property in times of flood for ordinary and emergency vehicles;
 - (f) The costs of providing governmental services during and after flood conditions including maintenance and repair of streets and bridges, and public utilities and facilities such as sewer, gas, electrical and water systems;
 - (g) The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site;
 - (h) The necessity to the facility of a waterfront location, where applicable; and
 - (i) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use.
- d. Variance Procedures
 - i. The Board of Adjustment shall hear and render judgment on requests for floodplain variances.
 - ii. Any person or persons aggrieved by a decision of the Board of Adjustment may appeal such decision in a court of competent jurisdiction.
 - iii. The floodplain administrator shall maintain a record of all actions involving an appeal and shall report variances to the Federal Emergency Management Agency upon request.
 - iv. Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the state inventory of historic places, without regard to the procedures set forth in the remainder of this chapter.
 - v. Variances may be issued for new construction and substantial improvements to be erected on a lot of one-half ($\frac{1}{2}$) acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, provided the relevant factors above have been fully considered. As the lot size increases beyond the one-half ($\frac{1}{2}$) acre, the technical justification required for issuing the variance increases.
 - vi. Upon consideration of the factors noted above and the intent of this chapter, the Board of Adjustment may attach such conditions to the granting of a variance as it deems necessary to further the purpose and objectives of this chapter.
 - vii. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
 - viii. Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
 - ix. Prerequisites for granting variances:

- (a) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
 - (b) Variances shall only be issued upon:
 - (i) showing a good and sufficient cause;
 - (i) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and
 - (ii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
 - (c) Any application to which a variance is granted shall be given written notice that the structure will be permitted to be built with the lowest floor elevation below the base flood elevation, and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.
- x. Variances may be issued for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that:
- (a) the criteria outlined in this section are met, and
 - (b) the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

4. Construction Release Permit

a. Construction Release Permit Required

- i. A Construction Release Permit allows for the construction of public streets, water mains, sewer mains, electric lines, gas facilities, and stormwater infrastructure needed to convey public drainage, and other improvements.
- ii. A Construction Release Permit is required for all construction other than grading, tree removal and floodplain development, each of which is separately permitted.

b. Pre-Construction Meeting

- i. The pre-construction meeting shall be attended by the City Engineer, the project contractor, the project developer and/or the project engineer. The developer and/or prime contractor shall provide the City Engineer with a general construction schedule and a copy of the approved final plat before or at the pre-construction meeting.
- ii. The participants shall discuss:
 - (a) The sequence of construction activity;
 - (b) Start dates and schedule of events;
 - (c) Erosion and sedimentation controls to be used on site;
 - (d) Traffic control barricades to be used during construction;
 - (e) Site supervision;
 - (f) Emergency response;
 - (g) Special conditions or provisions applicable to the project;
 - (h) Requirements for award of Construction Release Permit; and
 - (i) Requirements for final acceptance of public facilities and improvements

- iii. The City Engineer shall provide the developer/contractor with a Checklist of Submittal Requirements for obtaining a Construction Release Permit at the Pre-Construction Meeting.
- iv. The Checklist of Submittal Requirements shall be completed at the Pre-Construction Meeting and shall be signed and dated by the City Engineer and the developer and/or prime contractor.

c. Content of the Construction Release Permit Application

An application for a Construction Release Permit shall include each of the following:

- i. A completed Application Form as provided by the City.
- ii. The Checklist of Submittal Requirements received at the Pre-Construction Meeting, signed by the City Engineer and the developer and/or the prime contractor.
- iii. Notice of Intent (NOI) for sites that will disturb greater than five (5) acres.
- iv. Payment of all applicable fees.
- v. Approval letters for any utility (water, sewer, electric, gas) providers other than the City of Boerne.
- vi. Approval letters from any franchise utility (telephone, cable, internet) providers.
- vii. Copies of TxDOT permits (driveway, utility), if applicable.

d. Criteria for Approval

A Construction Release Permit shall be granted, and construction plans shall be released only under the following conditions:

- i. The subdivision plat for the property has been approved and is still in effect;
- ii. The infrastructure documents have been approved and are still in effect;
- iii. The contractor is approved to perform public works construction in the City of Boerne.
- iv. The developer and prime contractor(s) have participated in a pre-construction meeting with the City Engineer; and
- v. All monies due to the City have been paid, including all bonds, review fees and permit fees.

e. Effect

- i. A Construction Release Permit authorizes the applicant to begin development of the site, in accordance with the approved plans and with the standards of the City.
- ii. The granting of a Construction Release Permit confirms that the application conforms to all requirements of the city code that pertain to the construction of the proposed facilities.

f. Expiration and Renewal

- i. A Construction Release Permit expires one years after the date of its approval unless:
 - (a) the Planning and Zoning Commission sets a later expiration date when it approves the plat;
 - (b) site work has commenced and has been consistent during the one year following approval; or
 - (c) the City Engineer extends the expiration date of the Permit.
- ii. An applicant may request that the City Engineer extend the expiration date of a Construction Release Permit by filing a written request, accompanied by justification, with the City Engineer prior to the date of permit expiration.

- iii. The City Engineer may extend the expiration date of the permit once for a period of one year if the director determines:
 - (a) there is good cause for the extension;
 - (b) there has not been a significant change in development conditions affecting the plan; and
 - (c) the plan continues to comply with the criteria for its approval and release.

g. Appeals

- i. An interested party may appeal the City Engineer's decision regarding Permits to the Planning and Zoning Commission.
- ii. The City Engineer shall give notice under of the Commission's consideration of an appeal, in accordance with the notice requirements of the UDC.
- iii. The Planning and Zoning Commission shall conduct a public hearing on an appeal before taking action.
- iv. An interested party may appeal the Planning and Zoning Commission's decision regarding Construction Release Permits to the city council.

5. Right-of-Way Permit

No person shall commence or continue with the construction, installation or operations of facilities within the right-of-way in the City of Boerne except as provided by the ordinances of the City of Boerne and the directives of the Development Services Department. All construction activity in the City of Boerne right-of-way will be in accordance with Ordinance Number 2006-59. Construction activity includes, but is not limited to, major construction, maintenance, pulling fiber and/or cable, installation of new or replacement manholes, aerial work or any other type of construction within the city limits.

6. Building Permit

- a. No building permit shall be released until all public improvements within the development have been accepted by the City.
- b. Building Permits shall be granted in accordance with the requirements of this Unified Development Code, and with the Building Regulations of the City.

7. Certificates of Occupancy

a. Certificate Required

- i. No land shall be occupied or used and no building or structure hereafter erected, structurally altered, or extended shall be used, occupied, or changed in use until a certificate of occupancy has been issued by the City, stating that the building or structure and proposed use thereof complies with the provisions of the UDC and with the other building laws of the City.
- ii. The provisions of this section do not apply to single-family detached or duplex dwellings.
- b. No nonconforming use shall be renewed, changed in use or extended without a certificate of occupancy having first been issued by the City Manager.
- c. A certificate of occupancy shall not be issued until the landscaping requirements of the UDC have been satisfied.
- d. A certificate of occupancy shall state that the *building* or proposed use of a *building* or land complies with all the *building* and health laws and ordinances and with the provisions and requirements of the UDC.

B. CONSTRUCTION PROCEDURE

1. Generally

- a. The developer shall install at his/her own cost and expense all of the improvements required by this ordinance. It shall be the developer's responsibility to ensure that all improvements are constructed in accordance with this ordinance, City of Boerne Standard Specifications for Public Construction, the approved final design plans and all applicable regulatory rules and regulations. The developer shall comply with all other provisions of this ordinance prior to acceptance of the subdivision by the City. If, during the course of construction, evidence of deposits of historical or archaeological interest is found, the Contractor shall cease operations affecting the find and shall notify the City. No further disturbance of the deposits shall ensue until the Contractor has been notified by the City that Contractor may proceed. The City will issue a Notice to Proceed only after The Texas Historical Commission has surveyed the find and made a determination to the City.

2. The City Manager shall from time to time inspect the construction of all utility facilities, drainage infrastructure, and streets in the subdivision during the course of construction to see that they comply with the standards governing them. In this regard, free access to the subdivision shall be accorded the City Manager by the developer and the developer's agents and employees.

3. Order of Construction and Construction Schedule

- a. Construction operations will be scheduled to allow the City of Boerne uninterrupted operation of existing adjacent facilities. Coordinate connections with existing work to ensure timely completion of interfaced items.
- b. At no time shall Contractor or his employees modify operation of the existing facilities or start construction modifications without approval of the City of Boerne and Owner except in emergency to prevent or minimize damage.
- c. Unless the developer shall have received prior written permission to the contrary from the City Manager, all utilities must be installed prior to the paving of a street or alley or portion thereof.

4. Contractor Licensing

- a. Any contractor wishing to construct a public improvement must be registered with the City of Boerne.
- b. Contractors working on public improvements shall be approved by the City Engineer. The City Engineer may deny or approve a public improvement contractor, approve with conditions, require reasonable bonding of the contractor's work, suspend or revoke a public improvement contractor's registration. The City Engineer may withhold approval of said registration for reasonable cause to include failure to construct public improvements to code or City specifications, for violations of the City Code, for failure to provide accurate or complete data as required by the City Engineer, or for failure to correct subdivision public improvements which fail within the warranty period in accordance with this Chapter.
- c. The following shall be submitted to City prior to contractor performing any public improvements:
 - i. Complete Application on the form provided by City;
 - ii. Proof of Insurance with \$1,000,000.00 liability insurance, naming the City of Boerne as the certificate holder; and
 - iii. Fee for new registration or renewal

5. Acceptance of Public Improvements

Prior to final acceptance by the City of authorized, completed public improvements for maintenance, the developer shall file the following with the City Manager:

- a. A warranty bond for maintenance of the improvements, in accordance with 2.9.C Warranty Bonds for Improvements
 - b. Two (2) sets and one (1) PDF of the complete record drawings, with each sheet of the approved engineering plans bearing the date, signed and certified by the engineer in charge, shall be filed with the City for each improvement, showing all features as actually installed, including materials, size, location, depth of elevation, numbers, end of lines, connections, wyes, valves, storm drains, inlets, and any other pertinent items.
 - c. One (1) electronic file of each Construction Document plan set in AutoCAD format.
 - d. Copy of required easements documents, if easements created by a separate instrument other than plat, executed by landowners(s) and recorded at the Kendall County Courthouse.
 - e. Copy of FEMA Letter of Map Revision (LOMR) approval letter, if applicable.
 - f. Two copies of all improvement costs, bearing the official seal and signature of a professional engineer attesting to the accuracy of the dollar amounts contained, with detailed unit quantities and unit costs itemized as follows:
 - i. Streets, alleys, curbs, and sidewalks.
 - ii. Drainage features.
 - iii. Water mains, valves, hydrants and services.
 - iv. Sewer mains, lift stations, force mains, manholes and services.
 - v. Reclaimed water mains, valves, and services.
 - vi. Electric distribution and services (excluding transformers) not constructed by an Electric Provider.
 - vii. Natural gas mains, valves and services not constructed by the City.
 - g. A letter of certification, signed and sealed by the developers engineer certifying that the improvements have been constructed and tested in accordance with all applicable Texas Administrative Codes and this ordinance, the final design plans, and City of Boerne Specifications for Public Works.
 - h. A letter of certification signed and sealed by the developer's surveyor certifying that all property pins and benchmarks have been installed as required per section 6.5.
 - i. Maintenance schedule for drainage facilities as required per section 7.7.
 - j. Prior to acceptance of the subdivision improvements, the developer shall provide the City with either
 - i. A release of lien from all subcontractors and contractors verifying that all contractors have been paid and that no liens will be filed on the subdivision or
 - ii. A form of an Affidavit as to Debts and Liens signed by the owner. No acceptance shall be given until all verification is made.
 - k. One (1) copy each of the completion notices submitted to the TCEQ executive director in accordance with TCEQ 30 TAC 217.14 and 30 TAC 290.39.
6. No applications shall be accepted for building permits (residential and commercial) or utility connections, and no building permits shall be issued, or utility connection made until such time as the entire subdivision is accepted by the City. Only the City Manager or the Deputy City Manager, no other designee, may approve an exception to timing of the issuance of the building permit.

2.8 DEDICATIONS AND ASSESSMENTS

A. TRAFFIC IMPACT ANALYSIS

1. A property owner or owner's agent seeking to develop or to alter the use of a property, in accordance with this Section, shall submit a Traffic Impact Analysis (TIA) to the City for approval.
2. When a Traffic Impact Analysis is Required
 - a. No Subdivision, Master Development Plan, Development Plat, change in zoning, Planned Unit Development submission, or building permit application shall be approved unless a traffic impact analysis (TIA) or peak hour trip (PHT) generation form has been completed by the applicant and approved by the City.
 - b. Platting
 - i. A TIA must be approved prior to the submittal of a Master Development Plan application. For multi-phase developments in which all land uses have not yet been determined, a Master Plan Level TIA may be submitted.
 - ii. If a Master Plan Level TIA was approved prior to the approval of the Master Development Plan, a full TIA must be submitted and approved prior to the submittal and approval of an application for a Letter of Certification of Infrastructure Documents.
 - c. Zoning

For a property zoning or rezoning, a Traffic Impact Analysis must be approved prior to submittal of the zoning application. The requirement to perform a TIA for rezoning of a property shall not apply if the existing zoning is a temporary zoning resulting from annexation.
 - d. Building permits for nonresidential properties

For nonresidential properties, if seeking a building permit and no TIA has been approved for the site, a TIA must be approved prior to submittal of an application for a building permit.
 - e. When an activity on, or change to, property is proposed to occur that varies from the previous activity on the property, and the new activity generates an increase of at least 100 PHT relative to the previous use, the property owner (or its agent) shall perform and submit to the city a TIA (or an amended TIA, whichever applies) consistent with the format identified in Section 1.7, to determine if the increase in the PHT impacts capacity and requires additional mitigation.
3. Type of TIA required

The type of submittal shall be based upon the number of peak hour trips (PHT) generated by the proposed development, as follows:

| TIA Submittal Categories | |
|--------------------------|---|
| Peak Hour Trips | Submittal Category |
| 1,001 or more | Level 3 TIA |
| 300-1,000 | Level 2 TIA |
| 100-299 | Level 1 TIA |
| 100 or less | PHT Generation Form (no TIA is required), Turn Lane Evaluation Form, Border Street Evaluation Form, Rough Proportionality Worksheet |

Note: Categories are for review fee assessment only

4. TIA Longevity

As long as a development is being incrementally implemented in general conformance with the TIA, a TIA will remain valid for five (5) years beyond the projected build out year of the last phase of the development. General conformance is defined as trip generation characteristics that do not increase by more than 10% than the uses originally proposed.

5. Format and Content

TIA shall be prepared in a manner consistent with the process and format established by the Engineering Design Manual.

B. PARKLAND DEDICATION

1. Generally

a. Purpose

The purpose of this Section is to provide for parkland and a connected trail network to meet the needs of a growing citizen population.

b. Applicability

i. Parkland Dedication and Improvement

The parkland dedication and park improvement requirements of this Section shall apply to every new residential subdivision and residential development plat within the corporate limits of the City or the extraterritorial jurisdiction (ETJ) of the City, under the provisions of the Unified Development Code.

ii. Trail Dedication and Improvement

The trail dedication and trail improvement requirements of this Section shall apply to every new residential and nonresidential subdivision and development plat in the City or the ETJ under the provisions of the Unified Development Code.

iii. Additional open space requirements may be applicable for commercial properties, and for properties located within certain overlay districts of the City, as established by the zoning chapter of the Unified Development Code.

c. Time of Designation

For all plat applications for a residential subdivision filed after the effective date of this Code, parkland dedication or improvement requirements for park facilities shall be designated at the time of Master Development Plan approval or at the time of Final Plat approval, if no Master Development Plan is required.

d. Consistency with the Master Plans of the City

All parks and trails shall be developed in a manner that is consistent with the Boerne Master Plan and the Parks Master Plan.

e. No Increase in the Number of Dwelling Units

- i. Following initial imposition and satisfaction of park dedication and improvement requirements, additional requirements shall apply to revised plat applications for residential subdivisions only if such revised or renewed application results in an increase in the number of dwelling units.
- ii. In such case, park dedication requirements then in effect shall apply only to the additional dwelling units proposed in the Application.

f. Dedication Required for all Subdivision Plats and Development Plats

The subdivision of any parcel or tract of land into a residential subdivision within the City limits or ETJ, or the application for a development plat which changes the number of dwelling units permitted on any property, shall require the applicant to set aside and dedicate sufficient and suitable lands for the purpose of a park, or make an in lieu financial contribution for the acquisition or development of parkland in accordance with the provisions of this section.

- i. No area or facility shall be dedicated for parkland purposes unless approved and accepted by the City.
- ii. Subject to the City Council's determination, parkland should be located to serve the greatest number of homes, limit the need to cross Arterials, and provide access to trails when applicable.
- iii. All subdivisions of land subject to the requirements of this Code shall conform to the most recent edition of the Comprehensive Plan or any specific Parks and Recreation Plan adopted by the City.
- iv. All subdivision plats and development plats shall conform to the requirements of this Section.
- v. As advised by the City Manager or designee and the Planning and Zoning Commission, the City Council and developer may negotiate the combination of parkland dedication, payment of fees in lieu of required parkland, or any combination thereof, to satisfy these requirements.

g. Exceptions for Smaller Residential Developments

- i. Single family developments less than five (5) dwelling units in size shall not be required to dedicate parkland.
- ii. Multifamily developments less than ten (10) dwelling units in size shall not be required to dedicate parkland.

h. Credit for Existing Public Open Space

Any application for development or subdivision of a property with existing public open space which is classified as one of the recognized Open Space Types may receive a credit for the existing open space.

i. Exclusions

- i. When designating land for parks and trails, the following shall be excluded from the calculation of the area being dedicated:
 - ii. Any required rights-of-way.
 - iii. Any utility easement required by the City, except for those storm water system facilities that may be counted toward the open space requirements in accordance with this Section.

j. Storm water system facilities as open space

Required storm water system facilities may be counted toward the minimum open space requirements if they meet the following criteria:

- i. Areas for natural drainage systems used for storm water facilities may be included as Natural Areas, Greenways or Drainageway Protection Zones, provided they also conform to the design standards for those areas.
- ii. Up to 50% of areas for drainage retention may be included, provided they are designed and engineered as a permanent aesthetic and recreation amenity within one of the other open space types, and the permanent surface water areas do not exceed 25% of the open space area.

2. Dedications and Fee in Lieu of Dedications

- a. All parkland used to satisfy the requirements of this section shall be restricted for park and recreation purposes by recorded covenant which runs with the land in favor of future owners of the property and which cannot be defeated or eliminated without the written consent of the city or its successors;
- b. Any proposed private *parkland* shall be reasonably adaptable for use for park and recreational purposes, taking into consideration such factors as size, shape, topography, geology, access and location.
- c. Determining Amount of Parkland to Be Dedicated
 - i. The developer shall pay a fee in lieu of dedication of parkland, or, at the option of the City, a dedication of parkland, or a combination of parkland dedication and fees in lieu, in order to satisfy the requirements of this section.
 - ii. The acreage to be dedicated prior to Plat approval by the City Council of any residential subdivision shall be pro-rated as follows:
 - (a) 1 acre of parkland shall be dedicated for every 35 single family dwelling units of the development.
 - (b) 1 acre of parkland shall be dedicated for every 50 multi-family dwelling units of the development.
 - iii. No dedication of land shall be accepted if it is less than 5 acres in contiguous land area. If the amount of parkland required is less than 5 acres, the developer shall be required to pay the fee in lieu of land dedication.
- d. Fee In Lieu of Land Dedication for Parks
 - i. The fee in lieu of parkland dedication shall be based on market value of the land.
 - (a) For single family development, the fee in lieu per dwelling unit shall be calculated as:

market value of land per acre / 35 dwelling units
 - (b) For multi-family development, the fee in lieu per dwelling unit shall be calculated as:

Market value of land per acre / 50 dwelling units
 - (c) The fee shall be imposed by the City at the time of approval of the Master Development Plan and shall be paid prior to the release by the City of each Final Plat for filing in the deed records of Kendall County.
 - (d) The City shall reserve the fees contributed in lieu of parkland dedication in a separate account from the general funds of the City, along with any accrued interest, and shall be used for acquisition or improvement of parkland. All fees collected in lieu of parkland dedication shall be expended on a first in, first out basis.

- (e) If any or all of the funds are not spent for such purposes within ten (10) years from the date that they are collected, the developer shall have the right to request repayment by the City and the City shall refund the principal amount of all unexpended funds that were collected from the developer.
 - ii. Any proposed subdivision located within the ETJ shall be required to pay a fee in lieu of parkland dedication. For developments within the City's ETJ, the City, at its sole discretion, may accept private parkland to satisfy all or a portion of the dedication requirements.
- e. Parkland Dedication Methodology

For the purpose of this Chapter, the following parkland dedication calculations reflect the maximum possible land dedication and fee in lieu of land dedication allowable. The City, at its option, may reduce the required land dedication and fee in lieu of payment.

| Current Level of Service | |
|----------------------------------|--|
| Population | 18,000 |
| Total Parkland | 430.7 |
| Population Per Acre | 41.8 |
| Land Requirement | |
| People Per SFU | 2.4 |
| SF units per park acre | $41.8 / 2.4 = 17.4$ |
| People Per MFU | 1.7 |
| MF units per park acre | $41.8 / 1.7 = 24.6$ |
| SFU Requirement | 1 acre every 35 multifamily units |
| MFU Requirement | 1 Acre per every 50 multifamily units |
| Fee in Lieu of Land Requirements | |
| Average Cost Per Acre | market value |
| SFU | Market value / 17.4 SF units |
| MFU | Market value / 24.6 MF units |
| Park Development Cost | |
| Cost of Park Improvements | \$50,000 per acre |
| SFU | $\$50,000 / 17.4 \text{ SF units} = \$3,333 \text{ per SF unit}$ |
| MFU | $\$50,000 / 24.6 \text{ SF units} = \$2,380 \text{ per MF unit}$ |

NOTES:

SFU is Single-family Unit
MFU is Multifamily Unit

- f. Required Park Improvements
 - i. Installed Improvements

- (a) If the developer installs improvements, the developer shall improve all dedicated public parkland with improvements approved by the City, prorated for an amount equal to at least \$50,000 per acre.

- (b) Design, specification, and construction of the improvements shall be subject to review and approval by the City.
- (c) Construction of the improvements must be completed within three (3) years of the City's approval of the first final plat of the subdivision.
- ii. Surety for construction of improvements shall be provided in the same manner as required of other subdivision- and site-related construction.
- iii. Funds in Lieu of Improvements

If the developer pays fees in lieu of parkland dedication in accordance with this section, then the developer shall pay to the City a prorated improvements fee of \$50,000 per acre of parkland that is required to be dedicated, in addition to the fees paid in lieu of dedication.

- (a) The City shall reserve the fees contributed in lieu of park improvements in a separate account from the general funds of the City, along with any accrued interest, and it shall be used to complete acquisition or improvement of parkland.
- (b) All fees collected in lieu of park development shall be expended in on a first in, first out basis. If any or all of the funds are not spent for such purposes within ten (10) years from the date that they are collected, the developer shall have the right to request repayment by the City and the City shall refund the principal amount of all unexpended funds that were collected from the developer.

g. Updating of Fees and Requirements

The standard fees for contributions in lieu of parkland dedication and minimum costs for improvements to parkland as specified in this Section may be updated from time to time on the basis of current development costs and the City's level of service. The City Manager or designee shall consider and make periodic recommendations to the City Council on such fees and costs.

3. Parkland Dedication Credits

a. Floodplain

Areas located within the Drainageway Protection Zone of the main channels of Frederick Creek, Curry Creek, Browns Creek, Cibolo Creek and Menger Creek may be dedicated in fulfillment of the dedication requirements, subject to approval by the City Council. Said dedication will include, at a minimum, a strip 150 feet wide on both sides measured from the center of the creek channel (300 feet total).

b. Full Credit for Public Parks

All parkland and improvements thereto shall be dedicated to the public unless credit for private parkland is given consistent with the criteria set forth below and approved by the City. All residents of the City, its ETJ, and the owners of lots within the subdivision in which parkland is dedicated or fees in lieu are contributed shall have the same rights and privileges to use City parkland and facilities once the parkland dedications are made or fees are paid to the City.

c. Partial Credit Considered for Certain Private Parks

The City may, at its sole discretion, give partial credit to the developer where a substantial private park and recreational area is provided in a proposed residential subdivision. Such

credit shall not exceed fifty (50) percent of the total acreage requirements for parkland dedication and funding requirements for park improvement as set forth in this Section. In order to allow credit for private parkland, the City must find that it is in the public interest to do so and that all the following standards are met.

- i. That yards, court areas, setbacks, and other open areas required to be maintained by the rules and regulations of the City shall not be included in the computation of such private recreational open space;
- ii. That the private ownership and maintenance of the open space and facilities is adequately provided for by recorded agreement, covenants, or restrictions;
- iii. That the use of the private open space is restricted for park and recreation purposes by recorded covenant, which runs with the land in favor of future owners of the property and which cannot be defeated or eliminated without the written consent of the City or its successors;
- iv. That the proposed private open space is reasonably adaptable for use for park and recreational purposes, consistent with the parkland design requirements specified in this section of the Code. Private swimming pools operated and maintained by an HOA shall not be considered as meeting the requirements of this section;
- v. That the facilities proposed for the private open space are in substantial accordance with the provisions of the Comprehensive Plan, Parks and Recreation Plan, and other adopted plans of the City;
- vi. That the private open space for which partial credit is given is a minimum of five (5) acres and provides a minimum of \$50,000 per acre or portion thereof in park and recreation improvements, subject to the approval of the City, and that assurance is provided in a form acceptable to the City that the proposed dedication of land and improvements will be completed in a timely manner; and
- vii. That, in addition to the private parkland and improvements provided, there is an amount of public open space and improvements provided or a proportional amount of fees in lieu of dedicated parkland and improvements provided in compliance with 7.10.C Park and Trail Design Requirements and 8.5 Open Space Design.

d. Partial Credit Considered for Certain Site Requirements

In the case of areas that do not meet the grade, slope, or other requirements for parkland dedication found in this section, but that are known to contain sensitive environmental features, the City may, at its discretion and after review by the City Manager or designee, modify these standards subject to the following limitations:

- i. That such areas shall provide recreational or educational opportunities for the surrounding community in lieu of parkland dedication;
- ii. That such areas shall be given a partial credit against the requirement of land dedication or payment of fees.
- iii. Such credit shall not exceed fifty (50) percent of the total acreage requirements for parkland dedication and funding requirements for park improvement as set forth in this Section.
- iv. That such areas shall meet any additional standards deemed necessary by the City Council after a recommendation by the City Manager or designee, pertaining to the dedication of land containing sensitive environmental features.

e. Credit for Easements in Conservation Subdivisions

- i. For conservation subdivisions, any land that is dedicated as a conservation area by easement or another method of designating the space in perpetuity shall receive a credit for the conservation area as follows:
- ii. 100 percent of the conservation area shall be credited against the parkland dedication requirement if the conservation area:

- (a) is 5 acres or larger;
 - (b) is publicly accessible; and
 - (c) connects to the City's trail network or an adjacent public park with trails designed and constructed according to City standards
- iii. 75 percent of the conservation area shall be credited against the parkland dedication requirement if the conservation area:
 - (a) Is 5 acres or larger
 - (b) Does not meet the other criteria for 100 percent credit
- iv. 50 percent of the conservation area may be credited against the parkland dedication requirement if the conservation area is less than 5 acres in size.
- f. The City shall have full discretion to consider, approve, or deny any request for credits as set forth in this Section. The City Manager or designee shall consider and make recommendations to the City Council on any such request.

2.9 FINANCIAL OBLIGATIONS

A. CITY PARTICIPATION IN DEVELOPMENT COSTS

1. The developer shall be required to install, at his own expense, all water lines, streets, sewer lines, electric lines, gas lines, storm drain lines and drainage facilities, and structures within the subdivision in accordance with the UDC governing the same and as set forth herein, including all engineering costs covering design, layout, and construction.
2. There shall be no participation by the City in the cost of any of the underground utility lines or drainage facilities within the subdivision, except in the event of the requirement for oversize lines to serve land areas and improvements beyond the subdivision in question.
3. The developer will pay for all extensions of the public water, streets, sanitary sewer systems, electric, gas, and storm drains, and shall obtain and pay for all easements.
4. Engineering Review

The base engineering review fee for preliminary review and final review of any Land Study, Master Development Plan, Infrastructure Plans, and Plats submitted to the City Engineer shall be paid for by the developer or property owner. The fee for all changes or requests for further review from the developer or property owner by the City Engineer of any plat or plans shall be billed by the City at the standard rates charged by the City Engineer, as described in the “City of Boerne Fee Ordinance”, as amended, to said developer or property owner. All engineering charges must be paid before the developer will receive final plat approval by the City.

5. Legal Fees

All legal fees incurred by the City in the development or enforcement of the terms and conditions, such as preparing special legal agreements or instruments, as set forth by this Article shall be paid by the City to its Attorney. The City shall then bill the developer such fees. All legal fees must be paid to the City before the development shall receive final plat approval by the City, as described in the “City of Boerne Fee Ordinance”, as amended.

B. PERFORMANCE GUARANTEES

1. Applicability

A performance guarantee shall be required of a developer whenever site improvements, other than gas and electric lines, are required in conjunction with a plat. Such surety shall be for the faithful performance, installation and completion of such improvements.

2. Deadline for Submittal

At least 10 days prior to final plat approval by the Planning and Zoning Commission, the developer shall submit a performance guarantee to the City Manager, and the guarantee shall require approval by the City Attorney prior to action by the Planning and Zoning Commission on the plat.

3. Cost Estimation for Improvements

The Director of Development Services shall prepare an estimation of probable construction cost for all improvements to be made in the development by the developer, including the cost of erosion control during construction.

All site improvement estimates submitted to the Director of Development Services shall detail the specific improvements needed and shall bear the official seal and signature of a professional engineer attesting to the accuracy of the dollar amounts contained in the estimate.

4. Types of Guarantees Accepted by the City

Any of the following may be accepted as a performance guarantee, provided that the conditions herein are met.

a. Performance Bond

- i. A single performance bond shall be executed by a surety company licensed in the State of Texas and listed at the time of bond submission on the Department of Treasury's Listing of Approved Sureties as a certified company.
- ii. The amount shall equal 120 percent of the cost estimate, as approved by the Director of Development Services, of all uncompleted and unaccepted improvements required by the City (other than gas and electric lines), with the condition that the developer shall complete such improvements and have them pass a final inspection by the Director of Development Services within three (3) years from the date of plat approval, or shall have received an approved extension at least thirty (30) days prior to the expiration of the performance bond. A performance bond must be claimable through a Texas office designated on the bond. The Director of Development Services is authorized to sign the bond instrument on behalf of the city and the city attorney shall approve the same as to form prior to acceptance of the performance bond.

b. Irrevocable Trust

The developer shall cause to be placed in a trust account on deposit with a "Trust Institution", as defined by the Texas Finance Code, Title 3. Financial Institutions and Businesses, that is licensed to do business in the State of Texas, (specifically, a bank, trust company, savings bank, savings association or credit union as selected by the developer and approved by the Director of Development Services a sum of money equal to 120 percent of the cost estimate, as approved by the Director of Development Services of all uncompleted and unaccepted site improvements (other than gas and electric lines) required by these regulations. The trust account must be drawable in Texas and shall be established by agreement. The Director of Development Services is authorized to sign the agreement on behalf of the city and the city attorney shall approve same as to form.

c. Letter of Credit

The developer shall provide a single irrevocable letter of credit issued by a bank licensed to do business in the State of Texas in an amount equal to 120 percent of the cost estimate, as approved by the Director of Development Services, of all uncompleted and unaccepted site improvements (other than gas and electric lines) required by these regulations. The letter of credit must be drawable through a Texas office, state that the issuer will honor drafts or other demands for payment upon compliance with the conditions specified in the letter of credit. The Director of Development Services is authorized to sign the agreement on behalf of the city and the city attorney shall approve same as to form prior to acceptance of the letter of credit.

d. Cash or Cashier's Check

The developer shall provide to the city cash or a cashier's check in an amount equal to 120 percent of the cost estimate as approved by the Director of Development Services, of all uncompleted and unaccepted site improvements (other than gas and electric lines) required by these regulations. Such cash or cashier's check shall be deposited and handled as per city policy. The cash or cashier's check shall be submitted along with a cash performance deposit instrument. Upon completion of the required improvements and the site improvements passing inspection by the Director of Development Services, the amount will be refunded to the developer by the city.

5. Inspection and Approvals

- a. All infrastructure construction may be periodically inspected by the City while in progress.
 - b. All infrastructure construction must be approved by the Director of Development Services or his duly authorized representative.
6. Expiration of the Guarantee
 - a. The financial guarantee shall bear an expiration date. The City Manager shall set the expiration date based on the nature of the project and anticipated timeline for completion of the public improvements. The performance guarantee shall be retained by the Director of Development Services until all improvements have been completed and accepted by the City.
 - b. If all improvements have not been completed and accepted by the City 30 days prior to the expiration of the performance guarantee, the City Manager may either present the performance guarantee for immediate payment or allow for an extension up to six (6) months.
7. Return of the Guarantee to the developer
 - a. For the Guarantee to be released or returned to the developer, a final inspection of all required improvements is required. After the final inspection, the Director of Development Services shall provide notice to the City Manager stating that the construction is complete and conforms to the specifications and standards contained in or referred to in this ordinance, at which point the City will release or return the guarantee.
 - b. If the plat is withdrawn prior to consideration by the Planning and Zoning Commission or the plat is denied by the Planning and Zoning Commission, the financial guarantee will be returned by the City of Boerne to the issuer within 30 days.
 - c. The release of any performance guarantee is conditioned upon acceptance of a warranty bond, when applicable.
8. Partial Return and Replacement of the Guarantee
 - a. As portions of the public improvements are completed in accordance with the approved engineering plans, the developer may make written application to the Director of Development Services. to replace the original performance guarantee with a new guarantee of a reduced amount.
 - b. For irrevocable trust agreements, the developer may withdraw from the irrevocable trust an amount up to the amount equal to the percent completion, once 50 percent of the required site improvements have been completed and approved in writing by the Director of Development Services. The developer may not withdraw more than two (2) times during the life of the irrevocable trust. In no event shall the amount of the irrevocable trust be less than 20 percent of the total amount of the original agreement, until all improvements have been completed and approved.
 - c. For all other types of performance guarantee, when 50 percent of the required site improvements have been completed and approved in writing by Director of Development Services, the developer may replace the original guarantee with a new single guarantee in the amount equal to the cost of the required improvements that are remaining.
 - d. A developer may request one additional replacement of the performance guarantee, for any type of guarantee except an irrevocable trust agreement, with a new single guarantee for an amount equal to the cost of the required improvements that are remaining. This second replacement guarantee shall be upon written request by the developer, once additional site improvements have been completed and approved in writing by the Director of Development Services. No replacement guarantee may be for an amount less than 20 percent of the total amount of the original guarantee.

- e. A replacement guarantee can be of any of the types accepted by the City, according to the types identified in this section. It does not have to be the same type as that of the original guarantee.
 - f. Any replacement guarantee must be approved in writing by the Director of Development Services.
 - g. In no event shall the substitution of one guarantee for another in any way change or modify the terms and conditions of the performance agreement or the obligations of the developer as specified in the performance agreement.
 - h. A lot must have permanent street access installed to it prior to any release, replacement or return, whether whole or in part.
9. No third-party beneficiaries

It is the intention of the City that submitted and approved guarantees are limited to a contract between the city and the developer for the express purposes of providing protection for the citizens of Boerne, eliminating conditions which could become public nuisances, and ensuring compliance with the Unified Development Code. It is not intended that this security be available for payment of subcontractors or material suppliers in the nature of a payment bond, or that the security provided become available to the purchasers of property to correct construction flaws or defects which are the fault of a previous owner.

C. WARRANTY BONDS FOR IMPROVEMENTS

- 1. Prior to final acceptance by the City of completed improvements for maintenance, the developer shall file with the City Manager a warranty bond, in favor of the City, committing funds for the correction and repair of any defects in materials or workmanship.
- 2. The warranty bond shall be a two-year guarantee for 20 percent of all improvements.
- 3. The bond shall be issued by a corporate surety listed at the time of bond submission on the United States Department of the Treasury's listing of Approved Sureties.
- 4. The developer may submit cash, a cashier's check, a certificate of deposit, a savings assignment, or an irrevocable letter of credit in lieu of the warranty bond.

2.10 SIGNAGE

A. SIGN PERMIT

1. Generally

Approved plans associated with a permit application shall not be changed modified or altered without authorization from the City, and all work shall be done in accordance with the approved plans.

2. Permit and Fee Required

- a. Except as provided in this Section, no person shall erect, install, place, alter, repair or relocate any sign without first obtaining a sign permit from the City Manager.
- b. Each application for a sign permit must be accompanied by the appropriate fee established by City Council and by the submittal requirements indicated on the application.
- c. Upon receipt of a completed application accompanied by the requisite fee(s), the City Manager shall approve or deny said permit within 30 days of receipt.

3. Inspections

- a. The chief building official shall inspect permitted signs as often as necessary to ascertain compliance with the requirements of the UDC.
- b. All signs for which a permit is required shall be subject to inspection.
- c. It shall be the duty of the permit applicant to notify the City when the work is ready for inspection, and to request a final inspection upon completion of installation of any sign requiring a permit.
- d. It shall be the duty of the permit applicant to cause the work to be accessible and exposed for inspection purposes.
- e. The City shall not be liable for any expense involved in the removal or replacement of any material required to allow inspection.
- f. The permit and approved plans are to be available and accessible at the job site for all inspections.

4. Expiration

- a. A sign permit for any sign whose use is limited to a time period specified by this ordinance, or whose removal is required at a certain time by this ordinance, must be for a specified term which shall not exceed the time limit established by this ordinance.
- b. A sign permit shall expire 90 days from the date it is granted if the work authorized by the permit has not been commenced.

5. Suspension or Revocation

- a. The City may, in writing, suspend or revoke a permit under the provisions of this Section if a permit was issued based on incorrect information or is in a violation of city, state or federal laws.

6. Removal of Signs in a Prohibited Area

- a. Any sign found within an area where the sign is not allowed is hereby declared to be illegal and may be removed by the City.
- b. Any sign removed by the City shall immediately become the property of the City.
- c. The removal of any sign by the City shall not preclude the City from prosecuting any person for violating this section.

7. Temporary Signs for New Businesses

- a. Any temporary sign permitted for a new business shall be removed when the permanent sign is installed.
- b. Temporary signs for a new business shall not remain longer than 30 days from the day that the Certificate of Occupancy is granted.
- c. The City may extend this time period by an additional 30 days.

8. Enforcement

- a. After a sign permit has been issued by the City Manager, it shall be unlawful to change, modify, alter or otherwise deviate from the terms and conditions of the permit without prior approval by the City Manager.
- b. Whenever the City Manager has evidence of a sign that after the effective date of this ordinance was erected, constructed, altered, repaired or relocated in violation hereof, the City Manager shall require the party responsible for such sign to remove it.
- c. If the responsible party fails to remove the sign within seventy-two (72) hours after being notified to do so, or if it appears to the City Manager that the illegal sign placement poses an immediate danger to the public, then such sign may be removed by the City and the City's actual cost of removal shall be charged to the responsible party.
- d. Any sign so removed shall be impounded and shall not be returned to the party responsible until all applicable charges are paid.
- e. If any sign remains unclaimed for a period of more than thirty (30) days, the City may destroy, sell, or otherwise dispose of the sign.

B. NONCONFORMING SIGNS

1. Continuation in Use

- a. The lawful use of signs in existence at the time of passage of this Chapter, although such use or sign does not conform to the regulations contained herein, may be continued.
- b. If the use of a nonconforming sign is discontinued for a period of ninety (90) consecutive days or more by one or more of the following actions, then the sign must be removed by the responsible party without compensation and any future use of the sign must be in full compliance with this ordinance:
 - i. The business operating the non-conforming sign closes for a period of ninety (90) consecutive days or more
 - ii. The non-conforming sign is turned off for ninety (90) consecutive days or more
 - iii. The sign face is removed or covered for a period of ninety (90) consecutive days or more
- c. Signs displaying a commercial message that substitute that message for a non-commercial message are not subject to this section.

2. A sign that advertises a business that is no longer in lawful operation on the premises shall not be considered a non-conforming sign.

3. Sign structures with no advertising shall not be considered to be non-conforming signs.

4. Limitations on Modification

- d. No nonconforming sign shall be enlarged in area, increased in height, moved, altered, or remodeled unless and until its construction, area, height and location are all in conformity with the ordinance.
- e. A lawfully existing sign may be repainted and the letters or characters on the sign may be rearranged or replaced, however the changes cannot be made to advertise a new business without seeking a new permit.

5. Removal of Nonconforming Signs

- f. A nonconforming sign which is damaged by any cause to the extent of fifty (50) percent or more of its value must be removed by the responsible party without compensation and within thirty (30) days of the damage.
- g. A nonconforming sign damaged to the extent of fifty (50) percent or more of its value shall not be replaced or rebuilt except by a sign that is constructed and located in full conformity with this ordinance.
- h. The structure, pole, frame, and copy of a nonconforming sign which no longer advertises a bona fide business conducted or product sold on the premises shall be removed in its entirety or altered to meet the requirements of these regulations within 30 days.

C. REMOVAL OF CERTAIN SIGNS

- 6. Except as otherwise provided, in the event the owner fails to comply with the provisions of this section, the chief building official shall send written notice directing the abatement of any violation in person, or by serving the owner by certified mail or by publication two times within ten days in the official newspaper of the city if the owner cannot be served personally, or if the owner's address is unknown. If the owner fails to comply with the notice of abatement within ten working days after notice, the sign shall be deemed a nuisance. The chief building official shall cause the nuisance to be abated and shall charge all costs and expenses incurred therewith to the owner. The expenses assessed for abatement shall be actual removal expenses, but not less than \$25.00, plus an administrative fee set by the City.
- 7. Any sign which is deemed to be a nuisance by the City shall, without the requirement of notice, be removed.
- 1. The chief building official shall not process any application nor issue any permit for a sign located on the same premises or for any other premises of an owner in violation of this Section.
- 8. Prohibited signs confiscated by the City will be stored for thirty (30) days and may be claimed by the owner by payment of \$5.00 per sign, plus any cost of removal. Any confiscated sign not claimed within thirty (30) days may be destroyed.

D. SIGNS IN THE HISTORIC DISTRICT

- 1. A Certificate of Appropriateness, granted by the Landmark Commission, shall be required for any sign located in the Historic District.
- 2. In submitting a request for a new or revised sign for consideration by the Landmark Commission, the owner or their representative shall deliver the following to the City Manager at least fifteen (15) calendar days prior to the date the request is to be considered by the Commission:
 - a. 12 copies of the sign design and colors (12 paint chips for each color provided by the paint company or the PMS numbers for each)
 - b. 12 photographs or front and/or side elevations of the structure with the sign located on the structure
 - c. A photograph of the structure as viewed from the street(s)
- 3. Once the Certificate of Appropriateness is granted, a sign permit application may be submitted to Code Enforcement for review and approval, in accordance with this Section.

E. SIGN VARIANCES

- 1. Application and Fee Required
 - a. Any person, business or other organization desiring to use, locate, construct or otherwise place any sign which does not conform to the provisions of this ordinance may make application to the City Council for a variance to the requirements of this Chapter.

- b. The application shall be filed with the City Manager, accompanied by the appropriate fee established by City Council and by the submittal requirements indicated on the application.

2. Completeness Review

An application for a sign variance shall be deemed complete if it meets the following criteria:

- a. Fees have been paid
- b. Application form is complete
- c. All submittal requirements have been included

3. Decision

- a. The Planning and Zoning Commission shall hear and render decisions on sign variances except for requests for variances for signs in the Historic District.
- b. The Landmark Commission shall hear and make a recommendation to the Planning and Zoning Commission regarding variances for signs in the Historic District.
- c. Upon receipt of a complete application the Commission shall approve or deny the variance within thirty (30) days of receipt thereof. The Commission shall follow the Criteria for Granting a Variance, provided in this Chapter.

4. Criteria for Granting a Variance

- a. The Planning and Zoning Commission may impose such conditions or requirements in a variance as are necessary to protect the overall character of the community and to achieve the fundamental purposes of this ordinance.
- b. Sign variances shall not be granted for prohibited sign types.
- c. The Planning and Zoning Commission shall grant the variance only when it is determined that:
 - i. Literal enforcement of the regulations in this Chapter will create an unnecessary hardship or practical difficulty in the development of the affected property;
 - ii. The situation causing the hardship or difficulty is unique to the affected property;
 - iii. The situation or hardship is not self-imposed;
 - iv. The relief sought will not injure the existing or permitted use of any adjacent conforming property; and
 - v. The granting of a variance will be in harmony with the purpose and intent of this Chapter.

5. Expiration of a Sign Variance

- a. If a variance is granted and the sign so authorized is not under construction within 180 days of the date of approval of the variance, the variance shall lapse and become of no force or effect.
- b. If a sign variance expires, a new application shall be required.
- c. The Planning Director may grant a one-time extension of the variance, for a period not to exceed 180 days, upon written request of the applicant, prior to the original expiration date.

F. APPEALS

The Board of Adjustment shall hear and decide appeals related to this Section, in keeping with the provisions for appeals established by this Chapter.

2.11 HISTORIC PRESERVATION

A. HISTORIC DISTRICT DESIGNATION

1. Before the Landmark Commission

- a. Any proposal to designate an area of the city as an historic district may be initiated by the landowner and be reviewed by the Landmark Commission.
- b. Before considering such designation, the Landmark Commission shall hold a public hearing on the matter.
- c. Notice of the hearing shall be mailed at least 10 days before the hearing date to the owners of all real property in the area proposed to be included in the district according to the most recent Kendall County Appraisal District tax roll.
- d. Following the hearing, the Landmark Commission shall recommend to the Planning and Zoning Commission those areas, if any, which it determines should be included in an historic district.
- e. In making this recommendation, the Landmark Commission shall consider the following criteria:
 - i. Character, interest or value as part of the development, heritage or cultural characteristics of the city.
 - ii. Location as the site of an historical event.
 - iii. Embodiment of distinguishing characteristics of an architectural type or specimen.
 - iv. Relationship to other distinctive buildings, sites, districts or structures which are historically significant and preserved, or which are eligible for preservation.
 - v. Unique location or singular physical characteristics representing an established and familiar visual feature of a neighborhood, a community, or the city.
 - vi. Value as an aspect of community sentiment or public pride.
 - vii. Identification with a person or persons who significantly contributed to the development or culture of the city. The Landmark Commission's report to the Planning and Zoning Commission shall include the following information:
 - (a) A list of specific buildings, structures, areas or lands of importance or value within the proposed district boundaries and a description of how the particular building, structure, site, area or land meets the aforementioned criteria.
 - (b) A map showing the boundaries of the proposed historic district or districts.

2. Before the Planning and Zoning Commission

- a. The Planning and Zoning Commission shall consider the recommendation of the Landmark Commission and make its own recommendation to the City Council.
- b. Before adopting a recommendation, the Planning and Zoning Commission shall give published and mailed notice to property owners in the area of the proposed historic district and shall hold a public hearing on the proposal in the same manner as required for the consideration of a change of zoning use district boundaries.
- c. The Planning and Zoning Commission shall include in its report to the City Council any information requested to be included by the Landmark Commission.

3. Before City Council

The City Council shall act on the recommendation from the Planning and Zoning Commission, following the same procedures, including notice and public hearing, as required for a change of zoning use district.

4. Modification of District Boundaries

Any proposal to modify the boundaries of a designated historic district, either adding area to the district or removing area from the district, shall be treated in the same manner as an original proposal to designate the area proposed to be added and/or removed as an historic district.

5. Appeals

- a. Any applicant aggrieved by a decision of the Landmark Commission may, within 60 days of the date of notice of the Commission's decision, appeal the decision to the City Council.
- b. A complaint by any person concerning the sufficiency of notice, economic impact, reasonableness or public necessity as to any rule or regulation, and any complaint concerning substantive or procedural due process, equal protection and equal application of the provisions of this ordinance, or correct interpretation of this ordinance, shall be presented to the Landmark Commission in the first instance, and shall be presented to the City Council by way of an appeal.
- c. Any such complaint shall be specified in writing and filed with the appropriate official before or during the meeting where the agenda item is heard.
- d. No decision of the Landmark Commission or the Council is final for purposes of judicial review until such notice of a complaint shall have been given, and the Landmark Commission, the Planning and Zoning Commission, or the City Council shall have had a reasonable opportunity to evaluate, reconsider, and apply the provisions of this ordinance.
- e. This provision is intended to ensure that due process is fully extended to the property owner and to the community.

B. HISTORIC LANDMARKS AND BUILDINGS IN HISTORIC DISTRICTS

1. Landmark Commission Assistance to Owners

The Landmark Commission shall provide information and counseling upon request to the owners of designated historic landmarks, of properties which may be eligible for designation as historic landmarks, and of included structures within historic districts, so that the historic heritage of the city may be preserved and the purposes of this Article achieved.

2. Submittal Requirements for Historic Landmark Commission Review

a. Procedures for Submission

In submitting a request to build, remodel or create an addition for consideration by the Historic Landmark Commission, the owner or their representative shall deliver the following to the City Manager at least 15 calendar days prior to the date the request is to be considered by the Commission:

- i. 12 copies of the proposed north, south, east and west elevations (scaled drawings should be prepared)
- ii. 12 copies of the proposed site plan that depicts as-built and proposed building locations.
- iii. Prior to the meeting provide a representative sample of the exterior materials (brick, stone, roofing materials, etc.), if the exterior material is the same as the existing structure material, a photograph of the existing structure will suffice.
- iv. A photograph of the original structure as viewed from the street
- v. Other items that City Staff deems appropriate to demonstrate the design or intent of the request

b. Submittal Requirements for Paint Color Change

In submitting a request for paint color change for consideration by the Historic Landmark Commission, the owner or their representative shall deliver the following to the City Manager at least 15 calendar days prior to the date the request is to be considered by the Commission:

- i. 12 paint chips for each requested color provided by the paint company or the PMS (Pantone Matching System) numbers for each
- ii. The requestor may be asked to paint a large section of the structure for review by the Commission.
- iii. A photograph or architectural rendition of the structure as viewed from the street
- c. Signs
- d. A representative may be in attendance to present the request to the Landmark Commission.

3. Hearing and Notice Requirements

- a. The Landmark Commission shall not act upon any request for historic landmark designation or upon any application for a building permit or certificate of appropriateness without having first given the applicant for the designation, permit or certificate adequate notice of the Commission meeting and his/her right to be present and to be heard if so desired.
- b. All meetings, regular or special, shall be open to the public. Notice of meetings shall be posted on the appropriate bulletin board at City Hall prior to the meeting date in compliance with current State Laws.
- c. Notice shall be sufficient if:
 - i. the party to be affected receives actual notice by any means; or
 - ii. notice is sent to the address shown on any application or permit filed by the applicant, by United States Mail, certified, return receipt requested; or
 - iii. in the absence of any address provided by an applicant, notice is sent to the address for the registered owner as shown by the tax rolls of the Kendall County Appraisal District.

4. Procedure for Historic Landmark Designation

a. Application

Any person or entity may request an historic landmark designation for property owned by such person or entity by submitting an application to the City Manager. The application shall state the following:

- i. The name, telephone number and mailing address of the applicant.
- ii. The location and address of the property to be designated.
- iii. The reasons for requesting the designation. This section of the application need not be extensive, but it should include, if available, the approximate date of construction, and information on the past and present usage of the property.

b. Review of Application

- i. Upon receipt of an application for historic landmark designation, the City Manager shall submit a copy of the application to the Chair of the Landmark Commission, who shall initiate a review of the application within 30 days.
- ii. The Landmark Commission shall hold a regular meeting to consider the application.
- iii. If the application is approved by the Landmark Commission, the application shall be presented to the Planning and Zoning Commission for their review, comment and recommendation to the City Council.

- iv. If the application is rejected by either the Landmark Commission or the Planning and Zoning Commission, the applicant shall be so notified, and the applicant may, within 60 days after receipt of the notice, appeal the decision to the City Council.
 - c. Action by City Council
 - i. All decisions of the Landmark Commission and the Planning and Zoning Commission, either to approve or to disapprove an application for historic landmark designation, shall be reported to the City Council.
 - ii. Upon receipt of the two Commission reports, the City Council may designate the subject property as an historic landmark if, in the Council's discretion, the property is deemed to have historical, cultural, archeological or educational value which reflects the heritage of the city.
5. Improvements to Historic Properties
- a. Application Required
 - i. The owner of any building, structure or land which is a designated historic landmark or of any land or included structure within a designated historic district who proposes to make any exterior change to a building or structure on the site shall apply for approval of the exterior change as follows.
 - ii. If the exterior change involves any new construction on the site or the reconstruction, structural alteration, restoration, relocation, demolition, or razing of an historic landmark or included structure, the owner shall apply for a building permit.
 - iii. If the exterior change does not involve any such action, the owner shall apply for a certificate of appropriateness.
 - iv. Ordinary repair or maintenance which does not involve any change in architectural or historical value, style, general design, arrangement, features, materials, texture, color or appearance, as determined by the City Manager, is exempt from any requirement for approval by the Landmark Commission.
 - b. Review by City Manager
 - i. The City Manager shall review the application to determine whether the proposed exterior change requires a building permit or a certificate of appropriateness or is exempt from approval by the Landmark Commission. The City Manager shall notify the applicant of his/her findings with regard to the application within seven working days of receiving the application and associated plans.
 - c. Elements Necessary for Review

The City Manager shall adopt reasonable rules and regulations requiring that any application and plans be complete prior to acceptance for review under this ordinance. Any such rules or regulations shall be maintained in written form, available to all applicants, and shall be accompanied by a check list of the elements necessary for acceptance of any such application.
 - d. Factors to be considered by the Landmark Commission
 - i. In acting upon any application for a building permit or a certificate of appropriateness for any project within a designated historic district or affecting a designated historic landmark, the Landmark Commission shall consider the following factors:
 - (a) The effect of the proposed change upon the general historic, cultural, and architectural character of the historic district or historic landmark;

- (b) The appropriateness of the exterior architectural features which can be seen from a public street, alley, trail or walkway;
 - (c) The general design, arrangement, materials, textures and colors of the building or structure, and the relation of such factors to similar features of buildings and structures on the landmark site or in the historic district;
 - (d) The extent to which any building, structure or feature situated only partially within an historic district requires special provisions or considerations;
 - (e) Harmony with adjacent buildings and structures in terms of scale, height and mass; and
 - (f) The value of the historic district or historic landmark as an area or site of unique interest and character which should not be impaired.
- ii. The criteria used by the Landmark Commission shall not be the aesthetic appeal of the proposed remodeling or new building or structure, but rather its conformity to the general character of the landmark site and the historic district.

e. Time Limit for Commission Action

The Landmark Commission shall act on any application for a building permit or certificate of appropriateness within 45 days after the application is received by the Chair of the Commission. If the Landmark Commission fails to act within 45 days, the application shall be deemed approved and the City Manager shall immediately so advise the applicant in writing.

f. Prohibition of Repeat Applications

If the Landmark Commission disapproves an application for a building permit or certificate of appropriateness, a re-submittal of the application shall not be accepted within six months from the date of the Commission's action unless the applicant revises the application to incorporate all of the changes lawfully required by the Commission to protect the distinctive character of the historic landmark or historic district.

6. Building Permits for Landmark Buildings or Buildings in a Historic Landmark District

a. Landmark Commission Meeting.

When the City Manager has determined that a building permit is required because the application calls for construction, reconstruction, alteration, restoration, relocation, demolition, or razing of an included structure in a designated historic district or affecting a designated historic landmark, the City Manager shall notify the Chair of the Landmark Commission of this determination at the same time as he/she notifies the applicant. The Chair shall schedule a meeting of the Landmark Commission within 30 days of notification to consider the recommendation which the Commission will give to the City Manager concerning the application. Notice shall be given of the time and place of the meeting, and the applicant shall be invited to appear to explain the application.

b. Procedure if Approved

- i. Upon review of the application, if the Landmark Commission finds that the proposed work is of a nature which will not adversely affect any significant architectural or historical feature of a designated historic landmark or included structure in a designated historic district, and that it is appropriate and consistent with the spirit and purposes of this Section, the Commission shall enter this decision into its official minutes and so advise the City Manager in writing.
- ii. The City Manager is then authorized to issue the building permit.

- iii. The applicant shall make no change in any exterior building plans after the application has been approved by the Landmark Commission without the applicant submitting a revised application to the Commission for approval in the same manner as an original application.
 - c. Procedure if Disapproved
 - i. If the Landmark Commission finds that the proposed work will destroy or adversely affect any significant architectural or historical feature of a designated historic landmark or an included structure in a designated historic district or that it is inappropriate or inconsistent with the spirit and purposes of this ordinance, the Commission shall enter this decision into its official minutes and so advise the City Manager in writing.
 - ii. The decision of the Landmark Commission shall also describe the changes that would be necessary before the permit application can be approved.
 - iii. The City Manager shall forward a copy of this decision to the applicant as soon as received.
 - iv. If the applicant is willing to comply with the changes described by the Landmark Commission, the applicant may make any required changes in the plans and the application and resubmit them to the Commission in the same manner as previously described.
 - v. If the applicant is unwilling to comply with the changes described by the Landmark Commission, the building permit shall not be approved or issued.
- 7. Certificate of Appropriateness for a Landmark Building or a Building in a Historic Landmark District
 - a. Landmark Commission Meeting
 - i. When the City Manager has determined that a building permit is not required but a certificate of appropriateness is required, he/she shall notify the Chair of the Landmark Commission of this determination at the same time as he/she notifies the applicant.
 - ii. The Chair shall schedule a meeting of the Landmark Commission within 30 days of notification to consider the recommendation which the Commission will give to the City Manager concerning the application.
 - iii. Notice shall be given pursuant to Subsection 8.02.007 of this Article, of the time and place of the meeting, and the applicant shall be invited to appear to explain the application.
 - b. Procedure if Approved
 - i. Upon review of the application, if the Landmark Commission finds that the proposed work is of a nature which will not adversely affect any significant architectural or historical feature of a designated historic landmark or an included structure in a designated historic district, and that it is appropriate and consistent with the spirit and purpose of this ordinance, the Commission shall enter this decision into its official minutes and so advise the City Manager in writing.
 - ii. The Landmark Commission shall forward a certificate of appropriateness to the applicant within 30 days after the application has been received by the Chair of the Landmark Commission.
 - iii. The applicant shall make no change in any exterior building plans after the application has been approved by the Landmark Commission without the applicant submitting a revised application to the Commission for approval in the same manner as an original application.
 - c. Procedure if Disapproved.

- i. If the Landmark Commission finds that the proposed work will destroy or adversely affect any significant architectural or historical feature of a designated historic landmark or an included structure in a designated historic district, or that it is inappropriate or inconsistent with the spirit and purposes of this ordinance, the Commission shall enter this decision into its official minutes and so advise the City Manager in writing.
- ii. The decision of the Landmark Commission shall also describe the changes that would be necessary before the certificate of appropriateness can be approved.
- iii. The City Manager shall forward a copy of this decision to the applicant as soon as received.
- iv. If the applicant is willing to comply with the changes described by the Landmark Commission, the applicant may make any required changes in the plans and the application and resubmit them to the Commission in the same manner as previously described.
- v. If the applicant is unwilling to comply with the changes described by the Landmark Commission, the certificate of appropriateness shall not be approved or issued.

8. Appeals

- a. Any applicant aggrieved by a decision of the Landmark Commission may, within 60 days of the date of notice of the Commission's decision, appeal the decision to the City Council.
- b. A complaint by any person concerning the sufficiency of notice, economic impact, reasonableness or public necessity as to any rule or regulation, and any complaint concerning substantive or procedural due process, equal protection and equal application of the provisions of this ordinance, or correct interpretation of this ordinance, shall be presented to the Landmark Commission in the first instance, and shall be presented to the City Council by way of an appeal.
- c. Any such complaint shall be specified in writing and filed with the appropriate official before or during the meeting where the agenda item is heard.
- d. No decision of the Landmark Commission or the Council is final for purposes of judicial review until such notice of a complaint shall have been given, and the Landmark Commission, the Planning and Zoning Commission, or the City Council shall have had a reasonable opportunity to evaluate, reconsider, and apply the provisions of this ordinance.
- e. This provision is intended to ensure that due process is fully extended to the property owner and to the community.

9. Historic Preservation Tax Exemption

a. Authorization of Partial Exemption

In accordance with Section 11.24 of the Texas Tax Code, the owner of a building or structure (1) which is a designated historic landmark or which is located within an historic district, (2) which the City Council has designated as a historically significant site in need of tax relief to encourage its preservation, and (3) which has been substantially rehabilitated and/or restored as approved by the Landmark Commission, may apply to City Council for a tax exemption yearly. Upon approval by City Council, the assessed value of the property for ad valorem taxation shall be equal to the assessed value prior to the substantial rehabilitation or restoration, for a period not to exceed 10 consecutive years. This exemption shall begin on the first day of the first tax year after the completion of the rehabilitation or restoration. The deed, grant, sale, bequest, devise or other transfer of ownership of the property shall not cause the exemption provided herein to terminate.

b. Application for Exemption

An application for a historic preservation tax exemption shall be filed with the Landmark Commission. If approved by the Landmark Commission, the Commission shall forward the application to the City Council. Each application shall be signed and sworn to by the owner of the property and shall:

- i. State the legal description of the property proposed for exemption;
- ii. Include an affidavit by the owner describing the historic significance of the historic landmark in need of tax relief;
- iii. Include a final complete set of plans for the historic landmark's restoration or rehabilitation;
- iv. Include a statement of costs for the restoration or rehabilitation;
- v. Include a projection of the estimated construction time and predicted completion date of the restoration or rehabilitation;
- vi. Authorize the members of the Landmark Commission, the City Tax Assessor/Collector, and other City officials to visit and inspect the property as necessary to certify that the property in question is in substantial need of restoration or rehabilitation;
- vii. Include a detailed statement of the proposed use for the property; and
- viii. Provide any additional information to the Landmark Commission which the owner deems relevant or useful, such as the history of the structure or proposed access to the structure by the public.

c. Removal of Exemption

The Landmark Commission shall review annually all those properties which have been granted tax exemptions. If, in the opinion of the Landmark Commission, a property which has been granted an exemption is no longer being maintained in an acceptable state of repair, the Commission shall contact the owners of the property and discuss the Commission's concerns with them. Following such discussion, the Landmark Commission shall make a report to the City Council either recommending that the tax exemption be terminated on the last day of the tax year for that property or outlining the steps the owner must take to bring the property up to acceptable standards. City Council, upon receipt of the report of the Landmark Commission, and after such notice as may be required by law, may remove the tax exemption if it deems such action appropriate.

10. Procedure for Removal of Landmark Designation

a. Application.

- i. The original applicant for an historic landmark designation or the original applicant's successors in interest may request the removal of the designation of the property as an historic landmark by filing with the City Manager an application for removal of the designation. The application for removal of the designation shall be supported by evidence:
 - (a) That the applicant cannot realize a reasonable rate of return on the value of the property and will suffer unreasonable economic hardship if the designation as an historic landmark is not removed; or
 - (b) That other unusual and compelling circumstances justify the removal of the designation.
- ii. The application shall also contain information pertaining to the future use and disposition of the designated historic landmark. An application for removal of an historic landmark designation shall be considered by the Landmark Commission within 30 days after receipt of the application by the City Manager.

- b. Demonstration of Economic Hardship
 - i. In determining whether the applicant is unable to realize a reasonable rate of return and will suffer unreasonable economic hardship, the Landmark Commission shall make findings as to the need to remove the designation. In making such findings, the Landmark Commission shall consider the following, if the information is provided by the applicant:
 - (a) The assessed value of the land and improvements according to the most recent Kendall County Appraisal District tax roll;
 - (b) The total ad valorem taxes on the property for the last two years;
 - (c) Annual debt service, if any, for the previous two years;
 - (d) Appraisals obtained by the owner or applicant within the previous two years in connection with the purchase, financing or ownership of the property;
 - (e) Any listing of the property for sale or rent, the price asked and offers received, if any;
 - (f) Any consideration by the owner as to profitable adaptive reuses for the property; and
 - (g) The current fair market value of the property, as determined by at least two independent appraisals made by appraisers with competent credentials.
 - ii. If the property is income producing, the Landmark Commission shall also consider:
 - (a) The annual gross income from the property for the previous two years;
 - (b) Itemized operating and maintenance expenses for the previous two years, including evidence that adequate and competent management procedures have been followed;
 - (c) Annual cash flow, if any, for the previous two years; and
 - (d) Evidence that the owner has made a serious effort to obtain a reasonable return on investment based on the property's previous service.
 - iii. In addition to the information contained in the application, the Landmark Commission may require the applicant to furnish such additional information as it considers relevant or necessary to its determination of unreasonable economic hardship. If any of the required information is not reasonably available to the applicant or cannot be obtained by the applicant, the applicant may file an affidavit stating that the information cannot be obtained and the reasons why it cannot be obtained. If the Landmark Commission, in its discretion, determines that the applicant is unable to provide all of the required information because of the applicant's low income or for other valid reasons, the Commission may waive some or all of the required information or it may accept such substitute information as a low income applicant is able to provide without incurring excessive cost. If the Landmark Commission cannot make a determination based on the information submitted and an appraisal of the property has not been provided, then the Commission may request that the City Manager obtain an appraisal of the property at City expense.
 - iv. If the Landmark Commission determines by a preponderance of the evidence that the applicant is unable to obtain a reasonable return on the property and that continuation of the historic landmark designation would cause the applicant unreasonable economic hardship, the Commission shall recommend to the City Council either (1) that the designation of the property as an historic landmark be removed immediately or (2) that action to remove the designation be delayed for a period of up to 180 days while the Commission searches for an economically viable alternative to removal of the designation. If the Landmark Commission determines otherwise, it shall recommend to the City Council that the designation not be removed. If the Landmark Commission recommends removal of the designation and the City Council takes no action within 180 days of the Commission's

recommendation, the designation of the property as an historic landmark is automatically removed.

c. Unusual and Compelling Circumstances

- i. In determining whether other unusual and compelling circumstances justify removal of the historic landmark designation, the Landmark Commission shall consider:
 - (a) The importance of the building, structure, site or object to the integrity and character of the surrounding area, to a cluster of historic landmarks, or to the historic district in which the historic landmark is located;
 - (b) The historic or architectural significance of the historic landmark relative to other historic landmarks in the city;
 - (c) The difficulty or impossibility of reproducing such a building, structure, site or object because of its design, texture, material, detail or unique location;
 - (d) Whether the building, structure, site or object is one of the last remaining examples of its kind in the neighborhood, the city, county, region, state or nation;
 - (e) Whether there are definite plans for reuse of the property if the historic landmark designation is removed, the applicant's financial ability to carry out such plans, and the effect such plans would have on the architectural, cultural, historical, archeological, social, esthetic or environmental character of the surrounding area, as well as the economic impact of the proposed redevelopment on the surrounding area and the City as a whole;
 - (f) Whether reasonable measures can be taken to save the building, structure, site, object, or cluster from further deterioration, collapse, arson, vandalism or neglect; and
 - (g) Whether reasonable measures can be taken to relocate the building, structure or object to a new site.
- ii. In making its recommendation to City Council, the Landmark Commission shall balance the historic, architectural, cultural and/or archeological value of the existing historic landmark against the merits of the proposed replacement project. The Landmark Commission may recommend either (1) that the designation of the property as an historic landmark be removed immediately, (2) that Council action to consider removing the designation be delayed for a period of up to 180 days while the Commission develops a plan to preserve the landmark's historic value, or (3) that the designation not be removed.

d. Alternatives to Removal of the Designation

In any case in which the Landmark Commission recommends to the City Council that action to remove an historic landmark designation be delayed, the Commission shall use the period of the delay to attempt to develop an alternative plan to preserve the landmark's historic value. This plan may involve the transfer to a new owner of the land and improvements which are the subject of the designation, either by gift, purchase or other means, or the acquisition of the building, structure or object and its relocation for preservation at another site, or any other measure which in the Landmark Commission's judgment will effectively relieve an unreasonable economic hardship or respond to the unusual and compelling circumstances and at the same time will allow the public benefits of the designation to be continued. The City Council shall not act to consider removing the designation within the period of the delay until it receives a report from the Landmark Commission, either recommending such a plan or stating that the Commission has been unable to develop such a plan.

11. Demolition by Neglect

a. Structural Maintenance and Repairs Required.

The owner of any historic landmark, or of any included structure in an historic district, shall preserve such landmark or structure against deterioration and decay and shall promptly repair the landmark or structure if it is found to have any of the following defects:

- i. A deteriorated or inadequate foundation, or defective or deteriorated flooring or floor supports, or flooring or floor supports of insufficient size or strength to carry loads imposed with safety;
- ii. Members of walls, partitions or other vertical supports which split, lean, list or buckle due to defective material or deterioration, or which are of insufficient size or strength to carry loads imposed with safety;
- iii. Members of ceilings, roofs, ceiling and roof supports or other horizontal members which sag, split, or buckle due to defective materials or deterioration, or which are of insufficient size or strength to carry loads imposed with safety;
- iv. Fireplaces or chimneys which list, buckle or settle due to defective materials or deterioration, or which are of insufficient size or strength to carry loads imposed with safety;
- v. Deteriorated or ineffective waterproofing of exterior walls, roofs, foundations or floors, including broken windows or doors, or defective protection or lack of weather protection for exterior wall coverings, including lack of paint, or weathering due to lack of paint or other protective covering, or any other fault or defect in a structure which renders it structurally unsafe or not properly watertight.

b. Exterior Site Maintenance Required

The owner of any historic landmark, or of any included structure in an historic district, shall keep the property, including vacant property, clear of weeds, fallen trees or limbs, debris, abandoned vehicles, and all other refuse as required by all applicable City ordinances.

c. Preventive Action by Landmark Commission

The Landmark Commission, on its own initiative, may file a complaint with the City Manager requesting that the City proceed under all applicable ordinances to require correction of defects or repairs to any historic landmark or any included structure in an historic district so that the landmark or included structure will be preserved and protected in accordance with the purposes of this Article.

d. Limitation on Permit Applications

If any historic landmark or any included structure in an historic district must be demolished as a hazard to public health and safety after the owner thereof has received two or more notices from the City Manager of neglect in violation of this or other ordinances, no application for a permit for any project on the property may be considered for a period of three years from the date of the demolition.

12. Demolition of Hazardous Structures

Nothing in this ordinance shall apply to or in any way prevent the demolition of any building or structure which is an imminent danger to public health and safety and which cannot be made reasonably safe according to the opinion of the City Manager.

2.12 PROPERTY OWNERS AND HOMEOWNERS ASSOCIATIONS

A. APPLICABILITY

1. An incorporated nonprofit Association must be created when a subdivision contains private streets, or any other improvements not intended to be dedicated to the City of Boerne for public use.
2. Such private streets, recreation facility, drainage or storm water treatment, landscaped entry features or any other private amenity shall hereafter be referred to collectively as “Common Areas”.
3. The Association shall also be responsible for the maintenance of all landscaping, buffering, screening, irrigation and associated improvements adjacent to residential subdivisions along public thoroughfares.

B. ASSOCIATION AGREEMENTS

1. An Association agreement consistent with State and other appropriate laws must be submitted to and approved by the City Manager and made a part of the final plat documents. The restrictive covenants -- Covenants, Conditions and Restrictions (“CCRs”) -- and the Association documents including articles of incorporation and a draft version of the by-laws shall be submitted to the City for review and approval along with the Master Development Plan application, and the final version shall be filed at Kendall County prior to final plat acceptance in order to ensure that there is an entity in place for long-term maintenance of these Common Areas. The Association’s CCRs shall provide for continuous maintenance and control of the Common Areas by a responsible body, in perpetuity, for the benefit of the homeowners. Such maintenance and control shall be performed without using public funds. In the approval of the above documents, the City shall determine that the proper legal position is ensured and that the proposed Association will function properly both during and after the time in which the developer is active in the subdivision.
2. The Association agreement must include provisions that allow, but do not require, the City to take over the maintenance of the Common Areas, including private streets, using Association funds if such action becomes necessary due to request of the Association, nonperformance or inaction by the Association and/or if the Association becomes defunct. The following provisions shall also be included in the Association Agreement which would control in the event the City is asked to take over the maintenance of the Common Areas by the Association:
 - a. Grant the City all the rights of the Association to either file a lien on property within the subdivision or assess property owners within the subdivision for the costs of maintaining, repairing, replacing or making safe any Common Areas;
 - b. In the sole discretion of the City, convey to the City ownership of all or part of the Common Areas either before or after exercising the City’s rights under (a) herein above; and
 - c. Authorize the City, upon taking ownership of the Common Areas to remove any improvements or amenities from the Common Areas and sell any buildable land area as residential lots to recoup the City’s expenses for maintenance or demolition of the improvements. Any money that remains after the City has recovered all of its expenses, including any necessary and reasonable legal expenses, shall be retained for future maintenance or upgrading of the Common Areas (if any remain), screening walls, or other improvements within the subdivision. These provisions are not intended to allow the City to profit in any way from taking over the Association’s responsibilities or funds; they are only intended to allow the City to recoup its actual incurred expenses.

C. PETITION TO CONVERT TO PUBLIC STREETS

1. The Association documents shall allow the Association to petition the City to accept private streets and any associated property as public streets and rights-of-way upon written notice to all Association members and upon the favorable vote of a majority of the membership.
2. However, in no event shall the City be obligated to accept said streets as public streets.

3. Should the City elect to accept the streets as public streets, then the City has the right to inspect the private streets and to assess the lot owners for the expense of needed repairs concurrent with the City's acceptance of the streets.
4. The City shall be the sole judge of whether repairs are needed.
5. Upon acceptance of the private streets as public streets the City may also require, at the Association's or the lot owners' expense, the removal of any guard houses, access control devices, landscaping or other aesthetic amenities located within the street lot or within any other roadway common area that are not consistent with a public street development.
6. The Association documents shall provide for the City's right to such removal and assessment.
7. Those portions of the Association documents pertaining to the subject matter contained in this Section shall not be amended without the written consent of the City Council.
8. However, the Association documents must be modified and re-filed to remove requirements specific to private street subdivisions at such time as the City accepts the private streets as public streets.

D. HOLD HARMLESS

The subdivision final and recorded plat shall contain language whereby the property (or home) owners' association, as owner of the private streets and appurtenances, agrees to release, indemnify, defend and hold harmless the City, any other governmental entity, and any public utility for damages to the private streets that may be occasioned by the reasonable use of the private streets by same, and for damages and injury (including death) arising from the condition of the private streets, out of any use of access gates or cross arms, or out of any use of the subdivision by the City or governmental or utility entity (such plat language is available from the City).

E. REQUIRED DISCLOSURES

The Association documents shall address, but shall not be limited to, the following paragraphs:

1. The Association documents must indicate that the streets within the development are private, owned and maintained by the Association and that the City has no obligation to maintain or reconstruct the private streets.
2. The Association documents shall include a statement indicating that the City may, but is not obligated to, inspect private streets, and require repairs necessary to ensure that the same are maintained to City standards.
3. The Association may not be dissolved without the prior written consent of the City.
4. That the Association and the lot owners agree to release, indemnify, defend and hold harmless the City, its officers, agents licensees, servants, contractors and/or employees ("Indemnitees"), from and against any and all claims or suits for property damage or loss and/or personal injury of whatever kind or character arising out of or in connection with, directly or indirectly: (a) the reasonable use of the private streets, emergency access, utility easements, entrance gate or structures by the Indemnitees; (b) the condition of the private streets, private entrance gates or structures, private walls and fences, private pedestrian access, private storm drainage systems and emergency access; or (c) any use of the addition by the Indemnitees for any purpose stated hereinabove, whether or not caused, in whole or in part, by the alleged negligence of the Indemnitees. The Association shall be responsible for carrying liability insurance to meet the requirements of this paragraph.
6. The Association documents shall provide that all traffic rules and regulations enforced and applied by the City on all public streets, alleys and rights-of-way governing the operation and movement of vehicles are extended to all private streets, alleys and rights-of-way within the subdivision. All such streets, roads, alleys, and rights-of-way are governed and controlled by all traffic laws set forth in state law and City ordinance.
- 7.

F. MEMBERSHIP

1. The Association shall be an incorporated nonprofit organization operating under recorded land agreements through which:
 - a. Each lot owner within the described land area is automatically a mandatory member of the Association and such membership shall run with the title to each lot; and
 - b. Each lot is automatically subject to a charge for a proportionate share of the expenses for the Association's activities, such as maintenance and upkeep of Common Areas. That is, membership in the Association is not voluntary and its primary source of operating funds is a periodic assessment levied against each parcel of land within the development under recorded covenants which shall be incorporated into each deed and which shall run with the land to bind each and every owner of it and which are enforceable as a lien against the land.

G. ASSOCIATION CONTACT INFORMATION

1. The Association shall provide and maintain an address and telephone contact with the City Secretary's office of the City of Boerne.

H. LEGAL REQUIREMENTS

1. In order to assure the establishment of a proper Association, including its financing, and the rights and responsibilities of the property or homeowners in relation to the use, management and ownership of Common Areas, the subdivision plat, dedication documents, covenants, and other recorded legal agreements must:
 - a. Legally create an automatic membership, non-profit Association;
 - b. Save the title to the Common Area properties for the benefit of the Association and express a definite undertaking by the developer to convey the Common Areas to the Association;
 - c. Tie the covenants and use provisions to the plat so that collection of fees and denying use is legally supportable;
 - d. Appropriately limit the uses of the Common Areas;
 - e. Give each lot owner the right to the use and enjoyment of the Common Areas;
 - f. Place responsibility for operation and maintenance of private streets and the Common Areas in the Association in perpetuity;
 - g. Place an Association charge on each lot in a manner which will both assure sufficient Association funds, and which will provide adequate safeguards for the lot owners against undesirable high charges;
 - h. Establish each lot owner's obligation to pay assessments for the maintenance and operation of the Common Areas which shall be set aside in a reserve fund subject to the following restrictions:
 - i. This reserve funds shall not be commingled with any other Association fund;
 - ii. The balance of the fund shall be equal to the total replacement cost of the improvements divided by the average life expectancy of such Common Areas times the age of the improvements. The life expectancy for a subdivision with private streets shall be a minimum of twenty (20) years;
 - iii. The Association shall have an annual review performed by a certified public accounting firm verifying that the amount in the reserve fund complies with the requirements herein and copy of the review shall be provided to City; and
 - iv. If the private streets and Common Areas are converted to the public, the reserve fund shall become the property of the City.
 - i. Give each lot owner voting rights in the Association; and
 - j. Identify land area within the Association's jurisdiction including but not limited to the following:
 - i. Property to be transferred to public agencies;

- ii. The individual residential lots;
- iii. The Common Areas to be transferred by the developer to the Association; and
- iv. Other parcels

I. GOVERNMENT ACCESS

- 1. Any governmental authority or agency, including, but not limited to, the City and the County, their agents, and employees, shall have the right of immediate access to the Common Areas at all times if necessary for the preservation of public health, safety and welfare.

J. TRAFFIC ENFORCEMENT

- 1. The Association, its members and the City of Boerne agree that all traffic rules and regulations enforced and applied by the City on all public streets, alleys and rights-of-way governing the operation and movement of vehicles are hereby extended to all streets, alleys and rights-of-way within the subdivision. All such streets, roads, alleys, and rights-of-way shall henceforth be governed and controlled by all traffic laws set forth in state law and City ordinance.
- 2. The City may erect, place, replace, maintain and/or remove such traffic control signs, signals and devices that may be necessary or appropriate in the application and extension of traffic rules and regulations to the subdivision. If the City is so required, all costs of erection, placement, replacement, maintenance and removal shall be reimbursed by the Association to the City within thirty (30) days of such invoice. This reimbursement requirement shall include, but not be limited, to the acquisition of property for sign placement.

K. FAILURE TO MAINTAIN

- 1. Should the Association fail to maintain part or all of the Common Areas to City specifications for an unreasonable time, not to exceed ninety (90) days after written request to do so, then the City shall have the same right, power and authority to enforce the Association's rules and to levy assessments necessary to maintain the private streets and Common Areas.
- 2. The City, in its sole discretion, may elect to exercise the rights and powers of the Association, or to take any action required and levy any assessment that the Association might have taken, either in the name of the Association or otherwise, to cover the cost of maintenance (or the possible demolition, if such becomes necessary to preserve public safety or to ease maintenance burden) of any Common Areas. It is in the City's sole discretion as to whether to take such action.
- 3. Any expenses incurred by the City in taking this action shall be borne by the Association and the City shall be repaid for such expenses incurred.
- 4. The City is not responsible for enforcing protective covenants or deed restrictions.

L. PROTECTIVE COVENANTS

- 1. Protective covenants shall be developed which, among other things, shall make the Association responsible for:
 - a. The maintenance and operation of all Common Areas, including LID features;
 - b. The enforcement of all other covenants;
 - c. The administration of architectural controls (optional); and
 - d. Certain specified exterior maintenance of exterior improvements of individual properties (optional).
- 2. The City may require the Association to provide ongoing reporting of budgetary actions, financial reports, and collection activity on homeowners' assessments. Should the funding of the Common Areas maintenance not support the level of maintenance required by applicable ordinance, the City may require additional security for the provision of such maintenance.
- 3. The Association may not be dissolved without the prior written consent of the City Council.

4. No portion of the Association documents pertaining to the maintenance of private streets and alleys or other Common Areas and assessments, therefore, may be amended without the written consent of the City Council.
5. The Association and its members agree to release, indemnify, defend and hold harmless the City, its officers, agents licensees, servants, contractors and/or employees (“Indemnitees”), from and against any and all claims or suits for property damage or loss and/or personal injury of whatever kind or character arising out of or in connection with, directly or indirectly: (a) the reasonable use of the private streets, emergency access, utility easements, entrance gate or structures by the Indemnitees; (b) the condition of the private streets, private entrance gates or structures, private walls and fences, private pedestrian access, private storm drainage systems and emergency access; or (c) any use of the addition by the Indemnitees for any purpose stated hereinabove, whether or not caused, in whole or in part, by the alleged negligence of the Indemnitees. The Association shall be responsible for carrying liability insurance to meet the requirements of this paragraph.
6. All conflicting ordinances of the City are hereby repealed and all other provisions not in conflict with the provisions of this ordinance shall remain in full force and effect.
7. Should any article, paragraph, subdivision, clause or provision of this ordinance, or the ordinances of the City, as hereby amended, be adjudged or held invalid or unconstitutional for any reason, such judgment or holding shall not affect the validity of this ordinance as a whole or any part or provision hereof other than the part so declared to be invalid or unconstitutional.

Chapter 3 Zoning

DRAFT

3.1 ZONING PROVISIONS

A. SHORT TITLE

1. This Chapter shall be known and may be cited as the "Zoning Ordinance," or "Zoning Code" of the City of Boerne.

B. PURPOSE

1. The zoning regulations have been designed to:
 - a. lessen congestion in the streets;
 - b. secure safety from fire, panic, and other dangers;
 - c. promote health and general welfare;
 - d. provide appropriate light and air;
 - e. prevent the overcrowding of land;
 - f. Facilitate appropriate concentration of population;
 - g. facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements; and
 - h. safeguard natural resources.
2. The zoning regulations have been made with reasonable consideration, among other things:
 - a. for the protection and preservation of places and areas of historical, natural and cultural importance and significance;
 - b. for the character of the zoning districts and the peculiar suitability of particular uses;
 - c. with a view to conserving the value of buildings and other improvements; and
 - d. encouraging the most appropriate use of the land throughout the City consistent with the City's adopted Master Plan.

C. CONSISTENCY WITH THE MASTER PLAN

1. This chapter is intended to implement the goals, objectives and policies of the Master Plan. Any amendments to this chapter, including any rezoning approved pursuant to this chapter, shall take into consideration the goals of the adopted Master Plan, as it may be amended from time to time, in effect at the time of such request for amendment,
2. The zoning regulations and districts as established in this chapter have been made in accordance with the Master Plan and are hereby deemed to be consistent and in accordance with the Master Plan.

D. MORE RESTRICTIVE STANDARDS SHALL GOVERN

1. Whenever higher or more restrictive standards are established by the provisions of any other applicable statute, ordinance or regulation of the City than are established by the provisions of this Chapter, the provisions of such higher or more restrictive other statute, ordinance or regulation shall govern.

E. AUTHORITY

1. This chapter is adopted pursuant to Texas Local Government Code, Chapter 211 and the City Charter, and in the exercise of the power granted to municipalities by such statutes and pursuant to any and all other applicable laws.

F. APPLICABILITY

1. This chapter shall apply within the corporate limits of the City to all land and uses thereon, over which the city has jurisdiction under the City Charter, constitution and laws of the State of Texas, and of the United States.

2. This chapter shall further apply to any and all legal annexations of land or additions made to the City after the adoption of this Chapter.

G. COMPLIANCE REQUIRED

1. Except as provided in this Chapter:
 - a. No building or structure shall be erected, reconstructed or structurally altered, nor shall any building, structure or land be used, for any purpose other than is permitted in the district in which such building, structure or land is located.
 - b. No building or structure shall be erected, reconstructed or structurally altered to exceed a height or bulk limit or setback requirement herein established for the district in which such building or structure is located.
 - c. No lot area shall be reduced or diminished so that the yards, courts, or other open spaces shall be smaller than prescribed by this ordinance.
 - d. No yard, court, or open space provided in conjunction with a particular building or structure for the purpose of complying with the provisions of this Chapter shall be considered as providing a yard, court, or open space for any other building or structure.
 - e. Every building hereafter erected shall be located on a lot.

H. ADMINISTRATION AND ENFORCEMENT

1. City Manager

References in this Chapter to the City Manager include the City Manager's duly authorized representative. Except as otherwise provided in this Chapter, the City Manager, or the City Manager's duly authorized representative, shall administer and enforce this Chapter, including making determinations on the proper classification of land uses, receiving all applications and fees, issuing required notices, inspecting premises, and issuing building permits, certificates of appropriateness and certificates of occupancy.

2. City Council

City Council receives and acts upon reports and recommendations by the City Manager, the Planning and Zoning Commission and the Historic Landmark Commission, adopts amendments to the zoning maps and the text of this Chapter, designates historic districts and landmarks, and grants ad valorem tax exemptions to historically significant sites and structures to encourage their preservation.

3. Planning and Zoning Commission

The Planning and Zoning Commission recommends a Master Plan for the development of the City, recommends amendments to the zoning maps and the text of this Chapter, and conducts studies and makes recommendations on other matters relating to the planning and development of the City.

4. Zoning Board of Adjustment

The Zoning Board of Adjustment hears and decides appeals where it is alleged there is an error in the administration or enforcement of this Chapter, approves special exceptions to this Chapter and considers variances from the literal application of the terms of this Chapter in those cases authorized by state law.

5. Historic Landmark Commission

The Historic Landmark Commission recommends the designation of historic districts and landmarks, recommends the granting of tax exemptions to historically significant sites, approves the issuance of building permits for property exteriors, and certificates of

appropriateness for work involving landmarks and structures in historic districts, and works in general to preserve the City's historic heritage.

I. ZONING OF NEWLY ANNEXED TERRITORY

1. All territory annexed to the City hereafter shall be temporarily classified as Holding (HOL) until permanently zoned by the City Council.
2. The Planning and Zoning Commission shall, as soon as practicable after annexation of any territory to the City, institute proceedings on its own motion to give the newly annexed territory a permanent zoning district classification, and the procedure to be followed shall be the same as is provided by law for the adoption of original zoning regulations.
3. The City does not prohibit a person from:
 - a. continuing to use land in the newly annexed area in the manner in which the land was being used on the date of incorporation, provided that the land use was legal at that time; or
 - b. beginning to use land in the newly annexed area in the manner that was planned for the land before the 90th day before the effective date of the annexation if:
 - i. one or more licenses, certificates, permits, approvals, or other forms of authorization by a governmental entity were required by law for the planned land use; and
 - ii. a completed application for the initial authorization was filed with the governmental entity before the date of annexation. A completed application is filed if the application includes all documents and other information designated as required by the governmental entity in a written notice to the applicant.

J. RECONSTRUCTION OF DAMAGED BUILDINGS

1. Nothing in this Chapter shall be interpreted to prevent restoration of a building or structure damaged to the extent of not more than 50 per cent of its reasonable value by fire, explosion or other casualty, or act of God, or public enemy, or the continued occupancy or use of such building, structure or part thereof which existed at the time of such partial destruction.

3.2 ZONING MAP

A. MAP OF DISTRICT BOUNDARIES (ZONING MAP)

1. The City is hereby divided into zoning districts. The boundaries of these districts shall be maintained on the Official Zoning Map of the City, herein referred to as the Zoning Map.
2. The regulations established in this chapter shall apply uniformly to all geographical areas having the same district classification and bearing the same symbol or designation on the zoning map.
3. The Zoning Map is incorporated by reference into this Chapter. All notations, references and other information shown on the Zoning Map shall be considered a part of this Chapter as if the matters and information set forth by such maps were all fully described herein.
4. The Official Zoning Map shall be maintained in the office of the City Manager. It shall bear the signature of the Mayor and the attestation of the City Secretary. In any and all questions and disputes regarding zoning district boundaries, this Official Zoning Map shall be controlling.
5. The official zoning map shall carry the zoning district designations established in this chapter.
6. All amendments to the zoning map shall be listed in the order adopted in a separate register maintained and kept current by the City Secretary.

B. RULES FOR INTERPRETATION OF ZONING MAPS

1. When zoning district boundaries are intended to be along the right-of-way or centerlines of streets, highways or alleys, along platted lot lines, or along the line of the corporate limits of the City, they shall be construed to follow such lines.
2. Zoning district boundaries that follow railroad lines shall be construed to be midway between the main tracks.
3. Boundaries indicated as approximately following the centerlines of streams, rivers, canals, lakes or other bodies of water shall be construed to follow such centerlines.
4. When zoning district boundaries are intended to be along platted lot lines, they shall be construed as following such lines.
5. When the location of a district boundary line is not otherwise determined, it shall be determined by the scale of the maps measured from a given line.
6. Where the district boundary actually on the ground varies from the boundary shown on the zoning map, the Planning Director shall interpret the boundaries with appeal to the board of adjustment.

3.3 NONCONFORMITIES

A. INTENT

1. Within the districts established by this Chapter, there exist uses of land and structures which were lawful before the effective date of this Chapter, but which do not now conform to the regulations of the district in which they are located.
2. It is the intent of this Chapter to permit such non-conforming uses to continue, subject to the limitations of this section and other applicable regulations of the City.
3. It is also the intent of this Chapter that non-conforming uses shall not be enlarged and shall not be used as a basis for adding other structures or uses prohibited elsewhere in the same district.
4. Although nonconforming uses may exercise the right to continue operation, subject to the provisions of this Chapter, nonconforming uses are incompatible with the normal exercise of right of use afforded under the provisions of the designated zoning category and of this Chapter.

B. DEMONSTRATION OF NON-CONFORMING STATUS

1. The burden of demonstrating nonconformity shall belong to the property owner.
2. The nonconforming status shall specify whether the building, the lot, the use, the site, or some combination thereof is non-conforming at the time of designation. Requirements shall be in accordance with the type of nonconformity.

C. NONCONFORMING USES

1. Any use which was lawful before the effective date of this Chapter may be continued even though such use does not conform to the provisions of this Chapter. Such use may be extended throughout the structure, provided no structural alterations, except those required by law or ordinance, are made therein.
2. Any use which does not conform to the regulations of the zoning district and any applicable overlay district in which it is located shall be deemed a non-conforming use when:
 - a. The use was in existence and lawfully operating prior to the effective date of this Chapter, and which has since been in regular and continuous use;
 - b. The use was in existence and lawfully operating at the time of any amendment to this chapter, but by such amendment is now found to be in a district where said use is not otherwise permitted, and has since been in regular and continuous use; or
 - c. The use was in existence and lawfully operating at the time of annexation into the city and has since been in regular and continuous use.
3. Should land adjacent to a nonconforming use, which is in the same ownership but not itself the site of the nonconforming use, be sold separately from the nonconforming use, the use of the land which is sold shall conform to the requirements of this Chapter and shall not be considered a nonconforming use.
4. The right to continue a nonconforming use shall be transferable by deed provided the preceding requirements are met.
5. Whenever a nonconforming use is discontinued for six months or more, all nonconforming use rights shall cease, the use shall be deemed abandoned and future use of the premises shall thereafter be in conformance with this Chapter.
6. Any nonconforming use may be changed to a conforming use. Once such a change is made, the use may not be changed back to nonconforming status.

D. NONCONFORMING STRUCTURES

1. Any structure which does not conform to the regulations of the zoning category and any applicable overlay district in which it is located shall be deemed a non-conforming structure when:
 - a. The structure was in existence and lawfully located, constructed and operating prior to the effective date of this Chapter, and which has since been in regular and continuous use;
 - b. The structure was in existence and lawfully located, constructed and operating at the time of any amendment to this chapter, but by such amendment is now found to be in a district where said use, platted lot or structure is not otherwise permitted, and has since been in regular and continuous use; or
 - c. The structure was in existence and lawfully located, constructed and operating at the time of annexation into the city, and has since been in regular and continuous use.
2. Any nonconforming structure may be changed to a conforming structure. Once such a change is made, the structure may not be changed back to nonconforming status.
3. For a non-conforming structure to be changed to a conforming structure, building permits and a certificate of occupancy, granted in accordance with the current building code at the time of the petition for a change to conforming status, shall be required.
4. Except as hereinafter provided, a nonconforming structure may be occupied and operated and maintained with a conforming use, as long as the structure is maintained in a state of good repair and a certificate of occupancy is obtained from the City prior to the occupancy.
5. A nonconforming structure shall not be enlarged or extended.
6. When a conforming use is intended to be located within a nonconforming structure, this use may be enlarged or extended within the nonconforming structure. However, an extension or

enlargement of a conforming use shall not change the non-conforming status of the structure, if the structure is deemed to be non-conforming.

7. When remodeling the exterior or adding onto a nonconforming structure at a cost equal to or greater than fifty percent (50%) of the structure's value, both the preexisting structure and the addition shall be required to conform to the standards of this Chapter.
8. All remodeling of the exterior or adding onto a nonconforming structure at a cost less than fifty percent (50%) of the value of the structure shall, at a minimum, have the same level and standard of materials, architectural features, and style as the existing structure.
9. A nonconforming structure damaged in any manner and from any cause whatsoever to the extent of not more than 50 per cent of its replacement cost may be restored, provided restoration is begun within one year and completed within two years of the date of damages.
10. Value for a preexisting structure is determined by the improvement value that is currently recorded with the Kendall County Appraisal District.
11. Whenever a nonconforming structure is unoccupied, abandoned or in violation of any of the applicable building regulations of the City for six months or more, all rights of nonconformity shall cease, and future use of the premises shall thereafter be in conformance with the regulations of this Chapter.

E. NONCONFORMING LOTS

1. Nonconforming lots that lawfully existed on the effective date of this Chapter or subsequent amendments to this Chapter shall be considered legal nonconforming lots.
2. Minimum residential lot areas shall be in accordance with the Master Table of Dimensions, except that a lot having less area than required by this chapter, which was an official "lot of record" prior to the adoption of this chapter, may be used for a single-family dwelling.

F. NONCONFORMING SITES

1. Sites where improvements such as fences, parking areas, landscaping or sidewalks were conforming at the time of installation, but which are not in conformity with the standards of design standards at the time of adoption, shall be considered nonconforming sites.
2. Any remodeling or replacement of a non-conforming site component at a cost less than 50% of the value of the nonconforming component shall be permitted, provided the remodeling or replacement maintains the same materials and design as the existing non-conforming design component.

G. REMODELING OR REPLACEMENT

1. Any remodeling or replacement of a nonconforming site component at a cost greater than 50% of the value of the nonconforming component shall require conformity with the City's current standards.

H. NONCONFORMITIES UNDER PREVIOUS ORDINANCE

1. Any legal nonconformity under the zoning regulations in effect before the effective date of this chapter shall be considered a legal nonconformity under this chapter, provided the situation that resulted in the nonconformity under the previous regulations continues to exist.
2. If, however, a nonconformity under a prior ordinance becomes conforming because of the adoption of this Chapter or any subsequent amendment to this chapter, then such situation shall no longer be considered a nonconformity.

I. CONTINUATION OF LAND USE REGARDING MANUFACTURED HOME COMMUNITIES.

1. The governing body of a municipality may not require a change in the nonconforming use of any manufactured home lot within the boundaries of a manufactured home community if:
 - a. the nonconforming use of the land constituting the manufactured home community is authorized by law; and

- b. at least 50 percent of the manufactured home lots in the manufactured home community are physically occupied by a manufactured home used as a residence.
- 2. Requiring a change in the nonconforming use includes:
 - a. requiring the number of manufactured home lots designated as a nonconforming use to be decreased; and
 - b. declaring that the nonconforming use of the manufactured home lots has been abandoned based on a period of continuous abandonment of use as a manufactured home lot of any lot for less than 12 months.
- 3. A manufactured home owner may install a new or used manufactured home, regardless of the size, or any appurtenance on a manufactured home lot located in a manufactured home community for which a nonconforming use is authorized by law, provided that the manufactured home or appurtenance and the installation of the manufactured home or appurtenance comply with:
 - a. nonconforming land use standards, including standards relating to separation and setback distances and lot size, applicable on the date the nonconforming use of the land constituting the manufactured home community was authorized by law; and
 - b. all applicable state and federal law and standards in effect on the date of the installation of the manufactured home or appurtenance.
- 4. If the construction of new single-family residences or the construction of additions to existing single-family residences on a site located in a designated floodplain is prohibited, the City may prohibit the installation of a manufactured home in a manufactured home community on a manufactured home lot that is located in an equivalently designated floodplain.

J. COMPLETION OF BUILDINGS UNDER CONSTRUCTION

Nothing contained in this Chapter shall require any change in the plans, construction or designated use of a structure actually under construction, and for which a building permit was issued, so long as such structure is completed within one year from the date of this Chapter.

K. VARIANCES

- 1. The Board of Adjustment may grant a variance to this section only if the owner can show there was a clear intent not to abandon the use even though the use may have been discontinued for six months.
- 2. Evidence that the use was not intended to be abandoned may include evidence that the property or structure continued to be marketed throughout the period of the vacancy for the non-conforming use, or that the property or structure has not during the period of vacancy become delinquent in City taxes.

3.4 BASE ZONING CATEGORIES

A. BASE ZONING DISTRICTS ESTABLISHED

1. Zoning regulations and districts as set forth in this ordinance are established and the City is divided into base zoning districts as follows:

| | |
|-------|--------------------------------------|
| RAG | Agriculture and Rural Residential |
| RMA | Manor Residential |
| RES | Estate Residential |
| R1-L | Low Density Residential |
| R1-S | Medium Density Residential |
| R1-MO | Medium Density Modular Residential |
| R2-N | Neighborhood Residential |
| R2-M | Moderate Density Residential |
| R2-MO | Moderate Density Modular Residential |
| R3-A | Attached Residential |
| R4-B | Bungalow Court Community |
| R4 | Multi-Family Residential |
| RD | Duplex Residential |
| RMHC | Manufactured Home Community |
| C1 | Neighborhood Commercial |
| C2 | Transitional Commercial |
| C3 | Community Commercial |
| C4 | Regional Commercial |
| O1 | Community Office |
| O2 | Office Park |
| O3 | Industrial Office |
| I1 | Storage and Transportation |
| I2 | Craft Industry |
| I3 | Light Industry |
| I3-C | General Industry |
| PUB | Public and Civic Use |
| HOL | Interim Holding |

B. REGULATING USES, LOTS AND DIMENSIONS OF THE BASE ZONING DISTRICTS

1. The uses permitted in each base zoning district shall be in accordance with the Master Use Tables, and with the use restrictions and other provisions of this Chapter.
2. The dimensional standards for each base zoning district shall be in accordance with the Master Tables of Dimensional Standards.

C. PURPOSE AND APPLICABILITY OF THE BASE ZONING DISTRICTS

1. **AGRICULTURE AND RURAL RESIDENTIAL (RAG)**

The Agriculture and Rural Residential category is for agricultural properties, detached dwellings on large lots, un-subdivided parcels requiring little or no public infrastructure in the short term, or rural level infrastructure requirements in the long-term. The regulations are designed to protect the open, rural character of the area.

The Agriculture and Rural Residential District is applicable in any areas where significant open spaces are to be protected, specifically the Rural Residential and Low-density designation in the Boerne Master Plan.

2. **MANOR RESIDENTIAL (RMA)**

The Manor Residential category is for single-family dwelling lots and tracts of a rural nature. The regulations are designed to protect the essentially rural character of the property and to provide more privacy and open space than what is associated with developed urban areas. The regulations prohibit the establishment of commercial, industrial or other incompatible uses.

Manor Residential is applicable in areas where low-density suburban development patterns are desired, and where Low-density Residential is designated in the Boerne Master Plan. RMA is most appropriate with an Organic Transportation Network and the Rural Street Design Types indicated in the Infrastructure Design chapter.

3. **ESTATE RESIDENTIAL (RES)**

The Estate Residential category is for detached dwellings. RES is a lot type that preserves privacy yet accommodates a more suburban development form. The regulations prohibit the establishment of commercial, industrial or other incompatible uses. Estate Residential is applicable in areas designated Low-density Residential in the Boerne Master Plan.

4. **LOW-DENSITY RESIDENTIAL (R1-L)**

The Low-Density Residential category is for detached dwellings. R1-L is similar to the Estate Residential category except for the reduced lot dimensions. R1-L lots allow for a conventional, suburban neighborhood form. Commercial, industrial and other non-residential uses are prohibited. Low Density Residential is applicable in suburban areas designated as Low-density Residential in the Boerne Master Plan.

5. **MEDIUM-DENSITY RESIDENTIAL (R1-S)**

The Medium-Density Residential category is for detached dwellings on suburban lots. R1-S lots allow for a conventional suburban neighborhood form. Commercial, industrial and other non-residential uses are prohibited. R1-S is most appropriate for the center or edges of neighborhoods where a larger mix of lot types is desired, within walking distance of a nearby activity center or commercial area. Medium-Density Residential is applicable in suburban areas designated as Neighborhood Residential in the Boerne Master Plan.

6. **NEIGHBORHOOD RESIDENTIAL (R2-N)**

The Neighborhood Residential category is for compact, walkable neighborhoods in close proximity to the activity centers and commercial areas that provide many of the daily needs and services sought by residents. R2-N is applicable in areas designated as Neighborhood Residential in the Boerne Master Plan.

7. **MODERATE-DENSITY RESIDENTIAL (R2-M)**

The Moderate-Density Residential category is for compact, walkable neighborhoods in close proximity to activity centers and commercial areas, which provide many of the daily needs and services sought by residents. This category accommodates small lot configurations and zero lot line housing types, such as garden homes or patio homes, as well as cottage house

developments, providing opportunities for alternative housing forms in the City. Moderate-Density Residential is applicable in areas where a more compact neighborhood development pattern is desired, which are designated as Neighborhood Residential in the Boerne Master Plan.

8. MODERATE-DENSITY MODULAR RESIDENTIAL (R2-MO)

The Moderate-Density Modular Residential category has the same requirements as R2-M, except that Modular Homes are permitted for R2-MO properties. The Moderate-Density Modular Residential category is one of the categories that accommodates alternative housing forms that are in keeping with the Master Plan of the City. Moderate-Density Modular Residential is applicable in areas designated as Neighborhood Residential in the Boerne Master Plan.

9. ATTACHED RESIDENTIAL (R3-A)

The Attached Residential category is for residences that share a common wall with neighboring residences, such as townhouses and row houses. Attached Residential is applicable in areas where a compact neighborhood development pattern is desired, as a way to transition from activity centers and commercial areas to surrounding single family neighborhoods.

10. BUNGALOW COURTS (R4-B)

Bungalow Courts provide a type of multi-family residential development that is more appropriate for a neighborhood context. Bungalow Courts consist of multiple detached residences on a single lot. Like cottage homes, a bungalow court accommodates detached single-family homes that front an internal common area, rather than a public street. It is intended for compact, walkable neighborhoods in close proximity to activity centers and commercial areas, which provide many of the daily needs and services sought by residents. Bungalow Courts is one of the categories that accommodates alternative housing forms in the City. The difference between Cottage Homes and Bungalow Courts is the ownership model. Whereas cottage homes are designed as individual lots with one home on each lot, Bungalow Courts are designed as multiple homes on a single, larger lot. Therefore, site dimensions are different for the two expressions.

11. MULTI-FAMILY RESIDENTIAL (R4)

The Multi-Family Residential category is applicable in areas where a compact neighborhood development pattern is desired, at transitions between Neighborhood Residential and Commercial designations in the Boerne Master Plan. R4 should be used only where higher density is appropriate to create a walkable Center. Multi-family uses include a broad density range, and therefore minimum lot size is determined by number of dwelling units.

12. DUPLEX RESIDENTIAL DISTRICT (RD)

The Duplex Residential category is applicable in areas where a more compact neighborhood development pattern is desired, in keeping with the Neighborhood Residential designation of the Boerne Master Plan. Duplex Residential dwellings can be integrated with detached dwelling building types by spatial and architectural design, limits on the overall intensity of development, and minimum yard and lot area requirements.

13. MANUFACTURED HOME COMMUNITY (RMHC)

Manufactured Home Community properties offer manufactured home spaces for rent or lease. The Manufactured Home Community category is one of the categories that accommodates alternative housing forms in the City. RMHC shall be sited in locations that do not conflict with the Master Plan.

14. NEIGHBORHOOD COMMERCIAL (C1)

The Neighborhood Commercial category is for neighborhood-compatible commercial uses. Usually located between residential areas and commercial areas, Neighborhood Commercial includes single and multi-tenant properties. Neighborhood Commercial is applicable in any area where small-scale retail and services are desired to support adjacent residential use.

15. TRANSITIONAL COMMERCIAL (C2)

Transitional Commercial is intended to serve as a transition between lower and higher intensity commercial properties. It is also intended to serve as a transition between neighborhoods and high intensity commercial uses. Building plat sizes may vary, but building height is to be in keeping with nearby neighborhoods. Properties zoned Transitional Commercial might have high peak hour trip generation, but their daily overall trip generation should not be high. **An emphasis should be placed upon pedestrian-oriented design for sites zoned Transitional Commercial.**

16. COMMUNITY COMMERCIAL (C3)

The Community Commercial category is to accommodate commercial uses that have a lower transportation demand and footprint than Regional Commercial, but a higher transportation demand and footprint than Transitional Commercial. Commercial properties along arterials of the City other than Interstate 10, such as US Highway 87 and State Highway 46, should generally be designated as Community Commercial, unless adjoining a neighborhood.

17. REGIONAL COMMERCIAL (C4)

Regional Commercial is intended for commercial areas along Interstate 10, where traffic levels are high, and the thoroughfare system can accommodate higher trip generation. It is intended for commercial uses that serve the larger region, with generally larger building footprints and increased parking demand.

18. COMMUNITY OFFICE (O1)

The Community Office category is for offices and studios that are generally located between residential areas and business areas. The district regulations are designed to protect and encourage a transitional character and to protect the abutting and surrounding residential areas.

19. OFFICE PARK (O2)

The Office Park category is to accommodate larger office buildings and areas that provide professional services to the City. Office Parks should be located where streets and city infrastructure can accommodate the higher demand than Community Office properties.

20. INDUSTRIAL OFFICE (O3)

The Industrial Office category is for flexible spaces that can accommodate both light industrial uses and office uses. In the Industrial Office category, traffic patterns and activities are consistent with industrial development. It is compatible with properties which are zoned industrial, office or commercial. As such, it is an effective transition between commercial and industrial uses.

21. STORAGE AND TRANSPORTATION (I1)

The Storage and Transportation category is for warehouses, storage facilities and transportation facilities that provide service to the community. Storage and Transportation facilities are to be located where streets and infrastructure can accommodate the higher

impacts. I1 is not compatible with residential zoning categories, and therefore shall not be permitted in proximity to them.

22. CRAFT INDUSTRY (I2)

The Craft Industry category is for uses that are by nature industrial, but which do not conflict with activities within commercial areas. Industrial arts studios, microbreweries and artisan workshops are permitted, as are small-scale distribution and limited, small-scale manufacturing activities. These uses are compatible with commercial uses, industrial uses and live-work units.

23. LIGHT INDUSTRY (I3)

Light Industry is for industrial uses that are fully contained within a building, and which have a lower environmental impact than uses permitted in the General Industry category. Examples include laboratories, research and development facilities and assembly of electronics. These uses often have higher power and transportation access needs. Properties zoned Light Industry are typically clustered with similar uses and are not compatible with residential neighborhoods or with Neighborhood Commercial. Light industry sites are to be developed as a campus, following the non-residential design standards of Chapter 5.

24. GENERAL INDUSTRY (I4)

The General Industry category is for manufacturing and general industrial uses which do not have to be fully contained within a building. These uses often have higher power and transportation access needs. Properties zoned for General Industrial use are not compatible with neighborhood residential areas, with Neighborhood Commercial, or with Transitional Commercial. Buffers and setback requirements are general greater for these properties.

25. PUBLIC AND CIVIC USE (PUB)

The Public and Civic Use category is for public or non-profit activities, or facilities that provide a service to the general public. Public and civic uses include, but are not limited to, facilities for education, day care, government, social services, institutions, places of worship, and parks and open spaces.

26. INTERIM HOLDING (HOL)

The Interim Holding category is applied as a holding zone for areas that may be further developed, re-subdivided and reclassified in the long-term, but where minimal development activity in the interim is acceptable and will not prematurely establish a development pattern through infrastructure investments, street networks, or smaller lot patterns.

3.5 DIMENSIONAL STANDARDS FOR BASE ZONING CATEGORIES

A. GENERAL DIMENSIONAL STANDARDS

1. A fire wall shall be required for all walls where the distance between buildings is less than 10 feet.
2. 0' setbacks on attached dwelling lots requires a party wall meeting all building code standards and proper designation on a recorded plat.
3. Building heights of accessory buildings shall not exceed the actual height of the principle building on the same lot.
4. Special purpose lots, including but not limited to landscape lots and utility lots, may be exempted from these requirements.
5. For the R3-A and R4 districts, all required setbacks shall be free from any encroachments, including but not limited to, accessory buildings or structures, eaves, roof overhangs, bay windows, and fireplaces. Air conditioning units and other similar ground-mounted equipment are exempt from this requirement.
6. For all other residential districts, limited encroachment into the front and rear setbacks shall be permitted for eaves, roof overhangs, unenclosed patios and porches, and minor architectural details such as fireplaces and bay windows. They may encroach into the front setback by a maximum of three (3) feet and into the rear setback by a maximum of 10 feet.
7. Accessory buildings are prohibited in the front street yard.

B. DIMENSIONAL STANDARDS BY ZONING CATEGORY

1. Dimensional Standards for Residential Zones

| DIMENSIONAL STANDARDS FOR RESIDENTIAL ZONES | | | | | | | | |
|---|-----------------------------------|----------------------|----------------------|-------------------------|----------------------------|------------------------------------|----------------------------|------------------------------|
| | Agriculture and Rural Residential | Manor Residential | Estate Residential | Low Density Residential | Medium Density Residential | Medium Density Modular Residential | Neighbor- hood Residential | Moderate Density Residential |
| | RAG | RMA | RES | R1-L | R1-S | R1-MO | R2-N | R2-M |
| LOTS AND COVERAGE | | | | | | | | |
| min lot area (sf or ac) | 10 ac | 1 ac | 1/2 ac | 1/4 ac | 7,800 sf | 7,800 sf | 5,400 sf | 4,000 sf |
| max lot area (sf or ac) | | | | | | | | |
| min. lot frontage (ft) | 300 ft | 150 ft | 100 ft | 80 ft | 65 ft | 65 ft | 50 ft | 40 ft |
| min. lot frontage, corner lot (ft) | | | | | | | | 50 ft |
| max du/ac | | | | | | | | |
| PRIMARY BUILDINGS | | | | | | | | |
| max height (ft or stories) | 36 ft or 2.5 stories | 36 ft or 2.5 stories | 36 ft or 2.5 stories | 36 ft or 2.5 stories | 36 ft or 2.5 stories | 36 ft or 2.5 stories | 36 ft or 2.5 stories | 36 ft or 2.5 stories |
| min FY setback | 80 ft | 50 ft | 40 ft | 30 ft | 15 ft | 15 ft | 15 ft | 15 ft |
| garage FY setback | 25 ft | 25 ft | 25 ft | 25 ft | 25 ft | 25 ft | 25 ft | 25 ft |
| min SY setback, per side | 50 ft | 20 ft | 15 ft | 10 ft | 5 ft | 5 ft | 5 ft | 3 ft |
| min SY setback, street-facing (corner lot) | 50 ft | 20 ft | 15 ft | 10 ft | 10 ft | 10 ft | 10 ft | 10 ft |
| min SY setback, party wall | | | | | | | | |

| DIMENSIONAL STANDARDS FOR RESIDENTIAL ZONES | | | | | | | | |
|---|-----------------------------------|--------------------------------|--------------------------------|--------------------------------|--------------------------------|------------------------------------|--------------------------------|--------------------------------|
| | Agriculture and Rural Residential | Manor Residential | Estate Residential | Low Density Residential | Medium Density Residential | Medium Density Modular Residential | Neighbor- hood Residential | Moderate Density Residential |
| | RAG | RMA | RES | R1-L | R1-S | R1-MO | R2-N | R2-M |
| min RY setback, no alley | 80 ft | 50 ft | 25 ft | 25 ft | 15 ft | 15 ft | 15 ft | 15 ft |
| min RY setback, with alley | | | | | 10 ft | 10 ft | 10 ft | 10 ft |
| min combined FY and RY | | | | | 40 ft | 40 ft | 40 ft | 40 ft |
| ACCESSORY BUILDINGS | | | | | | | | |
| max height (ft or stories) | 20 ft or 2 stories ¹ | 20 ft or 2 stories | 20 ft or 2 stories | 20 ft or 2 stories | 20 ft or 2 stories | 20 ft or 2 stories | 20 ft or 2 stories | 20 ft or 2 stories |
| min FY setback | behind front building line | 5 ft behind rear building line | 5 ft behind rear building line | 5 ft behind rear building line | 5 ft behind rear building line | 5 ft behind rear building line | 5 ft behind rear building line | 5 ft behind rear building line |
| min SY setback | 50 ft | 10 ft | 10 ft | 10 ft | 5 ft | 5 ft | 5 ft | 5 ft |
| min SY setback, street-facing (corner lot) | | 25 ft | 25 ft | 25 ft | 25 ft | 25 ft | 25 ft | 25 ft |
| min SY setback, party wall | | | | | | | 0 ft | 0 ft |
| min RY setback, no alley | 50 ft | 10 ft | 10 ft | 5 ft | 5 ft | 5 ft | 5 ft | 5 ft |
| min RY setback, with alley | | 10 ft | 10 ft | 5 ft | 5 ft | 5 ft | 5 ft | 5 ft |

| DIMENSIONAL STANDARDS FOR RESIDENTIAL ZONES | | | | | | | |
|---|---|---------------------------------------|---------------------|---|---------------------------------------|---|-----------------|
| | Moderate Density Modular Residential | Attached Residential | Bungalow Court | MF Res | Duplex Residential | Manufactured Home Community | Interim Holding |
| | R2-MO | R3-A | R4-B | R4 | RD | RMHC | HOL |
| LOTS AND COVERAGE | | | | | | | |
| min lot area (sf or ac) | 4,000 sf | 2,000 sf | 1/2 acre | 6,000 sf + 2,000 sf per unit after first two | 3,500 sf | 6 ac | |
| max lot area (sf or ac) | | | 10 acres | | | 25 ac | |
| min. lot frontage (ft) | 40 ft | 20 ft | 40 ft | | 35 ft | | |
| min. lot frontage, corner lot (ft) | 50 ft | 25 ft | 50 ft | | 45 ft | | |
| max du/ac | | | 16 du/ac | | | 6 du/ac | |
| PRIMARY BUILDINGS | | | | | | | |
| max height (ft or stories) | 36 ft or 2.5 stories | 38 ft or 3 stories | 20 ft or 1 story | 50 ft or 4 stories | 32 ft or 2.5 stories | | |
| min FY setback | 15 ft | 10 ft | 10 ft | | 15 ft | 25 ft | |
| garage FY setback | 25 ft | 20 ft | | 25 ft | 25 ft | | |
| min SY setback, per side | 3 ft | 5 ft | 5 ft | 5 ft | 5 ft | 5 ft | |
| min SY setback, street-facing (corner lot) | 10 ft | 15 ft | 10 ft | 15 ft | 15 ft | 25 ft | |
| min SY setback, party wall | | 0 ft | | 0 ft | 0 ft | | |
| min RY setback, no alley | 15 ft | 15 ft | 10 ft | 20 ft | 20 ft | 10 ft | |
| min RY setback, with alley | 10 ft | 10 ft | | | | | |
| min combined FY and RY | 40 ft | 35 ft | 20 ft | 50 ft | 50 ft | 10 ft | |
| ACCESSORY BUILDINGS | | | | | | | |
| max height (ft or stories) | 20 ft or 2 stories | 20 ft or 2 stories | n/a | n/a | 20 ft or 2 stories | 20 ft or 2 stories | |
| min FY setback | 5 ft behind rear building line | 10 ft behind rear building line | n/a | n/a | 10 ft behind rear building line | 5 ft behind rear building line | |
| min SY setback | 5 ft | 5 ft | n/a | n/a | 5 ft | 5 ft | |
| min SY setback, street-facing (corner lot) | 25 ft | 25 ft | n/a | n/a | 25 ft | 25 ft | |
| min SY setback, party wall | 0 ft | 0 ft | n/a | n/a | 0 ft | 0 ft | |
| min RY setback, no alley | 5 ft | 5 ft | n/a | n/a | 5 ft | 10 ft | |
| min RY setback, with alley | 5 ft | 5 ft | n/a | n/a | 5 ft | 10 ft | |

2. Dimensional Standards for Non-Residential Zones

| DIMENSIONAL STANDARDS FOR NON-RESIDENTIAL ZONES | | | | | | |
|--|---|--|----------------------|------------------------|-----------------------------------|-------------|
| | Neighborhood Commercial | General Commercial | Community Commercial | Center City Commercial | Community Office | Office Park |
| | C1 | C2 | C3 | C4 | O1 | O2 |
| LOTS AND COVERAGE | | | | | | |
| min lot area (sf or ac) | | | | | 5,000 sf | 1 acre |
| min lot width (ft) | | | 60 ft | 120 ft | 50 ft | 60 ft |
| max lot width (ft) | 150 ft or 1/2 block width ¹ | 200 ft or 1/2 block width ¹ | | | | |
| max building footprint | 2,500 sf per tenant or 5,000 sf per building ⁴ | 3,000 sf per tenant or 12,000 sf per building ⁴ | | | 3,500 sf | |
| PRIMARY BUILDINGS | | | | | | |
| max height (ft or stories) | 30 ft | 30 ft ³ | 40 ft | 75 ft | 30 ft | 75 ft |
| min FY setback | 10 ft | 10 ft | 0 ft | 20 ft | 20 ft | 25 ft |
| min SY setback | 5 ft | 5 ft | 5 ft | 20 ft | 10 ft/5 ft ² | 25 ft |
| min SY setback, street-facing (corner lot) | 0 - 10 ft | 10 ft | 0 ft | 20 ft | 20 ft | 25 ft |
| min SY setback, party wall | 0 ft | 0 ft | 0 ft | not allowed | not allowed | not allowed |
| min RY setback | 20 ft | 20 ft | 20 ft | 20 ft | 10 ft | 50 ft |
| min RY and SY setback at property line adjoining residential | 10 ft | 20 ft | 20 ft | 50 ft | 20 ft | 50 ft |
| min FY setback when adjacent to residential | same as the adjoining residential | same as the adjoining residential | | | same as the adjoining residential | |

NOTES

1. The greater of the two values controls.
2. Maximum side yard setback is 10 feet if adjoining residential, 5 feet if adjoining non-residential.
3. Building height may be increased to 40 feet provided that, from any side of the building adjoining or facing a residential property, the building shall be stepped back 15 feet for any part of the building with a height above 30 feet.
4. The greater of the two values controls. Maximum building footprint per tenant shall be calculated as the average square footage for all tenants in a multi-tenant building. A single tenant building shall not exceed the maximum building footprint per building.

| DIMENSIONAL STANDARDS FOR NON-RESIDENTIAL ZONES | | | | | | |
|--|-------------------|----------------------------|---------------------------|--------------------|-----------------------------------|-----------------------------------|
| | Industrial Office | Storage and Transportation | Technology and Innovation | General Industrial | Craft Industry | Public and Civic Uses |
| | O3 | I1 | I2 | I3 | IC | PUB |
| LOTS AND COVERAGE | | | | | | |
| min lot area (sf or ac) | | 1/2 acre | 1 acre | 1 acre | 5,000 sf | |
| min lot width (ft) | | 50 ft | 60 ft | 60 ft | 50 ft | |
| max lot width (ft) | | | | | | |
| max building footprint | | | | | | |
| PRIMARY BUILDINGS | | | | | | |
| max height (ft or stories) | | 75 ft | 75 ft | | 40 ft | 75 ft |
| min FY setback | | 25 ft | 25 ft | 50 ft | 10 ft | 20 ft |
| min SY setback | | 10 ft | 10 ft | 50 ft | 10 ft | 20 ft |
| min SY setback, street-facing (corner lot) | | 25 ft | 25 ft | 50 ft | 25 ft | 20 ft |
| min SY setback, party wall | | 0 ft | 0 ft | not allowed | 0 ft | 0 ft |
| min RY setback | | 25 ft | 25 ft | 50 ft | 10 ft | 10 ft |
| min RY and SY setback at property line adjoining residential | 50 ft | 50 ft | 100 ft | 100 ft | 50 ft | 40 ft |
| min FY setback when adjacent to residential | | | | | same as the adjoining residential | same as the adjoining residential |

3.6 PERMITTED USES OF BUILDINGS AND LAND

A. GENERALLY

1. Particular uses identify those uses of buildings and land permitted in the City.
2. Permitted uses are assigned by zoning category, in accordance with the Master Use Tables of Section 3.7.
3. No use shall be permitted pursuant to this chapter, and no development permit authorizing a use may be authorized, issued, or approved by any officer, official, or agency, unless said use conforms to the provisions and regulations of this Unified Development Code.
4. Notwithstanding, uses which are required to be permitted in any zoning category by state statute may be permitted, in accordance with state law, whether or not the use is included in the Master Use Table.
5. In cases where a particular use is not identified in the Use Tables but meets all of the characteristics of and is so similar to a use specifically described below that no difference in impact on the district or adjacent property can be anticipated, the City Manager or designee may interpret that use as being included within that similar category and use type.
6. The City Manager or designee shall determine whether a proposed use is included or excluded from the scope of the uses listed in these tables and the provisions concerning particular districts.

B. USE RESTRICTIONS

Due to their nature, some particular uses, though allowed by right, must demonstrate compliance with additional standards in order to preserve the health, safety, welfare and economic stability of the community. The following uses shall be allowed, provided the use meets the standards established herein, and the use is permitted under the zoning district assigned to the property.

RESIDENTIAL USES

1. Assisted Living Facilities

- a. Assisted Living Facilities shall comply with all requirements of Chapter 247 and, as applicable, Chapter 242 of the Texas Health and Safety Code.
- b. Assisted Living Facilities with 6 or fewer residents shall be permitted by right in any residential district.
- c. An Assisted Living Facility with more than 6 residents shall require a Special Use Permit in all single-family residential districts.
- d. An Assisted Living Facility with more than 6 residents shall be permitted by right in any district where multi-family residential is permitted.

2. Boarding Houses

- a. No more than one boarding house per individual parcel or platted lot is allowed.
- b. No more than two (2) persons are permitted per bedroom.
- c. All sleeping rooms shall be a minimum size of 70 square feet for one occupant and 120 square feet for two occupants.
- d. Reasonable accommodation may be made, per ADA standards, for persons with restricted physical mobility living in a boarding house.
- e. Public ingress and egress to the boarding house shall be through one common exterior entrance. Ingress and egress for boarders shall be through common exterior entrances.
- f. Entry access to all sleeping rooms shall be through the interior of the building.
- g. No exit doors from individual sleeping rooms shall lead directly to the exterior of the building.
- h. Residents must have access on-site to shared common areas for cooking and eating. A common kitchen facility equipped for cooking meals located on-site must be available to

the residents, or daily meals must be provided on-site for the residents of the boarding house.

- i. No cooking is permitted in any sleeping room. No cooking facilities are permitted in any sleeping room.
- j. Each floor shall contain at least one fully equipped bathroom for each five residents that is accessible from a common hallway.
- k. Each boarding house shall have a resident manager.
- l. All residents shall execute a lease before occupancy.
- m. Rooms shall be leased to the same resident for at least seven consecutive calendar days.
- n. Parking spaces shall be provided as follows: one space for the resident manager; one space per leased sleeping room; and one space per four employees.
- o. The owner of the boarding house shall obtain a Certificate of Occupancy and register with the City before operating a boarding house.

3. Bungalow Courts

- a. Bungalow Court Communities shall consist of multiple detached residences on a single lot.
- b. All residences shall front a common open space, which could be a courtyard, a lawn or a plaza.
- c. A Bungalow Court development shall be on at least half an acre.
- d. Residences shall be clustered, with no more than 10 units in a cluster.
- e. Multiple clusters shall not be less than 1000 feet from each other to maintain the small community atmosphere.
- f. Shared grounds shall include the perimeter fence.
- g. A shared parking area shall be provided
- h. The HOA has the option to provide a master irrigation meter for the common areas. If a master irrigation meter is used for irrigation of common areas and the services to the residences are not used for irrigation, the number of Living Unit Equivalents per household for water would be reduced as is provided in the Impact Fee Ordinance. Documentation shall be provided at preliminary plat submittal.
- i. Community buildings, parking areas and common open space shall be owned and maintained commonly by the Cottage Housing Development residents, through a homeowners' association or a similar mechanism, and shall not be dedicated to the municipality.
- j. There shall be at least a 10' perimeter around the entire development to adjacent residential properties to provide a buffer.
- k. Parking shall provide a minimum of 1 and maximum of 2.0 car parking spots per residence.
- l. Parking shall be set back at least 10 feet from street frontage.
- m. Parking between structures is only allowed when it is located toward the rear of the principal structure and is served by an alley or private driveway.

4. Community Homes

- a. Community Homes shall be allowed wherever single-family residences are allowed, provided that they conform to the dimensional standards of the property zoning.
- b. To qualify as a Community Home for Persons with Disabilities (community home), the home shall be a community-based residential home operated by:
 - i. the Texas Department of Aging and Disability Services; or
 - ii. a community center that provides services to persons with disabilities; or
 - iii. a non-profit corporation; or
 - iv. an entity certified by Texas Department of Aging and Disability Services as a provider under the ICF-IID medical assistance program; or

- v. be classified as an assisted living facility licensed under Health and Safety Code Chapter 247.002, with an exterior structure compatible with surrounding residential dwellings, which:
 - (a) furnishes food and shelter to four or more unrelated persons
 - (b) provides personal care services or administration of medication by licensed or authorized person
 - (c) may provide assistance with or supervision of administration of medication
 - (d) may provide skilled nursing services for limited purposes
- c. A community home shall not house more than six persons with disabilities and two supervisors at the same time, regardless of relationship. A request for reasonable accommodation to accomplish the goals and policies of the Fair Housing Act (42 U.S.C. 3601) may be authorized as a Conditional Use to allow from seven (7) to no more than sixteen (16) residents.
- d. Reasonable accommodation is encouraged where such accommodation may be necessary to afford persons or groups of persons with disabilities an equal opportunity to use and enjoy housing.
- e. A community home shall meet all applicable licensing requirements.
- f. Community Homes shall register with the City of Boerne Code Enforcement Department.
- g. A current and valid Certificate of Occupancy issued by the City of Boerne is required.
- h. The number of vehicles kept at the community home shall not exceed the number of bedrooms in the home.

5. Cottage Housing Development

- a. A cottage housing development must be on at least half an acre.
- b. Residences shall be clustered, with no more than 10 units in a cluster.
- c. Multiple clusters shall not be less than 1000 feet from each other to maintain the small community atmosphere.
- d. Shared grounds shall include the perimeter fence.
- e. A shared parking area shall be provided
- f. The HOA has the option to provide a master irrigation meter for the common areas. If a master irrigation meter is used for irrigation of common areas and the services to the residences are not used for irrigation, the number of Living Unit Equivalents per household for water would be reduced as is provided in the Impact Fee Ordinance. Documentation shall be provided at preliminary plat submittal.
- g. Community buildings, parking areas and common open space shall be owned and maintained commonly by the Cottage Housing Development residents, through a homeowners' association or a similar mechanism, and shall not be dedicated to the municipality.
- h. There shall be at least a 10' perimeter around the entire development to adjacent residential properties to provide a buffer.
- i. A minimum 20% of the property shall be dedicated as open space.
- j. An extra cottage house in each cluster may be permitted if low impact development (LID) stormwater management techniques that are approved by the City Manager are used in the development. Such techniques may be directing roof drains and parking lot runoff to landscape beds, green or living roofs, and rain barrels. If the LID is approved then open space for the development as a whole may be diminished, by no more than 5%.
- k. Parking shall provide a minimum of 1 and maximum of 2.0 car parking spots per residence.
- l. Parking shall be set back at least 10 feet from street frontage.
- m. Parking between structures is only allowed when it is located toward the rear of the principal structure and is served by an alley or private driveway.

6. Duplex

- a. The units may be separated by different stories where the structure is intended for single or condominium ownership
- b. Duplexes may be sited on a single lot or may have a shared wall along a lot line of adjoining lots.

7. Garden Homes, Zero Lot Line Homes and Patio Homes

- a. Garden Homes, also known as Zero Lot Line homes and Patio Homes, are permitted to build to the side property line, with no side yard setback, provided the nearest walls on both properties are built as fire walls.
- b. In cases where a garden home or patio home is to be built on a lot that is adjacent to a lot with an existing structure, the side yard setback for the garden home or patio home shall not be closer than 10 feet to the existing structure on the adjacent property, unless the nearest wall of the existing structure was built as a fire wall.
- c. Where multiple lots or tracts are built as Garden Homes, the home may be built with no side yard setback, provided the house on the neighboring lot maintains a 10-foot side yard setback at the adjoining lot line.

8. Group Homes

See Community Homes.

9. Halfway Houses

- a. Halfway houses shall be allowed wherever single-family residences are allowed, provided that they conform to the dimensional standards of the property zoning.
- b. The home shall be a community-based residential home.
- c. The exterior structure of the home shall retain compatibility with the surrounding residential dwellings.
- d. A halfway house shall not be located within a 1,000-foot radius of another halfway house, as measured from building to building.
- e. A halfway house shall meet all applicable licensing requirements.
- f. Halfway houses shall register with the City of Boerne Code Enforcement Department.
- g. A current and valid certificate of occupancy issued by the City of Boerne is required.
- h. The number of vehicles kept at the halfway house shall not exceed the number of bedrooms in the home.

10. Manufactured Home Parks

- a. A Manufactured Home Park shall provide water and sewer service for each unit.
- b. A manufactured home park shall be a development of twenty or more spaces for rent or lease for HUD-Code manufactured homes.
- c. A manufactured home park shall include common areas and facilities such as recreational areas, laundry and utility services, storage and similar services for the convenience of residents of the manufactured home community.
- d. An approved site plan shall be required for each Manufactured Home Community.
- e. A manufactured home shall not be admitted to any manufactured home park unless it meets the minimum standards and requirements of the "American Standards for Installation in Manufactured Homes of Electrical, Heating and Plumbing Systems".
- f. A manufactured home park exceeding six hundred (600) feet in depth shall be required to install an 8 inch fire main, located within the manufactured home community and installed at or near the edge of the paving in a dedicated easement or fire lane. Fire hydrants and looping shall in accordance with the UDC and City's Fire Code.
- g. Exposed ground surfaces in all parts of every manufactured home community shall be paved, covered with stone screening or other solid material, or protected with a vegetative growth that is capable of preventing soil erosion and of eliminating dust.

- h. All public utilities and all public or private streets shall be installed to City of Boerne specifications.
- i. Manufactured home parks shall conform to the drainage and flood hazard requirements of the City of Boerne.
- j. Manufactured Home Communities shall be at least 6 acres in size and shall not exceed a net developable area of 25 acres, exclusive of any parks or land necessary to meet other requirements for infrastructure or amenities.

11. Live-Work Units

- a. Each unit, residential and commercial, shall have two clearly distinct areas.
- b. Each area shall separately and independently meet the required building codes applicable to the intended use for that portion of the building.
- c. Occupational or vocational uses allowed in the non-living portion may be any non-residential use allowed in the zoning district.
- d. The use shall not by reason of noise, odor, or physical operation create any adverse impacts on adjacent lots or uses.
- e. Required parking shall be based on the greater of the parking required for the non-living area or the living area.

12. Modular Homes

- a. All modular homes shall bear a State of Texas Compliance Decal in accordance with the Texas Department of Labor and Standards Rules.
- b. All modular homes shall be affixed to a permanent foundation in accordance with the City of Boerne Building Code requirements. There shall be no space variation between the finished floor elevation and the foundation.
- c. All other uses shall be subject to the same requirements and restrictions in the corresponding residential zoning category.

13. Residential Care Facilities

- a. Any Residential Care Facility that requires licensing shall register with the City of Boerne Code Enforcement Department.
- b. No other use, including a home occupation, shall be conducted on the premises of a Residential Care Facility, except for such activities clearly incidental to the administration of the facility and the provision of services in connection with the facility's State license.

NON-RESIDENTIAL USES

14. Adult Day Care

- a. Adequate provision for pick-up and drop-off shall be provided and maintained, including:
 - i. Clearly marked building entry
 - ii. Adequate lighting around entry, building front and areas of outdoor congregation as appropriate for hours of operation
 - iii. At least 4 temporary parking spaces for loading and unloading
 - iv. At least 2 accessible parking spaces
 - v. Landscaping that does not disrupt line of sight from windows and entryways.
- b. All outdoor gathering spaces shall be fenced or gated, conforming to City requirements.
- c. At least 300sf of landscaped outdoor gathering space shall be provided.

15. Assemblies

- a. Assemblies are limited in the districts by the seating capacities in the primary facility (this excludes any support facilities such as, education buildings, athletic buildings).
- b. Accessory uses to the principal use, such as schools, coffee houses and daycare facilities, shall only be permitted on site if the assigned zoning category permits the use as a primary use.
- c. Assemblies shall provide access points as follows:

| | Residential Categories | Residential Categories | Residential Categories | Commercial Categories | Commercial Categories | Central Business District |
|--------------------------------------|---|----------------------------------|--|-----------------------------------|--------------------------|----------------------------------|
| Seats | Less than 250 | Less than 550 | Less than 550 | Less than 1,200 | Greater than 1,200 | Less than 650 |
| Street Type / Access Points | Local (Neighborhood, Residential) | Located in a Grid Network* | Collector (Secondary, Primary Avenue) | Collector (Primary, Avenue) | Arterial | Located in a Grid Network* |
| No. of Access Points | 1 | 3 | 1 | 2 | 2 | 3 |

16. Automobile Services

- a. For properties zoned C-2 or C-3, facilities that only service vehicles of 7,000 pounds gross weight or less shall be permitted. No service to larger vehicles shall be permitted.
- b. A vehicle repair service facility is permitted as a standalone use on a property zoned Community Commercial, provided that the facility:
 - i. is limited to four service bays
 - ii. each bay has a driveway on each side with a stack space sufficient for at least one car per driveway.
 - iii. There is an enclosed customer service area, with a separate entry, that is separated or structurally partitioned from the repair service space.
- c. Where an auto repair garage is permitted as an accessory use:
 - i. all work shall be conducted wholly within a completely enclosed building.
 - ii. The repair service space shall be separated or structurally partitioned from the retail space.
 - iii. The repair service space shall have a separate entry from the entry used for the retail space.
 - iv. The gross floor area of the auto repair service area shall not exceed the gross floor area of the retail sales area.
- d. Garage doors or bays shall be completely screened from view if they face a neighborhood street or residential lot, in accordance with the City's screening requirements.
- e. Vehicles may be stored outside overnight, provided that they are completely screened from view from public streets, sidewalks, public spaces and residential lots.

17. Automobile sales

- a. Used vehicles may only be sold as an ancillary use to new vehicle sales.
- b. All outside display of vehicles shall be on an approved concrete or enhanced concrete surface.
- c. Vehicle display areas shall meet the landscaping requirements for parking areas.

18. Bars

- a. Bars shall be located at least 100 feet from a Residential Use and shall have an interior square footage of no more than 2,500 square feet.
- b. Bars shall not play music past midnight in the River Road Overlay District.

19. Bed & Breakfasts

- a. There shall be at least one on-site parking space per rental unit.
- b. A bed and breakfast does not have to be owner occupied or occupied at times other than its rental.
- c. The bed & breakfast must be registered with the City of Boerne and the State Comptroller's Office as a bed & breakfast and it must collect and pay the appropriate hotel/motel taxes.
- d. No new accessory structures will be permitted for additional rental units in a residentially zoned area unless permitted by SUP.
- e. No outside advertising shall be permitted on the lot, unless located in a non-residential zoning district or permitted by SUP.
- f. Any bed and breakfast SUP shall be reviewed after an initial six-month period, and annually thereafter, unless otherwise stipulated in the permit.
- g. Duplex dwellings may be used as bed and breakfasts. If duplex dwellings are used as bed and breakfasts:
 - i. A Special Use Permit shall be required. The bed and breakfast shall be in conformity with the requirements for a Special Use Permit; and
 - ii. Both units shall be under a single ownership and operate as a single bed and breakfast

20. Carwash or auto detail

- a. Entrances and exits to the car wash shall not directly face any public street. Where car washes are located on corner lots, entrances and exits shall not face the street with the higher traffic volume, as determined by the [CITY OFFICIAL].
- b. The car wash structure shall be set back a minimum of 50 feet from any street frontage.
- c. Free-standing vacuuming, cleaning and servicing areas that are not found inside of an enclosed structure shall be set back at least 50 feet from any street frontage.
- d. Vehicles and other material stored on the property before or after the hours of normal business operation shall be stored in the rear yard space of the property, out of view from public streets, public spaces and residential properties.

21. Childcare, In-home

- a. Outdoor play space shall not be permitted within the front yard area.
- b. No signs shall be permitted except for a name plate not exceeding one (1) square foot in size and attached flat to the primary building.

22. Childcare Centers (Daycare Centers)

- a. The outdoor play space for childcare centers which abut or are zoned for residential use shall be enclosed by a six-foot solid (opaque) fence.
- b. If the adjacent property is zoned residential but is in use as a school, church or park, a fence shall be required, but fencing materials are at the discretion of the applicant, provided the fence conforms to the fencing requirements of the City.

23. Commercial Agriculture

Commercial agriculture is limited to the Rural Residential and Agricultural properties or to parcels that are 10 acres or more in size.

24. Commercial Stables

Commercial stables are limited to the Rural Lot types or to parcels that are 10 acres or more in size.

25. Commercial Recreation - Indoor

- a. A freestanding indoor commercial recreation facility, including the building footprint, outdoor eating, drinking and entertainment areas/patios, drive-through lanes and associated facilities, trash dumpsters and receptacles, and loading/unloading facilities, are prohibited within 150 feet of a residential property line.
- b. An indoor commercial recreation facility within a multi-tenant building is prohibited within 50 feet of a residential property line. Outdoor eating, drinking and entertainment areas/patios and drive-through lanes and associated facilities are prohibited within 150 feet of a residential property line.
- c. Outdoor rear or side patio areas shall be screened by a natural stone, simulated stone, or brick fence that is at least six (6) feet tall.
- d. The Planning Director may waive the above requirement based upon a finding of any of the following:
 - i. The Planning Director determines that due to the site plan layout and/or existing conditions, potential impacts will be negligible;
 - ii. The Planning Director determines that existing and/or proposed vegetation will serve as an adequate screen.

26. Convenience Stores

- a. Pump islands and service locations shall be limited to no more than two islands and no more than 8 service locations and shall be set back at least 20 feet from any right-of-way or lot line.
- b. Canopies shall be no more than 14 feet high gabled roofs with recessed lighting, shall be setback at least 10 feet from any property line, and shall cover no more than 1,500 square feet of area.
- c. Gas stations shall be located only on secondary or support streets and shall otherwise meet the intent, guidelines, and design standards for buildings in the district.
- d. Curb cuts and driveways shall be limited to no wider than 30 feet and no more than 30% of the lot frontage, whichever is less.

27. Fairgrounds and Exhibition Grounds

Fairgrounds and exposition grounds are limited to the Rural Lot types or to parcels that are 10 acres or more in size.

28. Gas station.

The primary structure shall be set back at least 50 feet from any street frontage.

29. Health Clinic

A health clinic may not include in-patient care or operating rooms for surgery.

30. Home Occupations

- a. There shall be no exterior display, signage, exterior storage or materials or other exterior indication of the home occupation which would cause the structure to vary in character from a residential use.
- b. No traffic shall be generated by such home occupation than would normally be expected in the neighborhood.
- c. The home occupation shall generate no nuisance for neighbors or the general public.
- d. The following uses are not allowable as a home occupation:
 - i. Motorized vehicle repair
 - ii. Electronics and appliance repair
 - iii. Any industrial use
 - iv. Retail sales involving on-site purchases
- e. Sample sales, garage sales, estate sales and other event-related sales
 - i. There shall be no more than 4 sale days per calendar year for a property.
 - ii. Sales events in a residence shall only take place between the hours of 7am and 7pm.
- f. All existing residential single-family residential buildings located in a non-residential district, as of the effective date of this Chapter, may be used as both a single-family dwelling and a business. Home occupations in non-residential districts must meet the following requirements:
 - i. There shall be no exterior storage of equipment or materials used in the home occupation at any time.
 - ii. The home occupation must be conducted entirely within a permanently enclosed building, except for those necessary outdoor activities related to a day-care nursery. A private garage which is not completely enclosed shall not be utilized as part of a home occupation.
 - iii. On-site parking in addition to that required for the dwelling shall not be required for those business uses which require three or fewer parking spaces.
 - iv. No automobile engine or small engine repair shall be permitted as a home occupation.
- g. Home occupations in all residential districts shall meet the following requirements:
 - i. Home occupation shall never be permitted as the primary use of the property.
 - ii. No business shall be permitted that principally involves the resale of tangible personal property at the business.
 - iii. No manufacturing or industrial use shall be permitted.
 - iv. No barber shop, beauty shop, carpenter shop, electrician shop, plumber shop, radio shop, or sign painting business shall be permitted. No automobile engine or transmission, or small engine repair or service work shall be permitted as a home occupation.
 - v. A Day Care shall be limited to a maximum of six children.
 - vi. All employees must reside on the premises.
 - vii. The home occupation use shall not utilize more than 25% of the gross floor area of the building.
 - viii. No construction features shall be permitted which are not customarily found in a dwelling.
 - ix. No signs identifying the home occupation shall be permitted, except that a single nameplate, not exceeding one square foot in area, may be attached flat to the main building.
 - x. There shall be no exterior storage of equipment or materials used in the home occupation at any time.
 - xi. The home occupation must be conducted entirely within a permanently enclosed building, except for those necessary outdoor activities related to a day-care nursery.

- xii. A private garage which is not completely enclosed shall not be utilized as part of a home occupation.

31. Outdoor Retail Sales

- a. Permanent outdoor storage and display areas shall be indicated on the site plan submitted to the City.
- b. Outdoor storage, sales and display areas may not exceed ten percent of the enclosed portion of the primary building.
- c. For commercially zoned properties (B1, B2, B2-R, and B3), outdoor storage, sales and display areas shall be screened from view of adjacent roadways, public areas and adjacent properties. Such screening shall:
 - i. Be at least eight feet in height or one foot taller than the display area, whichever is greater.
 - ii. Be of one or a combination of the following materials:
 - (a) Solid screening, using material that matches the primary building
 - (b) Landscape screening, provided that the material is evergreen and conforms to the screening standards of the Unified Development Code
 - (c) Wrought iron accompanied by evergreen landscape screening
 - (d) Chain link fencing accompanied by evergreen landscape screening
 - (e) Other similar material that meets the screening requirements of the City.
- d. Outdoor storage, sales and display areas shall maintain adequate, permanent lighting.
- e. Outdoor storage, sales and display areas shall be adjacent to the primary structure or connected to the primary structure.
- f. Outdoor storage, sales or display areas shall not be located in areas that are used to meet the minimum parking requirements for the property.

32. Outdoor commercial recreation

- a. Outdoor commercial recreation facilities shall not be located within 400 feet of residentially zoned land.

33. Outdoor Animal Boarding Facility (Commercial)

- a. Outdoor dog kennels shall be located at least 300 feet from a residential structure that is located on any property in separate ownership, as measured from the nearest portion of an existing habitation to the nearest portion of the kennel.

34. Oversize vehicle sales, including boats, marine crafts, and trailers

- a. The area to be used for outdoor storage and display shall not exceed 50 percent of the total lot area and shall not be located within 100 feet of an adjacent street.
- b. Outdoor storage and display space shall be permanently paved to City standards.
- c. Outdoor storage and display space shall be screened along all road frontages with solid evergreen landscape screen that is at least three feet in height.
- d. All outdoor storage and display space shall be lighted with directed exterior lighting that does not produce glare within the adjacent roadway space.
- e. Boat and marine craft sales shall not be permitted to have any portion of a front yard or side yard along any neighborhood street and shall not be permitted to front a collector street.

35. Personal storage facilities

- a. The maximum lot size shall be 5 acres.
- b. The facility shall have a minimum of 20 units.
- c. Screening shall be provided adequate to protect adjacent properties from the environmental impacts of the storage facilities, such as visual blight, parking or roadway illumination, headlights, noise, blowing papers and dust, and service areas.
- d. If adjacent to residential on any side, the building height shall not exceed 20 feet, with the exception of the office and the caretaker's residence, which, if a separate structure, may be up to 35 feet in height.
- e. On lots zoned for commercial use, perimeter walls of the buildings which face the front yard shall incorporate architectural features consistent with the surrounding uses, and shall not incorporate pre-engineered, metal building components.
- f. The front, side and rear setback areas shall be landscaped in conformity to the landscape standards of this Chapter.
- g. The facilities shall incorporate perimeter gates that limit access to the storage areas to customers and caretakers only. Security gates shall conform to all applicable requirements of this Chapter, including the building code and fire code.
- h. Any metal fencing shall be wrought iron or similar. Chain link fencing shall be prohibited, and barbed wire shall be prohibited.
- i. Overhead doors shall not face the front street.
- j. No outdoor storage of any kind shall be permitted on the property.
- k. All paving shall be in concrete.
- l. Mechanical equipment on the roof shall be screened from view with the roof structure or with parapet walls.
- m. There shall be no advertising signs on the property other than identifying signage of the mini-warehouses facility itself.

36. Plant nurseries

- a. For properties zoned C-1, the site area may not exceed one acre.
- b. Storage areas for herbicides, pesticides, or fertilizers, if any, must be shown on the site plan.
- c. This subsection applies to products that are required by the Environmental Protection Agency to be labeled "combustible", "corrosive", "danger", "flammable", "highly flammable", "poison", or "warning".
 - i. Storage or display of a product is required to be:
 - (a) in an enclosed building; and
 - (b) for a site larger than one acre, separated from property used or zoned for a residential use by at least 75 feet plus 20 feet for each acre of site area over one acre.
 - ii. Total storage and display area:
 - (a) is limited to 100 square feet for each acre, or portion of an acre, of site area; and
 - (b) may not exceed 1,000 square feet.
- d. A bulk storage area for soil, compost, or a similar product outside of an enclosed building:
 - i. may not exceed 10 percent of the site area;
 - ii. must be at least 25 feet from property used or zoned for a residential use;
 - iii. must be screened from view from adjacent property used or zoned for a residential use; and
 - iv. may not cause noxious odors that are detectable from adjacent property used or zoned for a residential use.

37. Private club, lodge or fraternal organization.

- a. The club shall be located at least 300 feet from a church, school or public hospital at its nearest point, in any direction.
- b. A variance shall be required to locate a Private Club, Lodge or Fraternal Organization nearer than 300 feet from a church, school or hospital.
- c. The measurement of the distance between a Club, lodge or fraternal organization and the church or hospital shall be along the property lines of the street fronts and from front door to front door, and in direct line across intersections.
- d. The measurement of the distance between a Private Club, lodge or fraternal organization and a public or private school shall be:
 - i. in a direct line from the property line of the public or private school to the property line of the place of business, and in a direct line across intersections; or
 - ii. if the permit or license holder is located on or above the fifth story of a multistory building, in a direct line from the property line of the public or private school to the property line of the place of business, in a direct line across intersections, and vertically up the building at the property line to the base of the floor on which the permit or license holder is located.
- e. There shall be no exterior signs advertising the sale of alcoholic beverages, provided this does not prohibit using established trademark names.
- f. The bar area shall not exceed 30 percent of the total floor area of the establishment, whether indoor or outdoor.
- g. If the private club is located in a multi-tenant building, the boundaries of the club are hereby defined as only that portion of the building in which the private club is located, which is separately leased or owned, or with contiguous internal access, should such floor area be leased to more than one party.
- h. No uses that meet the terms or definitions of “sexually oriented business” as defined in this Unified Development Code shall be located in a private club.
- i. A copy of the permit approved by the State shall be submitted to the City prior to issuance of a Certificate of Occupancy, to ensure that the property is in compliance.
- j. All Special Use Permits issued for the operation of private clubs may be canceled, suspended, or revoked in accordance with the provisions of this Chapter and of the Procedures Chapter of the Unified Development Code, or as the same shall be amended.

38. RV Parks

- a. A recreational vehicle park shall be operated in conformity with state law relating to hotels. A person engaging accommodations in a recreational vehicle park shall register and give to the manager, operator, or person in charge the person's name, residence address, and automobile license plate number and the state in which it is registered.
- b. A permit issued under this provision is nontransferable and expires one year from the date of issuance. The permit fee shall be set by a separate ordinance.
- c. A recreational vehicle park must be located on land that is well-drained, free from heavy growth or brush or weeds, free from marsh, and graded or equipped with a stormwater management system to ensure property control of stormwater runoff.
- d. An entrance or exit drive to a recreational vehicle park licensed under this division must:
 - i. be surfaced with a minimum width of 18 feet;
 - ii. be well marked to designate roadway parking, and unit boundaries,
 - iii. be lighted at night; and
 - iv. comply with the Fire Code.
- e. A unit reserved for the accommodation of a recreational vehicle or camp cottage must:
 - i. have an area of not less than 576 square feet, excluding the driveway

- ii. be at least 24 feet wide, defined clearly by markers at each corner; and
- iii. be level, free from rock and weeds, and well drained.

- f. The owner or licensee of a recreational vehicle park shall provide the park with a water supply that complies with the utility standards of the City.
- g. The owner or licensee of a recreational vehicle park shall provide the park with a sewer system, either by connecting to the City sewerage system if available, or to a private on-site sewage facility, in compliance with the City code and regulations.
- h. The owner or licensee of a recreational vehicle park shall provide the park with facilities for the collection and removal of waste and garbage.
- i. An owner or licensee of a recreational vehicle park shall provide community toilet facilities, wash basins, bathing facilities, slop basins, and water faucets and spigots in a recreational vehicle park where two or more recreational vehicles or camp cottages are located, and where private conveniences for each site or cottage are not provided. A toilet facility must be in a room separate from a bathing facility or partitioned in a manner that provides privacy and promotes cleanliness.
- j. A recreational vehicle or other structure may not be placed or erected at a distance of less than twenty-five feet from the property line separating the court from the adjoining property, measuring from the nearest point of the recreational vehicle.
- k. A sleeping room in a recreational vehicle park must have at least two well screened windows with a total window surface area of not less than 25 square feet, and the height from the floor to the top of the wall may not be less than seven feet.

39. Towing facility with impound yard

- a. Vehicles stored on site shall be stored behind the front building line of the principal structure and shall be screened from view from all public streets, public spaces and residential lots.

40. Truck stop

- a. Entrances and exits to service bays shall not directly face any public street. On corner lots, service bay entrances or exits shall not open toward the street with the higher traffic volume, as determined by the City Manager.
- b. The location of access drives shall require approval of the City Manager.

41. Urban Agriculture

a. Generally

- i. These requirements do not apply to properties zoned for agricultural use.
- ii. In no way shall these regulations allow for any use or activity that violates any local state or federal law in any way.
- iii. Urban agricultural activity shall not cause a nuisance to occupants of nearby buildings or properties.
- iv. Retail sales and all other public use of the agricultural area shall begin no earlier than 7:00am and end by 7:00pm every day of the week.
- v. No more than two motor vehicles, each with a gross vehicle weight of 10,000 pounds or less, may be used for agriculturally related operations.

b. Composting

- i. Composting areas shall be fully screened from view from the street and from neighboring properties, unless the structure on the neighboring property is at least 50 feet from the composting area. Screening of compost areas shall be at least 4 feet in height and at least 50% opaque. Composting areas can be screened with landscaping

- or with a fence that meets the City's requirements for fences and walls or for screening and buffers.
- ii. Open composting areas shall be set back from all lot lines by at least 20 feet. Drums and other self-contained composting systems have a 5-foot setback requirement.

c. Community Gardens

- (a) Community gardens shall be located on a platted lot.
- (b) Setback requirements for community gardens shall be in accordance with the zoning of the property, and no planting activity shall be conducted in the setback area.
- (c) All chemicals, including fuels and pesticides, shall be stored in an enclosed, locked structure.
- (d) Accessory structures in a community garden, such as storage sheds, utility buildings, gazebos, or greenhouse structures shall comply with all applicable design standards for buildings and sites.
- (e) The community garden shall be designed and maintained so that water is conveyed off-site into a city right-of-way or drainage system without adversely affecting adjacent property. Onsite water capture may be allowed, provided that it in no way leaves the property, other than through conveyance directly to a city right of way or drainage system.
- (f) If and as the City imposes water restrictions, such restrictions shall apply for the community garden. In the absence of water restrictions, no person shall use sprinkler irrigation between the hours of 10 a.m. and 6 p.m. Drip irrigation or watering by hand with a hose may be done at any time in the absence of water restrictions.
- (g) The community garden shall post the site with a clearly visible sign near the public right-of-way that includes the name and contact information of the garden manager or coordinator. The contact information for the garden manager or coordinator shall be kept on file with the planning department.
- (h) In all zones, the total gross floor area of all structures for community garden use may not exceed 400 square feet on any lot.
- (i) Structures on the community garden site are limited to 12 feet in height, including any pitched roof.
- (j) Structures on the community garden site are subject to the design standards for accessory structures.
- (k) Sale and donation of only whole, uncut, fresh food and/or horticultural products grown in the community garden may occur on-site on an otherwise vacant property but shall not occur on a residentially occupied property.
- (l) On-site sales shall be allowed between 7:00 am and 7:00 pm, not to exceed three days per week. Maximum sales area on-site is 50 square feet. A temporary structure may be used at the point of sale only during the hours of the sale and must be removed after the sale.
- (m) A temporary sign, with a maximum sign face of 4 square feet, shall be allowed on the day of sale only.
- (n) A temporary sandwich board sign shall also be allowed in the public right of way within 10 feet of the site of sales, provided it does not encroach an unobstructed pedestrian pathway of 3 feet in width.
- (o) Landscaping structures such as arbors may be installed for aesthetic and shade purposes but shall be located behind the required front setback.
- (p) A permanent, non-illuminated sign with a sign face that is at least 2ft by 2 feet, but not more than 32 square feet, shall be installed On-site. This sign shall include the phone number of a contact person for the community garden. The sign shall be well maintained and, should the garden be

permanently closed, shall be removed within 30 days of the closure of the garden.

d. Produce Stands

i. Pop-Up Produce Stands

- (a) Pop-up produce stands sell produce on a site other than the site where the produce was grown and harvested. Pop-up produce stands require a permit from the City and are only allowed on properties where the zoning permits temporary accessory uses.
- (b) Pop-up produce stands shall be required to comply with all setback requirements, according to the zoning of the property.
- (c) Parking and customer waiting areas shall not encroach the public right of way.

ii. Farm stands

- (a) Farm stands, which are temporary stands selling produce grown and harvested on-site, are allowed by right, provided that:
 - (i) Setback and dimensional requirements for farm stands shall be the same as those of accessory buildings, in accordance with the zoning of the property.
 - (ii) Parking and customer waiting areas shall not encroach the public right of way.
 - (iii) The farm stand shall not exceed a duration of 15 days of activity in one calendar year.
 - (iv) Sales shall be limited to the hours of 7:00 a.m. to 7:00 p.m.
 - (v) Farm stands shall be allowed only as an accessory to a lawfully established farm, accessory garden or community garden.
 - (vi) Farm stands shall be removed from the premises, stored inside of a structure, or fully screened from view when not in operation.
 - (vii) Only one (1) farm stand is permitted per lot.
 - (viii) One (1) temporary sign advertising only products grown on-site may be displayed during sales but must be removed from the premises or stored inside a structure when the farm stand is not in operation.

e. Urban Farm, Small

i. Size

- (a) Urban farms that are less than 1 acre are classified as small urban farms. Farms that are 1 acre or larger are classified as large urban farms.

ii. Setbacks

- (a) All farming activity on-site shall occur behind the minimum setback lines for the property, in accordance with the property's zoning.

iii. Screening

- (a) Screening fences are required for the storage of compost, mulch and similar items.
- (b) Storage piles shall not exceed six feet in height and shall be screened from view from all public streets.

- (c) Storage of these items shall not be visible from the ground level of any adjacent residential property or public street.
 - (d) Open security fencing shall be allowed for all Production Areas, provided, however, that fences in the front yard shall comply with the City's design requirements for fences and walls.
- iv. Parking
 - (a) Minimum parking: 1 space per 5,000 sq. ft. of growing or storage area
 - (b) Maximum parking: 1 space per 2,500 sq. ft. of growing or storage area.
- v. Where a small urban farm is the primary use on a property located in a residential area:
 - (a) On-site sales shall be allowed sunrise to sunset, not to exceed three days per week.
 - (b) A maximum sales area of 50 square feet with one temporary structure shall be used the day of the sale.
 - (c) A temporary sign with a sign face of no more than 4 square feet shall be allowed the day of sale.
 - (d) A temporary sandwich board sign shall be allowed within 10 feet of the site of sales, provided it does not encroach an unobstructed pedestrian pathway of 3 feet along any sidewalk in the public right of way.
- vi. Water storage and use
 - (a) Cisterns shall require a permit from the City.
- vii. Design Review
 - (a) The following Farm Structures on an existing and/or expanded Urban Farm are subject to the Design Review and approval by the Design Review Committee:
 - (i) Any proposed Freight Container zoned anything except Industrial;
 - (ii) Any proposed new structure greater than 300 square feet located on an existing Urban Farm, or proposed Urban Farm located in an Overlay District;
 - (iii) Any proposed Farm Structure greater than 750 square feet located on an existing or proposed Small Urban Farm in any area that is not within an overlay district.
- viii. Signage
- ix. All Small Urban Farms shall be required to post one (1) identification sign, not exceeding six square feet in total area, attached at a height of no more than four feet high to a structure or fence stating only the name of the Urban Farm and contact information.
- f. Urban Farm, Large
 - i. Screening fences are required for the storage of compost, mulch and similar items. Storage piles or the fence shall not exceed 6 feet in height. Open security fencing shall be allowed for all production areas. Any retail or nonproduction structure or any structure that contains a portion of these activities shall comply with the commercial regulations of the Zoning Ordinance.

- ii. Self-pick farms are allowed. Parking shall be required at one vehicle per four (4) employees and one vehicle per acre of urban farm for customer parking and may be provided as compacted gravel base.
- iii. Minimum parking: 1 space per 500 sq. ft. of GFA of office, sales, or display area in excess of 4,000 sq. ft. (minimum of 4 spaces) + 1 space per 5,000 sq. ft. of growing or storage area
- iv. Maximum parking: 1 space per 200 sq. ft. of GFA of office, sales, or display area + 1 space per 2,500 sq. ft. of growing or storage area
- v. Permanent or temporary retail sales onsite is allowed.
- vi. Storage of equipment and vehicles including tractors, spreaders and harvesting equipment may only occur on lots within industrial districts
- vii. Aquaponics shall be permitted, depending on the zoning of the property. If the property is zoned industrial, aquaponics activity may occur either within or outside of a structure. If the property is zoned commercial, aquaponics activity must be fully enclosed within a structure.
- viii. Storage piles and fencing: On industrially zoned properties, it may exceed six feet in height. On commercially zoned properties, fencing shall not exceed six feet in height, and storage piles shall not be visible from any public street. Screening requirements for commercial properties applies.
- ix. Acreage, setbacks and regulations for on-site structures shall be in accordance with the property zoning. Except for properties zoned for industrial use, screening fences are required for the storage of compost, mulch and similar items. Neither the storage piles nor the fence shall exceed six feet.
- x. Open security fencing shall be allowed for all Production Areas. Any retail or nonproduction structure or any structure that contains a portion of these activities shall comply with the commercial regulations of this ordinance.

42. Sexually Oriented Businesses

These regulations are authorized by Texas Local Government Code, Chapter 243.

- a. Notwithstanding any provision of this chapter to the contrary, it shall be a violation to use or occupy land or a building for the purpose of operating or maintaining a sexually oriented business within one thousand (1,000) feet of a property that is described as follows:
 - i. Another sexually oriented business;
 - ii. Any property within a residential zoning district boundary, whether temporary or permanent, or devoted to a residential use, including any land zoned for one (1) of the aforementioned residential uses which is also described as a planned unit development (PUD) or a unit within a Planned Development District (PDD);
 - iii. Any place of regular religious worship, including property used as a church, synagogue, mosque, or other religious assembly facility;
 - iv. Any public or private elementary, secondary or high school;
 - v. Any public park; or
 - vi. Any licensed childcare facility.
- b. Method of Measurement and Survey Requirements
 - i. Sole Tenant

Measurements shall be in a straight line, without regard to intervening structures or objects, from the nearest property line of the lot on which the sexually oriented business is located, to the nearest property line of the protected properties described in the above subsection (a), which requires separation. This method of measurement shall apply to a sexually oriented business that is the sole tenant within one (1) building located on one (1) platted lot.

ii. Multiple Tenants

Measurements shall be in a straight line, without regard to intervening structures or objects, from the nearest point of the occupied space of the sexually oriented business to the nearest property line of the protected property described in the above subsection (a) which requires separation. This method of measurement shall apply to a sexually oriented business that is a tenant within a multiple tenant building.

iii. Easements Excluded

In calculating the distances described herein, easements (such as right-of-way, drainage and utility easements) that are zoned as, or abut, a protected property classification, shall not be considered as part of the protected property.

iv. Surveyor

A certified survey prepared by a licensed surveyor or licensed engineer showing distance measurements in accordance with this subsection shall be submitted to the City Manager for all sexually oriented businesses as part of the application for the certificate of occupancy for the use. Any certificate of occupancy issued for a building or facility used to conduct a sexually oriented business without submission of the required survey shall be null and void.

c. Annexation

Any sexually oriented business annexed by the city after the effective date of this Chapter shall be subject to all the requirements of this section.

C. ACCESSORY USES

1. The regulations applicable to a primary use apply to an accessory use, except as otherwise provided in this section.
2. Accessory buildings not used as dwelling units
 - a. Properties zoned R2-N, R2-M, R2-MO, R3-A, R3-C R4 and R-D shall have only one accessory building to the principal structure, whether portable or permanent.
 - b. Properties zoned RAG, RMA, RES, R1-L, R1-S AND R1-MO shall have no more than two accessory buildings to the principal structure, whether portable or permanent.
 - c. An outdoor swimming pool, a tennis court or any other unenclosed facility shall not be counted as a building.
3. Accessory Dwelling Units
 - a. Accessory Dwelling Units shall be restricted to certain zoning districts identified in the Master Table of Uses.
 - b. The property owner, which shall include title holders and contract purchasers, must reside in either the primary residence or the accessory dwelling unit, and shall at no time receive rent for the owner- occupied unit.
 - c. The property owner shall sign an affidavit before a notary public affirming that the owner occupies either the main building or the accessory dwelling.
 - d. The applicant shall provide a restrictive covenant and the appropriate filing fee suitable for recording with the County Recorder, providing notice to future owners or long term leasers of the subject lot that the existence of the accessory dwelling unit is predicated upon the occupancy of either the accessory dwelling or the principal dwelling by the person to whom the certificate of occupancy has been issued. The covenant shall also require the owner of the property to notify a prospective buyer of the limitations of this Section and to provide for the removal or disconnection of improvements that cause the

premises to be defined as an accessory dwelling and to restore the site to a single-family dwelling, in the event that any condition of approval is violated.

- e. The number of occupants in the Accessory Dwelling Unit shall not exceed a number equal to two persons per bedroom.
 - f. The Accessory Dwelling Unit shall not exceed 1,200 square feet of gross floor area. This restriction applies only to that portion of a structure which constitutes living area for an accessory dwelling.
 - g. An Accessory Dwelling Unit shall not contain more than two (2) bedrooms.
 - h. An Accessory Dwelling Unit shall be equipped with a kitchen and a bathroom, which are separate from the kitchen and bathrooms of the primary dwelling unit.
 - i. One permanent, on-site parking space, in addition to the on-site parking requirements of the primary dwelling unit, shall be required for any type of Accessory Dwelling Unit.
 - j. Parking areas shall be located behind the minimum required front yard setback line.
 - k. Only one (1) Accessory Dwelling Unit shall be permitted per lot.
 - l. The architectural design, style, appearance and character of the Accessory Dwelling Unit shall be consistent with that of the primary residence and shall generally maintain the same proportions.
 - m. Accessory Dwelling Units permitted in the City include:
 - i. Garage Apartments
 - ii. Detached Guest Houses
 - iii. Attached Apartments
 - n. The building footprint of a Detached Guest House shall not exceed 30 percent of the building footprint of the main structure.
 - o. Attached Apartment
 - i. A primary dwelling that has a partitioned space that is rented out as an apartment is considered to be an Attached Apartment.
 - ii. Attached Apartment shall have a separate, dedicated entry, other than the entry to the primary dwelling unit.
4. Accessory Uses for Religious Assemblies
- a. Accessory uses to the principal use, such as schools, coffee houses and daycare facilities, shall only be permitted on site if the assigned zoning category permits the use as a primary use.
5. Carports
- a. Carports shall be open on at least two sides.
 - b. They shall be located at least 20 feet behind the corner of the front façade of the house and shall meet all side and rear setback requirements.
 - c. Carports which are visible from a public street shall be constructed of materials matching those of the primary residential structure.
 - d. Porte-cocheres are not carports, and are permitted, provided that they are an attached and structurally integrated component of the house.
6. Commercial Accessory Use (in a non-residential district)
- a. A commercial accessory use shall be operated primarily for the convenience of employees, clients, or customers of the principal use;
 - b. occupies less than 10 percent of the total floor area of the use; and
 - c. is an integral part of the principal use
7. Childcare as an accessory use

- a. The outdoor play space for any childcare facility, including childcare facilities which are accessory uses, which abut a residential use, shall be enclosed by a six-foot solid (opaque) fence.
- b. Outdoor play spaces shall be screened from view from arterials and primary collectors, as defined by the City's Thoroughfare Plan.
- c. If the adjacent property is zoned residential but is in use as a school, church or park, a fence shall be required, but fencing materials are at the discretion of the applicant, provided the fence conforms to the fencing requirements of the City.

8. Drive-through Facilities

- a. A drive through shall not be located on a property adjacent to a residential use and shall be separated from a residential use by an intervening building.
- b. Stacking spaces, speaker boxes, service windows, and other facilities associated with a drive-through lane shall be located a minimum of 150 feet from any residential property line.
- c. A drive-through shall not be accessible from a neighborhood street.
- d. Stacking lanes for service windows shall meet the requirements of Chapter 6: Nonresidential Design.

9. Greenhouses as accessory uses

- a. Greenhouses which are not used for commercial purposes and which are accessory structures shall conform to the dimensional standards for accessory buildings for the zoning category applied to the property.

10. Limited Outdoor Retail Displays

- a. Limited outdoor retail displays shall only occur during limited portions of the business hours and shall be brought indoors after business hours.
- b. Limited outdoor retail displays are limited in extent to less than 10% of the entire merchandise area of the Retail use.
- c. Limited outdoor retail displays are limited to seasonal sales or events lasting no longer than two weeks at a time, with at least 4 weeks between consecutive events.
- d. The use of trash bags to display merchandise is not permitted. Each item shall be displayed individually and not in containers or bags.
- e. Such displays may occupy up to 30 percent of a sidewalk, and the display space shall be entirely located within 20 feet of the primary building.
- f. Such displays shall not impede pedestrian use of the sidewalk. No less than three feet of passable distance shall be maintained at any point along the sidewalk that is being used as sale or display space.

11. Portable buildings

- a. Only one portable building is allowed per property for single family residential lots.
- b. Two portable buildings, one per unit, separated by a privacy fence, are allowed for duplexes.
- c. No portable buildings are permitted for multi-family properties.
- d. Portable buildings are only permitted in the rear yard space and must be located outside of the side and rear setback areas of the property.

12. Residential Convenience Service

- a. A residential convenience service is permitted if the principal use is a multifamily use or a manufactured home park use.
- b. A residential convenience service:

- i. is a commercial use that is operated as an integral part of the principal use,
- ii. is not identifiable from outside the site, and
- iii. is intended to be patronized solely by the residents of the principal use.

13. Accessory Gardens

a. Residential Accessory Gardens

- i. Gardens are not permitted in the front yard space.
- ii. Food and/or horticultural products grown in an accessory garden may be used for personal consumption. Only whole, uncut, fresh food and/or horticultural products grown in a home garden may be donated or sold on-site under the requirements of cottage industries. Such on-site sales shall not be considered to be commercial activity under this code and shall not be subject to the restrictions for home occupations.

b. Nonresidential Accessory Gardens

- i. Gardens are not permitted within the front yard space.
- ii. Gardening areas are to be screened from view from any public street, with a screen that is at least 4 feet tall, and at least 50% opaque.
- iii. Accessory gardens shall not occupy more than 10% of the lot area of a commercial use.
- iv. Sale and donation of only whole, uncut, fresh food and/or horticultural products grown on-site may occur on a commercial property with an accessory garden.

14. Urban Livestock, Poultry, and Beekeeping

a. Generally

- i. These requirements do not apply to properties zoned for agricultural use.
- ii. Residential properties where the keeping of urban livestock, poultry or bees is allowed, when in accordance with these rules, include:
 - (a) Single family residences (rented or owned)
 - (b) Duplexes with separately fenced rear yards
 - (c) Townhouses or row houses with separately fenced rear yard spaces that meet the dimensional requirements of this Section
- iii. For any residence that is a rental property, tenants shall procure written permission from the property owner for the keeping of urban livestock, poultry or bees, and the property owner shall provide a written acknowledgment of the keeping of the animals on-site, clearly indicating tenant's permission to maintain such animals, which the tenant shall be required to maintain on-site.
- iv. In no way shall these regulations allow the housing or possession of any animal in any manner that violates any local, state or federal law.
- v. Slaughtering and processing of animals onsite is prohibited.
- vi. Farm animals shall be kept only in conditions that limit odors and noise and the attraction of insects and rodents, so as not to cause a nuisance to occupants of nearby buildings or properties and not to cause health hazards.
- vii. Farm animals shall not be kept in a manner that is injurious or unhealthful to the animals being kept on the property.

b. Chicken and Poultry

- i. Type and Number

- (a) The maximum total number of all poultry animals allowed without a permit is 6. A permit is required for more than 6 poultry animals.
- (b) For chickens, no more than three hens shall be kept for each $\frac{1}{4}$ acre of lot area. When calculating number of animals allowed, fractions shall be rounded down, not up. For example, on a one-acre residential lot, this regulation would permit no more than twelve (12) hens.
- (c) Geese, ducks and turkeys are only allowed on lots that are over 2 acres in size. The coop or cage housing the birds shall be at least 100 feet from all property lines. Only one goose, duck or turkey is allowed for every 22,000 square feet of property area.
- (d) The keeping of male poultry, including roosters and toms, is prohibited in all zones except the Agriculture and Rural Residential (R-AG) zone.

ii. Screening

- (a) Any portion of the coop or run directly visible from a street at any distance shall be screened by a fence that is constructed to be 100% opaque and six feet in height.

iii. Enclosures

- (a) All animals shall be provided with a covered, predator-proof coop or cage or other shelter that is thoroughly ventilated, designed to be easily accessed and cleaned, and of sufficient size to permit free movement of the animals, exclusive of areas used for storage of materials or vehicles.
- (b) All Runs shall have a securely built frame, preferably wooden, and shall be covered in wire mesh material such as hardware cloth.
- (c) Coop space must allow a minimum of two (2) square feet per Hen and one (1) nest box per three (3) Hens within. The size and dimensions of the coop shall comply with the requirements for accessory buildings, per the zoning of the property.
- (d) Runs must allow a minimum of four (4) square feet per Hen, but in no case shall occupy more than twenty percent (20%) of the rear yard.
- (e) Runs and enclosed coops shall not exceed eight (8) feet in height.
- (f) Free-ranging of adult egg-laying hens is allowed exclusively in fenced yards..

iv. Setbacks

- (a) The coops or cages housing such animals shall not be located in the front yard, or in the side yard if the side yard faces a street. Coops or cages shall not be located within five (5) feet of a rear lot line or a side lot line that does not face a street.
- (b) Structures housing domestic fowl must be located at least 10 feet away from any structure on the lot, and at least 20 feet away from the nearest wall of a dwelling unit on an adjacent lot.

c. Livestock and Exotics

- i. The keeping of livestock and exotics shall require a fully fenced rear or side yard space that meets the dimensional requirements of this Section and the zoning of the property, and which is in accordance with the standards for fencing in Chapter 5: Residential Design Standards.
- ii. Type and Number of Animals Allowed
 - (a) For all livestock, no intact males shall be maintained on properties that are not zoned for agricultural use.

- (b) Miniature livestock and exotics under 200 pounds by breed standard, which are allowed by law, shall be allowed as follows:
 - (i) On lots less than 1/2 acre in size, only one such animal is allowed..
 - (i) On lots that are 1/2 acre – 2 acres, no more than four such livestock animals shall be allowed.
 - (ii) On non-agricultural lots that are greater than 2 acres in size, one such livestock animal shall be allowed per 1/2 acre of land area.
 - (iii) When calculating the number of animals allowed, fractions shall be rounded down, not up.
- (c) Livestock and exotics under 500 pounds that are allowed by law shall be allowed as follows:
 - (i) On lots less than 2 acres in size, no more than four such animals shall be allowed.
 - (ii) On non-agricultural lots that are greater than 2 acres in size, one such animal shall be allowed per 1/2 acre of land area. When calculating the number of animals allowed, fractions shall be rounded down, not up.
- (d) Standard horses shall be allowed as follows:
 - (i) Standard horses shall not be allowed on lots less than 2 acres in size.
 - (ii) On lots that are 2 – 5 acres in size, no more than 1 horse shall be allowed per acre of land. When calculating the number of horses allowed, fractions shall be rounded down, not up.
 - (iii) For lots greater than 5 acres in size, the City's agricultural regulations shall apply for horses.
- (e) The keeping of cattle, sheep and swine (except for miniature potbellied pigs) is prohibited on lots that are not zoned for agricultural use.

iii. Screening

- (a) Livestock enclosures of any kind shall be fully screened from view from a residential street by a fence that is constructed of permanent material to be 100% opaque and six feet in height.
- (b) View from any other type of street shall be screened using permanent fencing material that is at least 50% opaque and at least six feet in height.

iv. Setbacks and enclosures

- (a) Stables or other enclosures for livestock animals shall not be permitted in front yards or in the side yard if the side yard faces a street.
- (b) Enclosures for animals weighing less than 200 pounds, such as miniatures, shall be as follows:
 - (i) An enclosure used to keep not more than one livestock animal weighing less than 200 pounds shall be located at least 10 feet from a residential building.
 - (ii) An enclosure used to keep two to four female or neutered male livestock animal weighing less than 200 pounds shall be located at least 50 feet from any residential building.
 - (iii) An enclosure used to keep more than four female or neutered male miniature livestock, or one or more un-neutered male miniature livestock must be located at least 100 feet from a residential building.

v. Setbacks for all other stables and livestock enclosures shall be as follows

- (a) At least 50 feet from any residential building on the property
- (b) at least 40 feet from any street
- (c) at least 100 feet from any residential property
- (d) at least 50 feet from any other adjacent property
- (e) Stables and livestock enclosures shall be set back at least 100 feet from a dwelling on any other property, or from the permitted placement of a dwelling on an adjoining vacant property.

d. Bees

i. Flyway barriers.

- (a) A solid fence or dense hedge, standing at least six (6) feet in height, shall be placed along the side of the beehive that contains the entrance to the hive.
- (b) It shall be located within five (5) feet of the hive and shall extend at least two (2) feet on either side of the hive.
- (c) No such flyway barrier shall be required if all beehives are located at least twenty-five (25) feet from all property lines or for beehives that are located on porches or balconies at least ten (10) feet above grade, except if such porch or balcony is located less than five (5) feet from a property line.

ii. Location and Setbacks

- (a) Beehives shall be kept at least 10 feet from any onsite residential dwelling, and at least 50 feet from a residential building on another lot. No beehive shall be kept in a required front yard setback area or in a side yard that faces a public street.
- (b) Hives shall not be located within 20 feet of any lot line except when situated 8 feet or more above the grade immediately adjacent to the grade of the lot on which the hives are located, in which case the hive shall not be located within 10 feet of the lot line.

iii. Type and Number of Animals Allowed

- (a) No more than one (1) beehive shall be kept for each $\frac{1}{4}$ acre of lot area, and no bees shall be kept on a lot that is less than $\frac{1}{4}$ acre in size.
- (b) When calculating the number of hives that are allowed, fractions shall be rounded down, not up.

iv. Hive Maintenance Requirements

- (a) Beekeeping is permitted by right as an accessory use, in accordance with the standards herein, if and when registered with the State Department of Agriculture.
- (b) No beehive shall exceed five (5) feet in height and twenty (20) cubic feet in size.
- (c) A supply of fresh water shall be consistently maintained onsite throughout the day, in a location readily accessible to all bee colonies to prevent bees from congregating at sources of water on neighboring properties.
- (d) The keeping of Africanized bees is prohibited under the regulations of this Section.

D. USES REQUIRING A SPECIAL USE PERMIT (SUP)

1. Certain primary or accessory uses which have unique and definitive impacts on the community, though not permitted by right, may, if meeting certain conditions, be acceptable in certain zoning districts, as indicated by the Master Use Table.
2. Exercise of these uses requires a Special Use Permit
3. No inherent right exists to receive a Special Use Permit; such authorizations are a special privilege granted by the City Council under a specific set of circumstances and conditions, and each application and situation is unique. Consequently, mere compliance with the generally applicable requirements may not be sufficient and additional measures may be necessary to mitigate the impact of the proposed development.

3.7 PERMITTED USE TABLES

A. INTERPRETATION OF USE TABLES

1. The uses which are permitted, subject to the general standards of this Chapter, are designated in these tables by the symbol "P." Uses which may be permitted, but which require a Special Use Permit, are designated in the Use Tables with a "S." Blank spaces in the use tables indicate that a particular use is not permitted.
2. A reference to additional rules and regulations for a particular use is provided in the second column of the tables.

B. PARTICULAR USES ALLOWED BY ZONING CATEGORY

1. Permitted Uses for Residential Zones

| Legend for Use Permissions | See Sec. 3.6 for Use Restrictions | Agriculture and Rural Residential | Manor Residential | Estate Residential | Low Density Residential | Medium Density Residential | Neighborhood Residential | Moderate Density Residential | High Density Residential | Duplex Residential | Bungalow Court Community | Multi-family Residential | Manufactured Home Community | Holding |
|---------------------------------------|-----------------------------------|-----------------------------------|-------------------|--------------------|-------------------------|----------------------------|--------------------------|------------------------------|--------------------------|--------------------|--------------------------|--------------------------|-----------------------------|---------|
| Uses by Use Group | | R-AG | R-MA | R-ES | R-1L | R-1M | R-2N | R-2M | R-3 | R-3D | R-4B | R-4 | MH C | HO L |
| Residential Use Group | | | | | | | | | | | | | | |
| Assisted Living Facilities | B.1 | P | P | P | P | P | P | P | P | P | P | P | P | |
| Boarding House | B.2 | P | | | S | S | S | S | | P | | S | | |
| Bungalow Courts | B.3 | | | | | | | | | S | P | P | | |
| Community Home | B.4 | P | P | P | P | P | P | P | P | P | P | P | P | |
| Cottage House Community | B.5 | | | | | | | P | | S | P | P | | |
| Duplex | B.6 | | | | | | | | | P | | | | |
| Garden Home | B.7 | | | | | | | S | S | S | S | S | | |
| Halfway House | B.9 | P | P | P | P | P | P | P | P | P | P | P | P | |
| Live-Work Unit | B.11 | | | | | | | | S | S | P | P | | |
| Manufactured Home Park | B.10 | | | | | | | | | | | | P | |
| Mixed-Use Building | | | | | | | | | | | | P | | |
| Modular Home | B.12 | | | | | | | | | | | | P | |
| Multi-Dwelling Structure | | | | | | | | | P | P | S | P | | |
| Multi-family Dwelling, >12 units/acre | | | | | | | | | | | | P | | |
| Multi-family Dwelling, 3-4 units | | | | | | | | | | | P | P | P | |

| Legend for Use Permissions P = permitted by right S = Special Use Permit required T = Temporary Use Permit Required (blank) = not permitted Uses by Use Group | See Sec. 3.6 for Use Restrictions | Agriculture and Rural Residential | Manor Residential | Estate Residential | Low Density Residential | Medium Density Residential | Neighborhood Residential | Moderate Density Residential | High Density Residential | Duplex Residential | Bungalow Court Community | Multi-family Residential | Manufactured Home Community | Holding |
|--|--|-----------------------------------|-------------------|--------------------|-------------------------|----------------------------|--------------------------|------------------------------|--------------------------|--------------------|--------------------------|--------------------------|-----------------------------|---------|
| | | R-AG | R-MA | R-ES | R-1L | R-1M | R-2N | R-2M | R-3 | R-3D | R-4B | R-4 | MH C | HO L |
| Multi-family Dwelling, 5-12 units | | | | | | | | | | | S | S | S | |
| Residential Care Facility | B.13 | | | | | | | | | | P | P | | |
| Single Family Dwelling, Attached | | | | | | | | S | P | P | | P | | |
| Single Family Dwelling, Detached | | P | P | P | P | P | P | P | P | P | P | | P | P |
| Civic Use Group | | | | | | | | | | | | | | |
| Assembly | B.15 | S | S | S | S | S | S | S | S | S | S | S | S | |
| Government Facility | | S | S | S | S | S | | S | S | | | | | |
| Library | | | | | P | P | P | P | P | P | P | P | | |
| Park or Open Space, Private | | P | P | P | P | P | P | P | P | P | P | P | P | |
| Park or Open Space, Public | | P | P | P | P | P | P | P | P | P | P | P | P | |
| Public Recreational Facilities | | | | P | P | P | P | P | P | P | P | P | P | |
| Public Safety Facilities | | P | P | P | P | P | P | P | P | P | P | P | P | |
| School | | | P | P | P | P | P | P | P | P | P | P | | |
| Service Use Group | | | | | | | | | | | | | | |
| Bed & Breakfast | B.19 | S | S | S | S | S | S | S | S | S | P | | S | |
| Commercial Agriculture | B.23 | P | | | | | | | | | | | | P |
| Commercial Communication System | | S | | | | | | | | | | | | |
| Commercial Stable | B.24 | P | S | | | | | | | | | | | |
| Community Garden | B.41.c | S | S | S | S | S | S | S | S | S | S | S | S | |
| Farmers Market | | S | | | | | | | | | | | | |
| Outdoor Animal Boarding Facility | | S | | | | | | | | | | | | |
| Plant Nursery | | - | | | | | | | | | | | | |
| Produce Stand | B.41.d | S | S | | | | | | | | | | | |

| Legend for Use Permissions P = permitted by right S = Special Use Permit required T = Temporary Use Permit Required (blank) = not permitted Uses by Use Group | See Sec. 3.6 for Use Restrictions | Agriculture and Rural Residential | Manor Residential | Estate Residential | Low Density Residential | Medium Density Residential | Neighborhood Residential | Moderate Density Residential | High Density Residential | Duplex Residential | Bungalow Court Community | Multi-family Residential | Manufactured Home Community | Holding |
|--|--|-----------------------------------|-------------------|--------------------|-------------------------|----------------------------|--------------------------|------------------------------|--------------------------|--------------------|--------------------------|--------------------------|-----------------------------|---------|
| | | R-AG | R-MA | R-ES | R-1L | R-1M | R-2N | R-2M | R-3 | R-3D | R-4B | R-4 | MH C | HO L |
| <i>RV Park</i> | <i>B.38</i> | S | | | | | | | | | | | P | |
| <i>Urban Farm, Large</i> | <i>B.41.f</i> | S | S | S | S | S | | | | | | S | S | |
| <i>Urban Farm, Small</i> | <i>B.41.e</i> | S | S | S | S | S | S | S | S | S | S | S | S | |
| <i>Veterinary Clinic, Large Animal</i> | | S | | | | | | | | | | | | |
| ACCESSORY USES | | | | | | | | | | | | | | |
| <i>Accessory Building, Not Dwellings</i> | <i>C.2</i> | P | P | P | P | P | S | S | S | S | | | | |
| <i>Accessory Dwelling - Attached Apartment</i> | <i>C.3</i> | S | S | S | S | S | S | S | | | | | | |
| <i>Accessory Dwelling - Detached Guest Home</i> | <i>C.3</i> | P | P | P | S | S | S | S | | | | | | |
| <i>Accessory Dwelling - Garage Apartment</i> | <i>C.3</i> | P | P | P | P | P | S | S | | | | | | |
| <i>Accessory Garden</i> | <i>C.13</i> | P | P | P | P | P | P | P | P | P | P | P | P | |
| <i>Barn, Accessory</i> | | P | | | | | | | | | | | | P |
| <i>Childcare - Accessory Use</i> | <i>C.7</i> | S | S | S | S | S | S | S | S | S | S | S | S | |
| <i>Greenhouse, Private</i> | <i>C.9</i> | P | P | P | P | P | P | P | P | | | | | |
| <i>Home Occupation</i> | | P | P | P | P | P | P | P | P | P | P | P | P | |
| <i>Kennel, Private</i> | | P | P | P | | | | | | | | | | |
| <i>Parking Garage</i> | | | | | | | | | | | | P | | |
| <i>Portable Building</i> | <i>C.11</i> | P | P | P | P | S | S | | | P | | | | |
| <i>Residential Convenience Service</i> | <i>C.12</i> | | | | | | | | | | | P | | |
| <i>Stable, accessory</i> | | P | | | | | | | | | | | | |
| <i>Stall, accessory</i> | | P | S | | | | | | | | | | | |
| <i>Urban Livestock, Poultry, Beekeeping</i> | <i>C.14</i> | P | P | P | P | P | P | P | P | P | P | P | P | P |

| Legend for Use Permissions | See Sec. 3.6 for Use Restrictions | Agriculture and Rural Residential | Manor Residential | Estate Residential | Low Density Residential | Medium Density Residential | Neighborhood Residential | Moderate Density Residential | High Density Residential | Duplex Residential | Bungalow Court Community | Multi-family Residential | Manufactured Home Community | Holding |
|---|--|-----------------------------------|-------------------|--------------------|-------------------------|----------------------------|--------------------------|------------------------------|--------------------------|--------------------|--------------------------|--------------------------|-----------------------------|---------|
| P = permitted by right S = Special Use Permit required T = Temporary Use Permit Required (blank) = not permitted | | R-AG | R-MA | R-ES | R-1L | R-1M | R-2N | R-2M | R-3 | R-3D | R-4B | R-4 | MH C | HO L |
| Uses by Use Group | | | | | | | | | | | | | | |
| TEMPORARY USES | | | | | | | | | | | | | | |
| <i>Garage and Estate Sales</i> | | P | P | P | P | P | P | P | P | P | P | P | P | |
| <i>Model Home as Sales Office</i> | | | T | T | T | T | T | T | T | T | T | T | | |
| <i>On-site Construction Offices</i> | | T | T | T | T | T | T | T | T | T | T | T | T | |
| <i>Portable Storage Units</i> | | P | T | T | T | T | | | | | | | | |
| <i>Temporary Occupancy of Travel Trailers</i> | | P | T | | | | | | | | | | P | T |

2. Permitted Uses for Non-Residential Zones

| Legend for Use Permissions | See Sec. 3.6 for Use Restrictions | Neighborhood Commercial | Transitional Commercial | Community Commercial | Regional Commercial | Community Office | Office Park | Industrial Office | Storage and Transportation | Light Industry | General Industry | Craft Industry | Civic and Institutional Uses | Interim Holding | |
|---|--------------------------------------|-------------------------|-------------------------|----------------------|---------------------|------------------|-------------|-------------------|----------------------------|----------------|------------------|----------------|------------------------------|-----------------|--|
| P - permitted by right S = Special Use Permit required | | | | | | | | | | | | | | | |
| T = Temporary Use Permit Required | | | | | | | | | | | | | | | |
| (blank) = not permitted | | | | | | | | | | | | | | | |
| Uses by Use Group | | C1 | C2 | C3 | C4 | O1 | O2 | O-3 | I1 | I3 | I4 | I2 | CI V | H O L | |
| Residential Use Group | | | | | | | | | | | | | | | |
| Assisted Living Facility | B.1 | | P | P | P | | | | | | | S | | | |
| Community Home | B.4 | P | S | | | | | | | | | S | | | |
| Halfway House | B.9 | P | S | | | | | | | | | S | | | |
| Live-Work Unit | B.11 | P | S | S | | | | | | S | | S | | | |
| Mixed-Use Building | | P | P | P | P | | | | | | | S | | | |
| Multifamily | | | S | P | P | | | | | | | | | | |
| Residential Care Facility | B.13 | P | P | P | P | | | | | | | | P | | |
| Single Family Attached Dwelling | | P | S | | | | | | | | | S | | | |
| Single Family Detached Dwelling | | S | S | | | | | | | | | S | | | |
| Civic Use Group | | | | | | | | | | | | | | | |
| Assembly | B.15 | S | P | P | S | S | S | S | S | S | S | S | P | | |
| Cemetery | | | | | | | | | | | | | P | | |
| Club or Lodge | B.37 | | S | P | | | | | | P | | P | P | | |
| College or University | | | | | S | | | | | P | | | P | | |
| Correctional Facility or Jail | | | | | | | | | | | | | P | | |
| Developed Athletic Field or Stadium | | | | | | | | | | | | | P | | |
| Government Facility | | P | P | P | P | P | P | P | P | P | P | P | P | | |
| Library | | | P | P | P | P | | | | | | | P | | |
| Museum | | | | P | P | | | | | S | | | P | | |
| Park or Open Space, Private | | P | P | P | P | P | P | P | P | P | P | P | P | | |
| Park or Open Space, Public | | P | P | P | P | P | P | P | P | P | P | P | P | | |
| Public Recreational Facilities | | | | | | | | | | | | | P | | |
| Public Safety Facilities | | P | P | P | P | P | P | P | P | P | P | P | P | | |
| School | | | | | | | | P | | | | P | P | | |
| Employment Use Group | | | | | | | | | | | | | | | |
| Business Park or Campus | | | | | | | P | S | | P | S | | | | |
| Office, 2 stories or less | | | S | S | | P | P | P | P | P | S | P | | | |

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|--|-----------------------------------|-------------------------|-------------------------|----------------------|---------------------|------------------|-------------|-------------------|----------------------------|----------------|------------------|----------------|------------------------------|-----------------|
| | | C1 | C2 | C3 | C4 | O1 | O2 | O-3 | I1 | I3 | I4 | I2 | CI V | H O L |
| Office, over 2 stories | | | | | S | | P | S | S | P | S | | | |
| Office, small, single tenant | | S | S | | | P | | P | | | | P | | |
| Retail Use Group | | | | | | | | | | | | | | |
| Automobile Parts & Parts Sales | | | | P | P | | | | P | | | S | | |
| Automobile Sales | B.16 | | | | S | | | | P | | | | | |
| Brew Pub | | S | S | P | P | | | | | | | P | | |
| Brewery or Distillery | | | | | P | | | | | S | P | S | | |
| Convenience Store | B.27 | P | P | P | P | | | P | P | | | | | |
| Gas Station | B.29 | | | P | S | | | P | P | | P | S | | |
| Grocery Store | | S | S | P | S | | | | | | | | | |
| Microbrewery or Micro-distillery | | | S | P | P | | | | | P | P | P | | |
| Outdoor Retail Sales Yard | B.32 | | | S | P | | | | | | P | | | |
| Restaurant with drive-thru | | | S | S | P | | | | | | | | | |
| Restaurant, no drive-thru | | | | S | P | | | | | | | S | | |
| Retail sales | | P | P | P | P | | | | | | | | | |
| Shopping Center | | | | | S | | | | | | | | | |
| Thrift Store, no outside storage/donation bin | | | S | S | S | | | | | | | S | | |
| Thrift Store, with outside storage/donation bin | | | | S | S | | | | | | P | S | | |
| Warehouse Retail | | | | | S | | | | | | S | | | |
| Service Use Group | | | | | | | | | | | | | | |
| Automobile Rental | | | P | P | P | | | | P | S | | | | |
| Automobile Service, no outside storage | B.16 | | S | P | P | | | | | | P | P | | |
| Automobile Service, with outside storage | B.16 | | | S | P | | | | | | P | | | |
| Bank and Financial Institutions | | S | P | P | P | | | | | | | | | |
| Bar | B.18 | S | S | S | P | | | | | | | P | | |
| Barber and Beauty Shop | | P | P | P | P | P | | | | | | P | | |
| Bed & Breakfast | B.19 | S | S | S | | | | | | | | | | |
| Bus Terminal | | | | S | S | | | S | P | S | P | | | |
| Car Wash | B.20 | | | P | P | | | | | | P | | | |

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|--|--|-------------------------|-------------------------|----------------------|---------------------|------------------|-------------|-------------------|----------------------------|----------------|------------------|----------------|------------------------------|-----------------|
| | | C1 | C2 | C3 | C4 | O1 | O2 | O-3 | I1 | I3 | I4 | I2 | CI V | H O L |
| Commercial Mail Facility | | P | P | P | P | P | P | P | P | P | P | P | | |
| Commercial Parking Facility | | | | S | P | | | P | P | P | P | P | P | |
| Commercial Recreation - Indoor | B.25 | | S | P | P | | | | | | | S | | |
| Commercial Recreation - Outdoor | B.32 | | | S | P | | | | | | | | | |
| Day Care / Adult | B.14 | | S | S | | | | | | | | | P | |
| Day Care Facility (more than 6 children, not home occupation) | B.22 | S | S | S | | | | | | S | | | P | |
| Funeral Home or Mortuary | | | | P | P | | | | | | | | P | |
| Golf Course | | | | | | | | | | | | | P | |
| Gym or Sports Training Facility, 10,000 sf or less | | S | S | P | P | | | | | | | P | | |
| Gym or Sports Training Facility, over 10,000 sf | | | | P | P | | | | | | | | | |
| Health Clinic | | S | S | P | P | | | | | S | | | S | |
| Hotel or Motel | | | | S | P | | | | | | | | | |
| Laboratory | | | | | | | S | P | | P | | P | | |
| Laundry (Self Service) | | S | S | | P | | | | | | | P | | |
| Long Term Care Facility | | | P | P | P | | | | | | | | P | |
| Medical - Hospital | | | | S | P | | | | | | | | P | |
| Medical Laboratory Services | | S | S | P | P | | | | | | | | | |
| Medical Offices and Outpatient Services | | S | S | S | P | P | S | | | P | | | | |
| Medical Services, Urgent Care | | | | P | P | | | | | P | | | P | |
| Movie Theater | | | S | S | P | | | | | | | | | |
| Outdoor Animal Boarding Facility | B.33 | | | | | | | | P | | S | | | |
| Pawn Shop | | | | S | | | | S | | | | S | | |
| RV Park | B.38 | | | | | | | | S | | | | | |
| Spa | | | P | P | P | | | | | | | | | |
| Trade School | | | | | S | | | P | | P | P | P | | |
| Veterinary Clinic, Indoor Boarding | | S | P | P | P | | | | | | | | | |
| Veterinary Clinic, No Boarding | | P | P | P | P | | | | | | P | | | |
| Veterinary Clinic, Outdoor Boarding | B.33 | | | | | | | | | | P | | | |

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|--|-----------------------------------|-------------------------|-------------------------|----------------------|---------------------|------------------|-------------|-------------------|----------------------------|----------------|------------------|----------------|------------------------------|-----------------|
| | | C1 | C2 | C3 | C4 | O1 | O2 | O-3 | I1 | I3 | I4 | I2 | CI V | H O L |
| Wholesale | | | | | S | | | P | P | | P | P | | |
| Industrial and Utility Use Group | | | | | | | | | | | | | | |
| Commercial Communication System | | | | | S | | | | P | P | P | | | |
| Contractor | | S | S | S | S | | | P | | | P | P | | |
| Fabrication, Indoors | | | | | | | | | | P | P | P | | |
| Industrial Arts Studio | | | S | S | | | | S | | P | P | P | | |
| Industrial Park | | | | | | | | P | | | P | | | |
| Junk Yard | | | | | | | | | | | S | | | |
| Maintenance Facilities | | | | | | | | | P | | P | | P | |
| Manufacturing | | | | | | | | | | | P | | | |
| Mini-Warehouse | | | | | S | | | P | P | | S | | | |
| Oversize Vehicle and Machinery Rental, Sales and Service | B.34 | | | | | | | | P | | P | | | |
| Portable Building Sales | | | | | | | | | P | | P | | | |
| Processing | | | | | | | | | | | P | | | |
| Railroad Facilities | | | | | | | | | P | P | P | | P | |
| Regional Detention Facilities | | | | | | | | P | | P | | | P | |
| Research and Development Facilities | | | | | | | S | S | | P | | | | |
| Utility Station, Sub-station, or Service Center | | | | | | | | | | | P | | P | |
| Warehousing | | | | | | | | | P | | P | | | |
| Agriculture and Natural Resource Use Group | | | | | | | | | | | | | | |
| Commercial Agriculture | B.23 | | | | | | | | P | | | | | |
| Commercial Stable | B.24 | | | | | | | | P | | | | | |
| Community Garden | B.41.c | | | | | | | | | | | | P | |
| Exhibition or Fairgrounds | B.27 | | | S | S | | | | | S | | | P | |
| Farmers Market | | | | S | S | | | | | | | | P | |
| Plant Nursery | B.36 | | P | P | P | | | | | | | P | | |
| Produce Stand | B.41.d | S | S | | | | | | | | | | | |
| Urban Farm, Large | B.41.f | | S | S | S | | | | | | | | | |
| Urban Farm, Small | B.41.e | S | S | S | | | | | | | | | | |
| SOB Use Group | | | | | | | | | | | | | | |

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|--|--|-------------------------|-------------------------|----------------------|---------------------|------------------|-------------|-------------------|----------------------------|----------------|------------------|----------------|------------------------------|-----------------|
| | | C1 | C2 | C3 | C4 | O1 | O2 | O-3 | I1 | I3 | I4 | I2 | CI V | H O L |
| Adult Bookstore | B.42 | | | | | | | | | | S | | | |
| Adult Entertainment Establishment | B.42 | | | | | | | | | | S | | | |
| Adult Motion Picture Theater | B.42 | | | | | | | | | | S | | | |
| ACCESSORY USES 3.7.C | | | | | | | | | | | | | | |
| Accessory Garden | C.13 | P | P | P | P | | | | | | | P | P | |
| Accessory Office | | | S | P | P | | | P | P | P | P | S | P | |
| Accessory Use for Assemblies | C.4 | | S | P | P | | | | | | | | P | |
| Automobile Gas Station | B.28 | | | S | P | | | | P | | P | | | |
| Automobile Rental Facility | | | | P | P | | P | | P | P | P | | | |
| Automobile Service, no outside storage | B.16 | | | | P | | | | P | | P | | | |
| Automobile Service, with outside storage | B.16 | | | | | | | | S | | P | | | |
| Bank Kiosks | | P | P | P | P | P | P | P | | P | | | S | |
| Bar | B.18 | | S | P | P | | | | | | | P | | |
| Car Wash | B.20 | | | S | P | | | | P | | P | P | | |
| Childcare as an Accessory Use | C.6 | S | P | P | | | | | | S | | | P | |
| Commercial Communication System | | | | S | S | | S | P | S | P | P | | S | |
| Commercial Mail Facility | | | P | P | P | | P | P | P | P | P | | P | |
| Community garden | B.41.c | P | | | | | | | | | | P | P | |
| Convenience Store as an Accessory Use | B.26 | | P | P | P | | P | | P | P | P | P | | |
| Drive-Through Facilities | C.8 | | S | S | S | P | P | | | | | | S | |
| Commercial Recreation - Indoor | B.25 | | S | S | P | | | | | | | | P | |
| Laboratory | | | | S | P | | P | P | | P | P | | | |
| Maintenance Facilities | | | | | | | | | P | | P | | P | |
| Outdoor Donation Bin | | | | | S | | | P | P | | P | P | | |
| Outdoor Retail Display | B.10 | S | S | S | S | | | | | | | P | | |
| Outdoor Retail Sales Area | B.31 | S | S | S | S | | | | P | | | P | | |
| Outdoor Retail Sales Yard | | | | | S | | | | S | | P | | | |
| Park or Open Space, Private | | | | | | | | P | | | | | P | |
| Park or Open Space, Public | | P | P | P | P | P | P | P | P | P | P | | P | |
| Parking Garage | | | | S | P | | P | P | P | P | P | P | P | |

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|--|--|-------------------------|-------------------------|----------------------|---------------------|------------------|-------------|-------------------|----------------------------|----------------|------------------|----------------|------------------------------|-----------------|
| | | C1 | C2 | C3 | C4 | O1 | O2 | O-3 | I1 | I3 | I4 | I2 | CI V | H O L |
| <i>Portable Buildings</i> | <i>C.11</i> | | | | | | | | P | P | P | P | S | P |
| <i>Processing</i> | | | | | | | | | | | P | | | |
| <i>Railroad Facilities</i> | | | | | | | | | P | P | P | | P | |
| <i>Restaurant</i> | | S | P | P | P | | | | P | P | P | | S | |
| <i>School - Private</i> | | | S | P | P | | P | P | | P | | | P | |
| TEMPORARY USES | | | | | | | | | | | | | | |
| <i>Carnival, Circus, Amusement Rides</i> | | | | T | T | | | | | | | T | T | |
| <i>Mobile Food Vendors</i> | | T | T | T | T | T | T | | T | T | T | T | T | |
| <i>On-site Construction Offices</i> | | T | T | T | T | T | T | T | T | T | T | T | T | T |
| <i>Outdoor Equipment Storage</i> | | | | | | | | | | | | T | T | T |
| <i>Portable Buildings</i> | | | | | | | | T | T | T | T | T | T | |
| <i>Portable Storage Units</i> | | | | | | | | | T | T | T | T | T | |

3.8 FLEXIBLE ZONING TOOLS

A. PLANNED UNIT DEVELOPMENT DISTRICT (PUD)

1. Purpose

- a. A Planned Unit Development (PUD) is intended for infill development projects and the development of sites which are difficult to develop under conventional designs because of their shape, size, abutting development, poor accessibility, unique topography or other factors.
- b. A PUD provides flexibility in the planning and construction of development projects by allowing a combination of land uses to be developed as an integrated whole, in accordance with an approved plan that protects adjacent properties and better implements the broader public benefits, goals and policies of the Boerne Master Plan, which cannot be achieved under conventional zoning district standards.
- c. A PUD may be used to contribute to a sense of community and a coherent living style, encouraging the preservation and enhancement of natural amenities and cultural resources and protecting the natural features of a site that relate to its topography, shape and size.
- d. A PUD may be used to provide for a greater amount of useable open space and foster compact and walkable development forms.
- e. A PUD may be used to provide for a more efficient arrangement of land uses, buildings, circulation systems and infrastructure.
- f. A PUD is intended to encourage quality development and innovative design, while ensuring adequate public facilities and services, in a manner consistent with the Master Plan of the City.

2. Applicability

- a. A Planned Unit Development District may only be applied to land that is less than 10 acres in size.
- b. All properties in the application shall be contiguous and under unified control.
- c. The PUD may assign any combination of underlying base zoning categories, provided they are consistent with the Master Plan of the City and are compatible with adjoining uses.
- d. The granting of a PUD Zoning District shall not relieve the developer from complying with all other applicable sections of this Code, and other Codes and Ordinances of the City, unless such relief is specified in the approved PUD ordinance.
- e. Zoning of a property PUD shall follow the procedure established in Chapter 2: Procedures.

3. Planned Unit Developments Approved Prior to the Effective Date of this Chapter

A Planned Unit Development (PUD) that was approved prior to the effective date of this Chapter shall retain the rights of use and development included in the PUD ordinance.

4. PUD as the Zoning Designation

- a. A Planned Unit Development shall replace the existing zoning for the property.
- b. The zoning designation for a property shall consist of the underlying base zoning categories with the prefix PUD attached (example: PUD-R4).

5. Permitted Uses

- a. An application for a PUD shall specify the applicable base zoning category and the use or the combination of uses proposed.
- b. The base zoning categories of a PUD shall be consistent with the Future Land Use Plan and Future Land Use Map of the Boerne Master Plan.

- c. The uses allowed in the PUD shall be similar to or compatible with those allowed in the base zoning category.
- d. All use restrictions applicable to a particular zoning category apply to the base zoning category within a PUD district unless otherwise modified by this Chapter or the ordinance adopting the PUD.
- e. Any requested use that is not permitted within the specified base zoning category must be identified as such in the PUD application.
- f. Special Use Permits allowed in a base zoning district are allowed in a PUD only if identified at the time of PUD approval.

6. Residential Lot Dimensions and Density Limitations

- a. The dimensions for a residential lot in a Planned Unit Development shall be no smaller than the minimum lot size allowed in the base zoning category, except for minor changes in order to provide improved design.
- b. *Residential Density Limitations.* The maximum number of dwelling units per net developable acre (total land area minus public improvements, i.e. rights-of-way) is limited as follows:

| TYPE OF DWELLING | UNITS PER ACRE | AMOUNT OF REQUIRED OPEN SPACE* |
|--------------------|----------------|--------------------------------|
| ATTACHED | 16 | 20% |
| DETACHED OR DUPLEX | 6 or less | 12.5% |
| | 7 | 15% |
| | 8 | 17.5% |
| | 8 to 16 | 20% |

* Required Open Space shall be based on Gross site area of the subdivision

7. Building Setbacks

- a. Yard setbacks shall conform to any drainage easements and utility easements required by other provisions of this Code.

B. PLANNED DEVELOPMENT DISTRICT (PDD)

1. Purpose

- a. The purpose of a Planned Development District (PDD) is to provide for the development of land that may include uses, regulations and other requirements that vary from the provisions of other zoning categories.
- b. PDDs allow for accommodation of unique site conditions or development concepts that make other zoning categories incompatible with the use and design intended for a property.
- c. PDDs are intended to provide flexibility in the development of land by allowing a combination of land uses to be developed as a single project, in accordance with an approved plan that protects adjacent properties.
- d. A PDD is intended to encourage quality development and innovative design, while ensuring adequate public facilities and services, in a manner consistent with the Master Plan of the City.
- e. PDDs are intended to be used in conjunction with one of the following:
 - i. Master-planned communities
 - ii. Large commercial centers
 - iii. Mixed-use developments
 - iv. Master-planned industrial parks

2. Applicability

- a. A Planned Development District may only be applied to land with an area of at least 10 acres.
- b. A Planned Development District shall be planned as a single, contiguous project under unified control.
- c. The PDD may assign any combination of underlying base zoning categories, provided they are consistent with the Master Plan of the City and are compatible with adjoining uses.
- d. The granting of a PDD Zoning District shall not relieve the developer from complying with all other applicable sections of this Code, and other Codes and Ordinances of the City, unless such relief is specified in this Chapter or as approved in the PDD ordinance .
- e. Zoning of a property as a Planned Development District shall follow the procedure established in Chapter 2: Procedures.

3. PDD as the Zoning Designation

- a. A Planned Development District shall replace the existing zoning for the property.
- b. The zoning designation for a property shall consist of the underlying base zoning categories with the prefix PDD attached (example: PDD-R4).

4. Permitted Uses

- a. An application for a PDD shall specify the applicable base zoning category and the proposed use or combination of uses.
- b. The base zoning categories of a PDD shall be consistent with the Future Land Use Plan and Future Land Use Map of the Boerne Master Plan.
- c. The uses allowed in the PDD shall be similar to or compatible with the base zoning category.
- d. All use restrictions applicable to a particular zoning category apply to the base zoning categories within a PDD, unless otherwise modified by this Chapter, the ordinance adopting the PDD, or the PDD plan approved by the City.
- e. Any requested use that is not permitted within the specified base zoning category must be identified as such in the PDD application.
- f. Special Use Permits allowed in a base zoning district are allowed in a PDD only if identified at the time of PDD approval.

5. Residential Lots Dimensions and Density Limitations

- a. In a PDD, the proposed lot area for all residential lots shall be no smaller than the lot sizes allowed in the base zoning district, except for minor changes in order to provide improved design.
- b. The gross density for the entire PDD (total dwelling units divided by total land area) shall not exceed that of any existing residential subdivision adjoining the PDD.
- c. Where a PDD adjoins an existing residence, buildings within the PDD shall not be more than the 14 feet taller than the adjoining residential lot that is not within the PDD.

C. CLUSTER DEVELOPMENT DISTRICTS (CDD)

1. Purpose

- a. A Cluster Development District (CDD) shall be used to preserve contiguous amounts of open space by aggregating residences and utilizing smaller building footprints and yard spaces, in order to preserve rural areas and open landscapes.
- b. CDDs shall be compatible with rural or agricultural lifestyles and activities. They shall not significantly impact the existing traffic patterns, viewshed or landscape of the areas in which they are located.

- c. CLs grant flexibility and incentives in site design and development patterns in exchange for permanent preservation of the ecological and topographical features of a site.

2. Applicability

- a. A Cluster Development (CDD) shall be planned as a single, contiguous project under unified control.
- b. Cluster Development is applicable in areas that have significant natural features worthy of preservation, or in areas designated as Estate Residential or Neighborhood Residential in the City's Master Plan.
- c. CDD zoning may assign any combination of the allowed underlying base zoning categories, provided they are consistent with the Master Plan of the City and are compatible with adjoining uses. The allowed base zoning categories are:
 - i. RMA
 - ii. RES
 - iii. R1-L
 - iv. R1-S
 - v. R1-MO
 - vi. R2-N
- d. The granting of CDD zoning shall not relieve the developer from complying with all other applicable sections of this Code, and other Codes and Ordinances of the City, unless such relief is specified in the approved Development Plan.
- e. Zoning of a property as a Cluster Development shall follow the procedure established in Chapter 2 Procedures.

3. CL as the Zoning Designation

- a. Cluster Development (CDD) shall replace the existing zoning for the property.
- b. The zoning designation for a Cluster Development property shall consist of the underlying base zoning categories with the prefix CL attached (example: CDD-R2).

4. Permitted Uses

- a. Cluster developments shall permit only those residential uses and accessory uses that are permitted for the assigned base zoning category.
- b. Cluster Developments shall provide at least 40% of total site area as permanently dedicated, unimproved open space.

5. Residential Lot Dimensions and Density Limitations

- a. Minimum lot size for a Cluster Development is 2,700 square feet.
- b. Gross density (total number of dwelling units divided by total acreage of the property) shall not exceed the maximum permitted dwelling units per acre of the underlying base zoning category, where maximum permitted dwelling units per acre equals:

$$43,560 \text{ sf} \div \text{minimum lot size (sf)}$$

3.9 OVERLAY DISTRICTS

A. OVERLAYS ESTABLISHED PRIOR TO THE EFFECTIVE DATE OF THIS UNIFIED DEVELOPMENT CODE

1. ENTRANCE CORRIDOR OVERLAY DISTRICT (EC)

a. Purpose.

The Entrance Corridors are the primary vehicular entrances to Boerne. The Entrance Corridor Overlay District establishes parameters for development of properties within the Entrance Corridor regarding site and architectural design, building materials, landscaping, lighting, and signage to promote the character of Boerne at vehicular entrances to the City.

b. Applicability.

The allowed uses, restriction on particular uses, and required lot dimensions are those of the underlying zoning district except that the required front setback, as provided herein, shall be designated for commercial development only, extending either side of the roadway segment, and including all property within three hundred and fifty feet (350') of either the State, City or County right-of-way line. Where the interstate highway is described, beginning measurement shall be from the adjacent property line of the paralleling access road as described and documented in the Kendall County Texas Department of Public Transportation (TXDOT) office records.

c. Plan Review.

Building Plans shall be reviewed by the City Manager or City Manager's designee and approved prior to the issuance of a building permit for new construction (or remodeling) in an Entrance Corridor Overlay District to evaluate the compatibility of the plans with the guidelines mentioned in this article. Such application shall be accompanied by the appropriate fee established by City Council.

i. Application for review packages shall include the following:

- (a) Letter requesting review.
- (b) Plot plan, floor plan, building elevation on all four sides, list of proposed building materials and a landscape and screening plan.
- (c) Two copies and digital file.

ii. Any additional supporting documents identified on the application checklist Factors to be considered:

- (a) The effect of the proposed structure upon the general historic, cultural and architectural character of the Entrance Corridor Overlay District or the City of Boerne.
- (b) The appropriateness of the exterior architectural features, which are visible from the corridors and adjacent area.
- (c) Harmony with adjacent buildings and structures in terms of scale, height and mass.
- (d) If it is determined that the structures will not have a negative impact on adjoining properties and the structures are not visible from the right-of-way because of topography, they may be exempt from the Entrance Corridor building standards.

d. Setbacks.

Setbacks contained herein should be measured from the Entrance Corridor and do not necessarily reflect the lot front setback. The setback shall be twenty-five feet (25') and shall be used only for the purpose of landscaping or screening and shall not be utilized for parking or internal circulation or drive purposes, except that a driveway may cut through for the purpose of reaching the area behind the setback. The driveway may cut through the setback no more than 30 feet (30') or paired driveways of no more than 20 feet (20') each if separated by a landscape median at least twelve feet (12') wide.

e. Parking.

In meeting the parking requirements of the City, the following design and location standards shall apply to on-site parking:

- i. To the greatest extent possible, on-site parking areas shall be designed to reduce the negative visual effects of vast paved areas and shall contain landscape planting islands and defined pedestrian walkways.
- ii. The location of the on-site parking surface areas shall be located to the side or rear of a building.
- iii. No more than 15% of the required parking spaces may be located between the principal building front building line and the front set back. Where a building footprint is 40,000 square feet or larger and more than 15% of the parking is located between the building line and the roadway, additional landscaping shall be required, in keeping with the landscape standards of Chapters 5 and 6.
- iv. Where practical, on-site parking areas shall be connected to adjacent parcels through a rear or side lot line access drive or private street. If the adjacent parcel is undeveloped or vacant, the access drive, private street, etc., shall be extended to the lot line for future connection to the adjacent parcel.

f. Landscaping.

- i. The required 25-foot (25') setback area from the designated roadway shall be landscaped and maintained with at least 80 percent (80%) live vegetative coverage excluding the area required for driveways, sidewalks, bicycle paths, and drainage features. The remainder may be impervious landscaping such as landscape rock, native rock walls, fountains, statuary, and signs in compliance with the City's Sign Ordinance currently in effect, and accent features compatible with the landscape theme and determined not to impact shade trees already growing on the site. No fencing is allowed within the 25-foot (25') landscaped buffer.
- ii. Ornamental trees or larger shall be provided (outside of any utility clear zone) every 20 - 40 feet (depending on size of tree). All vigorous, existing 4-inch caliper or larger shade trees that stand within the 25-foot (25') setback area shall be retained and protected as a landscape buffer, save and except trees that lie within the area of driveways, sidewalks, and drainage features. Preservation of significant understory vegetation (such as clusters of Possumhaw, Yaupon Holly, Mexican Buckeye, Evergreen Sumac and Texas Wild Plum) is encouraged.
- iii. Live screening shall be capable of providing a solid 36-inch screen (18-inch within easement areas) within two years, as determined by a registered landscape architect, certified nurseryman, or master gardener, and shall be planted in a prepared bed at least three feet (3') in width.
- iv. Lawn grass areas should be planted in drought tolerant species normally grown as permanent lawns, such as Bermuda, Zoysia, or Buffalo. Grass areas shall be solid sodded. Solid sod shall also be used in swales or other areas subject to erosion.

g. Drainage and Detention Facilities.

- i. Drainage facilities may be allowed within 25 feet (25') of the designated street right-of-way, provided they are non-structural drainage facilities designed and engineered

- to include substantial natural features and serve as an amenity to the site and the corridor.
- ii. Detention ponds may be located in the 25-foot (25') landscaped buffer if they are designed with a curvilinear contoured shape, are designed not to require fencing, are able to utilize vegetative slope stabilization with a slope not exceeding 3:1, and no structural retaining walls are used.
- h. Fences.
 - i. No fencing is allowed within the 25-foot (25') setback along a designated roadway.
 - ii. Any fencing behind the 25-foot (25') area visible from the public right-of-way shall be masonry, a combination of wood, tubular steel and masonry, decorative wrought iron or tubular steel, or alternative similar products approved by the City Manager and/or his designee.
 - iii. Any fencing behind the 25-foot (25') landscaped buffer in the remaining designated Entrance Corridors shall be buffered from the street view by planting 5-gallon evergreen shrubs and vines that will, at maturity, screen at least 30 percent (30%) of the view of the fence.
- i. Screening.
 - i. Parking Lot Screening.
 - (a) All parking must be screened from public rights-of-way using screening methods as described below.
 - (b) All parking lot screening will be maintained at least 36 inches (36") in height, and be achieved through one of the following methods:
 - (i) A berm
 - (ii) A planting screen (hedge)
 - (iii) A wall
 - (iv) A combination of any of the above along with trees
 - ii. Live screening shall be capable of providing a solid 36-inch screen within two years, as determined by a registered landscape architect, certified nurseryman, or master gardener, and shall be planted in a prepared bed at least three feet (3') in width.
 - iii. Screening shall be offset at least six feet every sixty linear feet (60').
- j. Nonconforming Structures.
 - i. Structures that were existing at the time the Entrance Corridor Overlay District was applied to the property shall be exempt from certain portions of the Ordinance so long as they remain in their present form, condition, and location.
 - ii. When remodeling the exterior or adding onto a nonconforming structure at a cost equal to or greater than fifty percent (50%) of value, the preexisting structure and addition shall be required to conform to the Combined Commercial Center Design Standards in Article 3, Section 09 of the Zoning Ordinance. All remodeling of the exterior or adding onto a preexisting or nonconforming structure of less than fifty percent (50%) of the value, as a minimum shall have the same level and standard of materials, architectural features, and styles as the existing structure.
 - iii. Any new structure constructed on a lot that is equal to or greater than seventy-five percent (75%) of the gross square footage of the preexisting or nonconforming structure, the new structure and the preexisting structure shall be required to conform to the Combined Commercial Center Design Standards in Article 3, Section 09 of the Zoning Ordinance. New structures less than seventy-five percent (75%) of the gross square footage of the preexisting or nonconforming structure as a minimum

- shall have the same level and standard of materials, architectural features, and styles as the existing structure.
 - iv. Screening requirements shall be followed on all preexisting or nonconforming lots when remodeling the exterior, adding onto, or adding a new structure.
 - v. Value for a preexisting structure is determined by the improvement value that is currently recorded with the Kendall County Appraisal District.
- k. Industrially Zoned Structures.
- i. Industrially zoned properties shall apply all the standards of the Entrance Corridor with the exception of materials for facades as stated below.
 - ii. Secondary façades attached to a primary façade (such as a side wall not facing a public street) shall wrap around the building by incorporating building materials and features of the primary façade for a minimum of 60% of the overall wall length measured from the primary façade.
 - iii. All facades shall include architectural elements such as accent banding, base plates, cornices, soffits, sills, parapets, transoms, and windows aligned horizontally. The horizontal alignment should differentiate stories in a building and create a base and crown.

2. COTTAGE HOUSING DEVELOPMENT OVERLAY DISTRICT (CHD)

a. Purpose

The purpose of the cottage housing development is to address the need for smaller, more diverse housing alternative to the typical detached, single-family house. Cottage housing units fit well into small neighborhoods within existing neighborhoods on vacant or underutilized land that can be used for infill and revitalization. The intent of cottage housing is to have minimal environmental impact by following low impact development standards to create a smaller carbon footprint and to promote more green space and open space with the preservation of trees. Cottages should be designed to minimize light and noise impacts both within developments and to adjacent properties. Cottage lots differ from multi-family because of the limited number of units, much smaller size and the community concept with shared open space, a community garden, and a recreational clubhouse. Residences are not attached.

Clusters of cottage housing developments are intended to create a small community of cottages oriented around open space that is pedestrian-oriented and minimizes the visibility of off-street parking. Each cottage development must be on at least a half-acre with no more than 10 units in a cluster. Clusters shall not be less than 1000 feet from each other to maintain the small community atmosphere.

b. Applicability.

The Cottage Housing Development is applicable to areas where infill and revitalization are desired, and specifically in Neighborhood Residential along neighborhood streets.

c. Required Lot and Building Dimensions.

| | |
|-----------------------------|--|
| MINIMUM CLUSTER AREA | One-half acre (1/2) and four cottages |
| MINIMUM LOT AREA | 2,500 sq. ft. |
| | Minimum 20% gross area of the development (this is in addition to the private area provided on each cottage lot, with the front yard setback exception listed below) |

| | |
|--|---|
| MINIMUM COMMON OUTDOOR SPACE (SHARED) | |
| MINIMUM FRONT SETBACK | 10' – if there is no front yard fence per the HOA documents, up to 50% of the front yard setback may be counted toward the common open space percentage and may provide location for easements and/or fire lane |
| MINIMUM REAR | 10' from any structure |
| MINIMUM SIDE | 10' total between structures – encroachment that creates articulation may occur, but the building envelope shall not increase, and a fire wall shall be required when any side yard setback is 5 feet or less. |
| MAX. BUILDING HEIGHT (PRINCIPAL) | 1 story with loft – 25 feet |
| MAXIMUM LIVABLE GROSS FLOOR AREA | 1000 sq. ft. |
| COVERED PORCH | A minimum 60 sf, minimum 6 ft. deep front porch |
| COVERED PARKING | Covered parking not to exceed 440 sf may be provided on each cottage lot |
| MAXIMUM FENCE HEIGHT | 4 ft. decorative fence for each cottage (optional) 6 ft. fence for the perimeter of the cottage development that abuts a residential property |
| PARKING SPACES PER COTTAGE | Minimum: 1.5 Maximum: 2.0 |

- d. Homeowners' association (HOA).
 - i. All maintenance of the shared grounds to include the perimeter fence, shared parking area and any community structures is the responsibility of the development's homeowners' association, or similar mechanism.
 - ii. The HOA has the option to provide a master irrigation meter for the common areas. If a master irrigation meter is used for irrigation and all other irrigated space including lawns on individual lots and the services to the Cottages are not used for irrigation, the number of Living Unit Equivalents per household for water would be reduced as is provided in the Impact Fee Ordinance.
 - iii. Documentation shall be provided at preliminary plat submittal.

- e. Open Space Design for Cottages.

All cottage units in a development shall be within 60 feet walking distance measured from the nearest entrance of the cottage along the shortest safe walking route to the nearest point of the common open space. Each cottage lot shall abut a common open space, making the common open space the focal point.

- i. Parking areas, yard setbacks (except as noted), alleys, and driveways do not qualify as common open space, but may be counted toward the perimeter buffer distance.
- ii. Community buildings, parking areas and common open space shall be owned and maintained commonly by the Cottage Housing Development residents, through a homeowners' association, or a similar mechanism, and shall not be dedicated to the municipality.

- iii. There shall be at least a 10' perimeter around the entire development to adjacent residential properties to provide a buffer.
- iv. A minimum 20% of the property should be dedicated as open space.

f. Site Screening.

Screening items such as dumpsters and the parking area shall be screened out of street view and shall not be permitted in the common open space.

g. Low Impact Development.

An extra cottage in each cluster may be permitted if low impact storm water development techniques that are approved by the City Manager are used in the development, in accordance with 8.2 Watershed Protection. If the LID is approved, then open space for the development as a whole may not be diminished by more than 5%.

h. Parking Requirements.

- i. On a site-specific basis, alternative parking shall be attractively landscaped to screen parking from adjacent properties, direct street view and be located outside of common open space. Clustered parking is preferable and shall meet applicable parking lot landscape standards.
- ii. Parking shall provide a minimum of 1.5 and maximum of 2.0 car parking spots per cottage unit.
- iii. Parking shall be setback at least 10 feet from street frontage.
- iv. Parking between structures is only allowed when it is located toward the rear of the principal structure and is served by an alley or private driveway.

i. Buildings

Cottage housing developments are subject to design approval by City Council. The materials used for the cottages must contribute to the hill country setting (e.g. brick, stone, masonry, stucco, cedar-look hardiplank). The planning department will review any deed restrictions and designs prior to City Council's review.

3. SOUTH BOERNE OVERLAY DISTRICT (SOBO)

a. Purpose.

The SoBo Overlay District encompasses a primary entrance into Boerne and contains unique street frontages, ecological features and economic opportunity. The SoBo Overlay District establishes parameters for development of properties including: site and architectural design, building materials, landscaping and lighting to promote the character of Boerne in this unique area of the City.

b. Applicability.

Except where explicitly noted the allowed uses, restriction on particular uses, and required lot dimensions are those of the underlying zoning district. The SoBo Overlay District is designated for commercial, mixed-use and residential development and includes all property as indicated on the Zoning Map and the SoBo Regulating Plan. The existing Entrance Corridor Overlay District shall also apply.

c. Plan Review

Building Plans shall be reviewed by the City Manager or designee and approved prior to the issuance of a building permit for new construction (or remodeling) in the SoBo Overlay District to evaluate the compatibility of the plans with the factors mentioned in this Section. Creative alternative design options may be approved by the Planning and Zoning Commission. Such application shall be accompanied by the appropriate fee established by City Council.

- i. Application for review packages shall include the following:
 - (a) Letter requesting review.
 - (b) Plot plan, floor plan, building elevation on all four sides, list of proposed building materials and a landscape and screening plan. (If a proposed development is being master planned a floor plan and building elevation on all four sides is not required for future phases)
 - (c) Two copies and digital file.
- ii. Factors to be considered:
 - (a) The effect of the proposed structure upon the general historic, cultural and architectural character of the SoBo Overlay District or the City of Boerne.
 - (b) The appropriateness of the exterior architectural features, which are visible from the corridors and adjacent area.
 - (c) Harmony with adjacent buildings and structures in terms of scale, height and mass.
- iii. Development Review Process:
 - (a) The uses and buildings on all properties within the SoBo Overlay District shall conform exclusively to this section unless specifically referenced as otherwise in this section:
 - (b) Where in conflict, numerical metrics shall take precedence over graphic metrics.
 - (c) The City Manager or designee may approve administrative modifications to standards in this section per the criteria below. A Plot plan shall be required for administrative review of proposed modifications.

| Administrative Modifications | | |
|--|--|--|
| Code Standard | Extent of Administrative Modification Permitted | Criteria |
| Building Form and Development Standards | | |
| Setbacks | No more than a 20% change in the maximum or minimum setback applicable or 5 feet whichever is greater. | <p>Changes to the build-to-zones and setbacks may only occur when they are caused by one or more of the following:</p> <ul style="list-style-type: none"> i. Need to accommodate existing buildings and structures on the lot that meet the overall intent and vision for redevelopment in the Overlay Area; or ii. Need to accommodate other required modes of transportation (transit, bike, pedestrian), storm water drainage, water quality, or low impact development (LID) elements on the site; or iii. Need to accommodate overhead or underground utilities and/or easements; or iv. Need to preserve existing trees on the property, per Article 4. This modification is not mandatory for tree preservation, but for the allowance for preservation; or v. Need to provide public amenities along the sidewalk (outdoor dining/seating, street furniture, larger sidewalk, or other similar public amenities). |
| Required Parking Spaces | Reduction in the number of required parking spaces | <p>Reduction in the number of parking spaces shall be based on one or more of the following:</p> <ul style="list-style-type: none"> i. Need to accommodate existing buildings and structures on the lot that meet the overall intent and vision for redevelopment in the Overlay Area; or ii. A parking study for the uses proposed on the site; or iii. A combination of the above |
| Character Zone/ Circulation | Change in size of Character Zone | The Character Zones as shown on the Regulating Plan are suggested character allocations based on planning analysis but an alternate Character Zone may be applied to as long as general adherence to circulation is maintained as indicated on the Regulating Plan. |

| Table 1: Administrative Modifications Table (Continued) | | |
|--|--|--|
| Code Standard | Extent of Administrative Modification Permitted | Criteria |
| Other | | |
| Any other numerical standard in this section | A modification up to 10% (increase or decrease) | <ul style="list-style-type: none"> i. A modification of a numerical standard is needed to accommodate existing conditions. ii. The proposed development still meets the intent of the section. |
| Phased Developments | Deferment of building frontage standards | <ul style="list-style-type: none"> i. Phased developments may defer building frontage requirements as long as they meet the building setback and parking setback requirements |

d. Components of this Overlay

- i. Regulating Plan: The SoBo Overlay District Regulating Plan, herein known as the Regulating Plan, (Attachment D) is hereby adopted as the recommended character map for the overlay area. It establishes the character standards for all properties within the overlay area.
 - (a) Establishment of Character Zones. The overlay area is distinguished into different “Character Zones”. Each Character Zone is intended to create a distinct building form based on the illustrative vision for the SoBo area. Each Character Zone establishes recommended use and required building form standards including standards for building height, width, location, functional design, and parking. The Regulating Plan classifies all lots within the overlay area into one of the following three (3) Character Zones:
 - (i) Hybrid Commercial Character Zone (HC-CZ): The Hybrid Commercial Character Zone provides for a range of primarily commercial uses with auto-oriented development that can take advantage of the highway frontage in a quality manner that retains some walkable elements, supporting multimodal traffic, linking regional destinations and promoting economic development. Development standards will emphasize shared parking, cross-access driveways, creek interface, landscaping and appropriate transitions.
 - (ii) ii. Mixed Use Character Zone (MU-CZ): The Mixed Use Character Zone provides for small to mid-scale commercial (retail, restaurant, office) uses, mid-scale mixed use buildings and Multi Dwelling Structures that leverages Main Street and Herff Road as commercial streets that connect to internal Complete Streets supporting multimodal users, and promoting economic development. Development standards will emphasize shared parking, cross-access driveways, creek interface, landscaping and appropriate transitions.
 - (iii) iii. Neighborhood Character Zone (N-CZ): The Neighborhood Character Zone provides for a range of mid to small scale residential (Detached Dwelling, Duplex Dwelling, Attached Dwelling, Multi-Dwelling Structure, Accessory Dwelling, Garden Homes, Cottage Housing Development, and Multi Unit Homes) to develop a low intensity of residential to support diversity of uses and residential types. Development standards will emphasize compatibility and appropriate transitions.

- (iv) Establishment of Circulation. The Regulating Plan will indicate Primary and Secondary circulation routes and intersections that will provide a flexible configuration for circulation, intersections and block sizes in the overlay area. The circulation alignment as shown on the Regulating Plan are flexible and can be shifted in response to topography, natural features, and tree stands, while maintaining the required intersections and made be adjusted by administrative approval. The number and general location of intersections shall not change, and the general location and connectivity of the circulation shall not change. A plot plan shall indicate adherence to minimum circulation requirements. Trail connectivity as depicted on the Regulating Plan shall be generally adhered to and built to typical city standards for a multiuse trail. Primary and Secondary streets also indicate location of Primary and Secondary frontages in the Building Frontage and Orientation section of the Combined Commercial Design Standards in Article 3, Section 09 of the Zoning Ordinance if in a Hybrid Commercial Character Zone and conform to the Commercial Center Design standards in Article 3, Section 08 of the Zoning Ordinance if in a Mixed Use or Neighborhood Character Zone will apply to lots. Streets and intersections can be added beyond the minimum circulation depicted on the Regulating Plan in accordance to existing regulations.
- ii. Development Standards: The SoBo Overlay District text portion of this section enumerates the development standards with text and graphics for character zones, frontage, building form, landscape and building design.
- e. Uses

Any uses allowed for the base zoning shall stand. In addition, the following uses are permitted in the Neighborhood Character Zone: Duplex Dwelling, Attached Dwelling, Multi-Dwelling Structure, Accessory Dwelling, Garden Homes, Cottage Housing Development, Live-work unit, and Multi Unit Home.
- f. Nonconforming Structures
 - i. Structures that were existing at the time the SoBo Overlay District was applied to the property shall be exempt from certain portions of the Ordinance so long as they remain in their present form, condition, and location.
 - ii. When remodeling the exterior or adding onto a nonconforming structure at a cost equal to or greater than fifty percent (50%) of value, the preexisting structure and addition shall be required to conform to the design standards of this Code.
 - iii. Screening shall be followed on all preexisting or nonconforming lots when remodeling the exterior, adding onto, or adding a new structure.
 - iv. Value for a preexisting structure is determined by the improvement value that is currently recorded with the Kendall County Appraisal District.
- g. Building Form and Site Development Standards
 - i. Hybrid Commercial Character Zone (HC-CZ):
 - (a) Base Zoning of C-4 Regional Commercial shall apply.
 - (b) Design Standards are subject to the requirements of this Code
 - ii. Mixed Use Character Zone (MU-CZ):
 - (a) Base Zoning of C-3 Community Commercial shall apply with the following exceptions:

- (i) Minimum Lot Area: 1,200 square feet
- (i) Minimum Lot Width: 20 feet
- (ii) Minimum Front Yard: 0- 15 feet
- (iii) Maximum Building Height: 50 feet

(b) Design Standards are subject to the requirements of this Code.

iii. Neighborhood Character Zone (N-CZ):

(a) Base Zoning of C-2 Transitional Commercial shall apply with the following exceptions:

- (i) Minimum Lot Area: 1,200 square feet
- (i) Minimum Lot Width: 20 feet
- (ii) Minimum Front Yard: 0- 15 feet

(b) Design Standards are subject to the standards of Chapter 4: Residential Design

(c) Design of Automobile Related Building and Site Elements

- (i) Where permitted drive-through lanes, auto service bays, and gas station canopies for commercial uses shall not be located fronting Main Street, Herff Road, Old San Antonio Road and Christus Parkway. Drive-through lanes may be permitted along all other streets, service drives or alleys. Drive-through lanes, auto service bays, and gas station canopies shall be hidden behind a 3' to 5' high Street Screen along all streets.
- (ii) No more than 60% of a lot's frontage along a street may be dedicated to drive through lanes, canopies, service bays, and other auto-related site elements. There shall be no such limitation along service drives or alleys.
- (iii) Any automobile related retail sales or service use of a site or property shall have a primary building entrance along its frontage.
- (iv) Drive through access may be from a street only if the lot has no access to any service drive or Alley frontage.
- (v) All off-street loading, unloading, or trash pick-up areas shall be screened using a Street Screen that is at least as tall as the trash containers and/or service equipment. The Street Screen shall be made up of (i) a living screen or (iii) a combination living screen and primary building material screen.

(d) Design of Parking Structures

- (i) To the extent possible, the amount of street frontage devoted to a parking structure shall be minimized by placing the shortest dimension(s) of the parking structure along the street edge(s).
- (i) Where above ground structured parking is located at the perimeter of a building with street frontage, it shall be screened in such a way that cars on all parking levels are appropriately screened from view. Architectural screens shall be used to articulate the façade, hide parked vehicles, and shield lighting. Parking garage ramps shall not be visible from any primary street.
- (ii) Ground floor façade treatment should be continued to the second floor of a parking structure along all streets (see illustrations below).
- (iii) When parking structures are located at street intersections, corner emphasizing elements should be incorporated.

- (iv) Parking structures and adjacent sidewalks shall be designed so pedestrians and bicyclists are clearly visible (through sight distance clearance, signage, and other warning signs) to entering and exiting automobiles

(e) Street Design

New Streets in the SoBo Overlay Area shall be built according to the standards of this Code.

- (i) Streets should not only be designed to get people someplace but also be designed to be “someplace,” balancing the needs of multiple users of the public rights-of-way. The streetscape is the “destination” in the neighborhood center.
- (i) Minimize the width and number of travel lanes so that vehicle design speeds are compatible with pedestrian travel.
- (ii) Maximize the use of on-street parking on all streets. On-street parking calms traffic, buffers pedestrians from moving vehicles, gives retail uses many “priority” front-door parking spaces, and allows for more efficient development of building sites.
- (iii) Use expanded landscape and pedestrian amenity areas to transition from the on-street parking to the pedestrian areas. Amenities such as landscape beds, tree wells, benches or other street furniture should be regularly spaced in a 4 to 6-foot wide area immediately adjacent to the street edge.
- (iv) Maintain significant pedestrian areas – typically at least 6 to 10 feet in addition the landscape and pedestrian amenity areas.
- (v) On wide sidewalks where significant areas for through pedestrian traffic remain, areas may be used for street activities related to uses in the buildings, such as sidewalk sales, outside dining or seating areas, and kiosks.
- (vi) Street trees should be densely located to provide shade for pedestrians yet achieve canopy heights and crown heights that maintain visibility of adjacent buildings and the street level uses.
- (vii) Alternatively, arcades may extend over the entire sidewalk areas
- (viii) Frequent connections to adjacent neighborhoods should provide multiple alternative routes between the neighborhood and the center.
- (ix) Curb cuts should be limited in width, frequency, and location. Vehicular access to sites should not occur on any primary street but be located on secondary streets or alleys. Access points should be combined and shared within blocks. Curb-cuts should always be designed to emphasize the priority of pedestrian movements along the streetscape, maintaining the grade and surface material of the sidewalk across all alley or driveway access points to the interior of the block.
- (x) Intersections should appropriately balance vehicle turning movements and pedestrian movements. Techniques to slow turning movements and decrease pedestrian crossing distances, such as bump-outs or curb-projections, smaller curb radii, and pedestrian refuge items should be incorporated into the streetscape.

h. Mixed-Use Character Zone

- i. Parking requirement shall adhere to city standards except in the Mixed-Use character zone, all nonresidential uses are required a minimum of one space per 300 square feet.

ii. On-street parking within 300 feet of a building shall be counted towards the parking requirement.

i. Stream Setback

Any development near a Stream shall conform to the Water Supply Protection Zone requirements of the City.

j. Tree Preservation

Any modification of trees shall conform to the tree preservation requirements of the City.

4. NORTH HERFF ROAD OVERLAY DISTRICT (NH)

a. Purpose.

The North Herff Road Overlay District establishes parameters for development of properties in this unique area of Boerne with regard to site and architectural design, building materials, landscaping, lighting, and signage to promote the character of Boerne. Except for the items specifically identified in this Section, the Combined Commercial Design Standards shall apply to all lots located in the North Herff Road Overlay District.

b. Applicability.

The allowed uses, restriction on particular uses, and required lot dimensions are those of the underlying zoning district except for the required front setback as provided in Section D. The North Herff Road Overlay District is designated for development of all property on either side of Herff Road from Old San Antonio Road/Frey Street to River Road/Hwy 46 East.

c. Plan Review.

Building Plans shall be reviewed by the City Manager or City Manager's designee and approved prior to the issuance of a building permit for new construction to evaluate the compatibility of the plans with the guidelines mentioned in this section utilizing the factors mentioned in Section 2. Creative alternative options may be approved by the Planning and Zoning Commission if the intent of each section is met. Such application shall be accompanied by the appropriate fee established by City Council.

i. Application for review packages shall include the following:

- (a) Letter requesting review.
- (b) Plot plan, floor plan, building elevation on all four sides, list of proposed building materials and a landscape and screening plan.
- (c) Two copies and digital file.

ii. Factors to be considered:

- (a) The effect of the proposed structure upon the general historic, cultural and architectural character of the North Herff Road Overlay District or the City of Boerne.
- (b) The appropriateness of the exterior architectural features, which are visible from the corridors and adjacent area.
- (c) Harmony with adjacent buildings and structures in terms of scale, height and mass.

- (d) If it is determined that the structures will not have a negative impact on adjoining properties and the structures are not visible from the right-of-way because of topography, they may be exempt from the Entrance Corridor building standards.

d. Setbacks

Typical lot setbacks are determined by the zoning designation. The North Herff Road Overlay District also provides a landscape setback. The landscape setbacks contained herein should be measured from Herff Road and do not necessarily reflect the lot front setback. A landscape setback shall be ten feet (10') measured from the right-of-way and outside of any easement. It shall be used only for the purpose of landscaping or screening and shall not be utilized for parking or internal circulation or drive purposes, except that a driveway may cut through for the purpose of reaching the area behind the setback.

e. Maximum Building Heights

The North Herff Road Overlay District heights of structures shall not exceed two-stories, 30 feet. The Planning and Zoning Commission may grant a waiver to height restrictions based on the surrounding environment and appropriate location.

f. Parking.

In meeting the City's parking requirements, the following design and location standards shall apply to on-site parking:

- i. To the greatest extent possible, on-site parking areas shall be designed to reduce the negative visual effects of vast paved areas and shall contain landscape planting islands and defined pedestrian walkways.
- ii. The location of the on-site parking surface areas shall be located to the side or rear of a building.
- iii. No more than 15% of the required parking spaces may be located between the principal building front building line and the front set back.
- iv. Where practical, on-site parking areas shall be connected to adjacent parcels through a rear or side lot line access drive or private street. If the adjacent parcel is undeveloped or vacant, the access drive, private street, etc., shall be extended to the lot line for future connection to the adjacent parcel.

g. Landscaping.

- i. The required 10-foot (10') setback area from Herff Road shall be landscaped and maintained with at least 80 percent (80%) live vegetative coverage excluding the area required for driveways, sidewalks, bicycle paths, and drainage features. The remainder may be impervious landscaping such as native plants, landscape rock, native rock walls, fountains, statuary, and signs in compliance with the City's Sign Ordinance currently in effect, and accent features compatible with the landscape theme and determined not to impact shade trees already growing on the site. No fencing is allowed within the 25-foot (25') landscaped buffer.
- ii. Ornamental trees or larger shall be provided (outside of any utility clear zone) every 20 - 40 feet (depending on size of tree). All vigorous, existing 4-inch caliper or larger shade trees that stand within the 10-foot (10') setback area shall be retained and protected as a landscape buffer, save and except trees that lie within the area of driveways, sidewalks, and drainage features. Preservation of significant understory vegetation (such as clusters of Possumhaw, Yaupon Holly, Mexican Buckeye, Evergreen Sumac, and Texas Wild Plum) is encouraged.

- iii. Live screening shall be planted providing a solid 36-inch screen as determined by a registered landscape architect, certified nurseryman, or master gardener, and shall be planted in a prepared bed at least three feet (3') in width.
- iv. Lawn grass areas should be planted in drought tolerant species normally grown as permanent lawns, such as Bermuda, Zoysia, or Buffalo. Grass areas shall be solid sodded. Solid sod shall also be used in swales or other areas subject to erosion.

h. Drainage and Detention Facilities.

- i. Drainage facilities may be allowed within 10 feet (10') of Herff Road, provided they are nonstructural drainage facilities designed and engineered to include substantial natural features and serve as an amenity to the site and the Overlay District.
- ii. Detention ponds may be located in the 10 foot (10') landscaped buffer if they are designed with a curvilinear contoured shape, are designed not to require fencing, are able to utilize vegetative slope stabilization with a slope not exceeding 3:1, and no structural retaining walls are used.

i. Fences.

- i. Any screening fence within the 10 foot (10') landscape area shall be masonry, a combination of wood, tubular steel and masonry, decorative wrought iron or tubular steel, or alternative similar products as approved by the City Manager and/or the City Manager's designee.
- ii. Residential development shall screen the perimeter of the residential area along Herff Road with a six-foot (6') fence constructed of solid masonry or other material approved by the Planning and Zoning Commission and provide landscape screening in front of the fence.

j. Nonconforming Structures.

- i. Structures that were existing at the time the North Herff Road Overlay District was applied to the property shall be exempt from certain portions of the Ordinance so long as they remain in their present form, condition, and location.
- ii. When remodeling the exterior or adding onto a nonconforming structure at a cost equal to or greater than fifty percent (50%) of value, the preexisting structure and addition shall be required to conform to the standards of this Code.
- iii. All remodeling of the exterior or adding onto a preexisting or nonconforming structure of less than fifty percent (50%) of the value, as a minimum shall have the same level and standard of materials, architectural features, and styles as the existing structure.
- iv. Any new structure constructed on a lot that is equal to or greater than seventy-five percent (75%) of the gross square footage of the preexisting or nonconforming structure, the new structure and the preexisting structure shall be required to conform to the standards of this Code.
- v. New structures less than seventy-five percent (75%) of the gross square footage of the preexisting or nonconforming structure as a minimum shall have the same level and standard of materials, architectural features, and styles as the existing structure.
- vi. Value for a preexisting structure is determined by the improvement value that is currently recorded with the Kendall County Appraisal District.

5. NEIGHBORHOOD CHARACTER OVERLAY DISTRICT (NCO)

a. Purpose

The regulations are designed to provide a framework under which further and more specific neighborhood planning can be conducted, and subsequently standards can be developed to preserve any identified character of specific neighborhood planning areas.

These districts are intended for areas of the City that require special consideration based on well-established neighborhood characteristics that have broad public benefits in the context of the Master Plan.

b. Applicability

These districts are composed of neighborhoods with any residential zoning district as the base district, except for R-4.

c. An application for the NCO district must be accompanied by a specific area plan or other comprehensive assessment of the proposed boundaries identifying key characteristics, as well as standards or guidelines which will supplement or replace the standards of the base zoning district.

d. Size and Extent of District

An NCO shall be at least 10 acres or two city blocks. The boundaries of the district shall be drawn so that all property sharing similar characteristics, or which are desired to develop and preserve similar characteristics, are included within the boundaries. A proposed NCO district may include sub-districts where different standards or guidelines are warranted based upon the specific area plan or comprehensive assessment. The City Council may approve NCO districts less than 10 acres where they are added to an existing NCO or where special circumstances exist where the proposed district shares no similar characteristics with surrounding property.

B. OVERLAYS ESTABLISHED ON OR AFTER THE EFFECTIVE DATE OF THIS UNIFIED DEVELOPMENT CODE

{RESERVED}

Chapter 4 Residential Sites

DRAFT

4.1 GENERALLY

A. SHORT TITLE

This Chapter shall be known and may be cited as the "Residential Site Design Standards of the Boerne Unified Development Code," or "Residential Site Design Standard." Herein it may be cited as the Chapter.

B. PURPOSE

The Residential Site Design Standards:

1. establish the requirements for residential development in the City of Boerne;
2. promote the health, safety and general welfare of the community; and
3. ensure that future use and development of residential properties are in accordance with the Master Plan of the City

C. TERRITORIAL LIMITS OF REGULATIONS

The territorial application of this ordinance shall include all land located within the corporate limits of the City, as from time to time extended.

D. APPLICABILITY

Upon execution of this Chapter, any private property zoned for residential use within the corporate limits of the City shall be required to comply with this Chapter.

4.2 RESIDENTIAL BUILDINGS

A. RESIDENTIAL FAÇADE DESIGN

1. All elevations visible from public streets shall have exterior detailing, such as recesses, pop-outs, accent materials or corbels.
2. Second story or above shall not exceed the garage front setback.
3. No more than 36 inches of foundation may be exposed on any elevation. For foundations with a required height of more than 36 inches, a masonry drop lug or elevation of earthen landscaping may be used to screen the additional foundation.

B. RESIDENTIAL ROOF DESIGN

1. Residential roofs shall be gambrel, gable or hip roofs.
2. Shed or flat roofs may be used for porches or other wings to the main roof form, provided that shed or flat roofs do not exceed more than 20% of the total roof area of the structure.

C. ENCROACHMENTS INTO REQUIRED YARD SPACE

1. The following may encroach the rear yard setback, provided that there remains a separation of at least 10 feet between encroaching feature and the rear lot line:
 - a. Deck
 - b. Patio
 - c. Awning
 - d. Pergola
2. For any floor above the first floor, the following may encroach the front yard setback space, provided the encroaching feature extends no more than 4 feet from the front building line, and does not extend beyond the property boundary:
 - a. Balconies

b. Awnings

4.3 RESIDENTIAL DRIVEWAYS AND PARKING AREAS

A. GENERALLY

1. It shall be a violation of this ordinance to park a passenger vehicle in any front or side yard that is not paved.
2. Any paved area used for parking shall be attached to the driveway as a parking pad. No more than 50% of the required front yard may be covered with a parking pad and or driveway.
3. Single-family detached residences and duplex residences shall have a driveway or paved surface which can accommodate a minimum of 2 parking spaces per dwelling unit, with minimum parking space dimensions of 9 ft x 20 ft. This is in addition to any garage parking.
4. When calculating required parking space for a lot, the minimum required parking area shall not extend into any sidewalk space or street right of way space.
5. Driveways and parking pads shall not count toward the open space requirements for residential lots.
6. Curb cuts shall not exceed 18 feet in width, and lots are limited to no more than two curb cuts. Residential lots with a width at street frontage of less than 84 feet shall have only one curb cut.
7. Paving of the area between the lot line and the road shall be concrete.

B. DRIVING AND PARKING ON UNSURFACED AREAS

1. Driveway and parking areas for a detached or attached dwelling shall be paved, in the area within the lot up to the lot line.
2. Approved paving material includes gravel, crushed stone, concrete, asphalt or another durable and all-weather material acceptable to the City.

C. SINGLE FAMILY NEIGHBORHOOD DESIGN

1. Provide elbow, circular or angled driveways for 25% of the lots, or
2. Provide varying driveway locations and/or orientations to break up patterns and rhythms.

D. COTTAGE RESIDENCES

1. Cottage Residences shall conform to the City's multi-family parking requirements.

E. EXCEPTIONS

1. Single Family Attached Residences
 - a. Driveways or paved surfaces of single family attached dwellings shall require a driveway that can accommodate one parking space with dimensions of 9 ft x 20 ft, in addition to any garage parking.
2. Agricultural and Rural Residential properties
 - a. Agricultural and Rural Residential properties shall not be required to pave driveways.
 - b. Parking of vehicles, equipment or machinery is not allowed on unpaved surfaces within the minimum front yard setback space of the lot, except for temporary activities not lasting more than 24 hours.
3. Large Lot Residential Properties
 - a. For Large Lot Residential properties, parking is not allowed on unpaved surfaces on the lot
4. There is no minimum parking space required for Bungalow Courts.

F. RECREATIONAL AND HEAVY WEIGHT VEHICLE PARKING

1. Recreational and heavy weight vehicle parking requirements are applicable for vehicles exceeding one and one-half ton capacity, including RVs, boats, commercial trucks, truck trailers and vans.
2. Recreational vehicle parking is permitted on residential properties for the following zoning categories, provided the conditions of this section are met:
 - a. Agriculture and Rural Residential
 - b. Large Lot Residential
 - c. Manor Residential
 - d. Estate Residential
 - e. Low Density Residential
3. For properties that are not classified as one of the above zoning categories, no residential parking space, garage or carport or other automobile storage space or structure shall be used for the parking or storage of any commercial truck, truck trailer, commercial van, recreational vehicle, or boat exceeding one and one-half ton capacity.
4. For properties where recreational and heavy weight vehicle parking is permitted, the recreational vehicle may be parked or stored on the residential premises, provided it is:
 - a. Parked on a permanently paved surface when parked in the side yards;
 - b. Not parked beside another accessory structure in the required side yards;
 - c. Not parked within three feet of the rear or side property lines when parked in the rear of a structure;
 - d. Not used for sleeping quarters for more than seven days or nights within any six-month period;
 - e. For corner lots, the RV may not be parked within 15 feet of the property line corner formed by the intersecting street; and
 - f. Not parked over the front property line or in the right-of-way, except as allowed as Recreational Vehicle Parking on City Streets, as follows.
5. Recreational Vehicle Parking on City Streets

Parking of recreational vehicles and trailers is permitted on city streets, alleys and public rights-of-way in residential neighborhoods provided the following restrictions:

- a. The recreational vehicle or trailer is parked on city streets, alleys and public rights-of-way for no longer than 24 hours.
- b. There is adequate space for large vehicle parking.
- c. The free flow of traffic is unobstructed.
- d. Parking is not otherwise prohibited.

4.4 RESIDENTIAL FENCES AND WALLS

A. CONFORMITY WITH THE BUILDING REGULATIONS REQUIRED

All fences and walls for all development and property in the City of Boerne shall comply with the building regulations of the City.

B. HEIGHT LIMIT

1. Front Yard

No fence or wall, other than the wall of a permitted structure, shall exceed a height of 4 feet in the front yard space, and no fence or wall shall obscure vision above a height of 3 feet.

2. Side or Rear Yard

No fence or wall, other than the wall of a permitted structure, shall be erected or altered in any side or rear yard to exceed a height of 6 feet unless:

- a. a higher fence for screening or security purposes is required by the City;
- b. the fence abuts a collector or higher-order street;
- c. the ground-floor elevation of the principal dwelling on an abutting lot is at least 4 feet higher than the elevation at the abutting lot line; or
- d. the fence is a sound wall or fence required by the State Department of Transportation. In this case the additional fence height may be permitted by the City by receiving a special use permit (SUP).

C. INTERSECTION VISIBILITY

On any corner lot on which a front yard is required by this ordinance, no wall, fence or other structure shall be erected, and no hedge, shrub, tree or other growth shall be maintained within the triangular area formed by the intersecting street lines and a straight line connecting such street lines at points 25 feet from the point of intersection measured along such street lines.

D. MATERIALS

1. A fence shall be constructed of permanent material, and shall consist of:
 - a. Brick masonry, stone masonry, or other architectural masonry finish;
 - b. Tubular steel (primed and painted) or wrought iron fence with structural supports spaced every ten feet, and with sufficient evergreen landscaping to create a screening effect;
 - c. Rock or concrete block;
 - d. Wooden privacy fence;
 - e. Living plant screen, upon approval by the City; or
 - f. Alternate equivalent screening, upon approval by the City
2. The following materials shall not be used for fencing:
 - a. Cast-off, secondhand, or other items not originally intended to be used for constructing or maintaining a fence;
 - b. Plywood less than 5/8 inches thick, particle board, paper, plastic tarp, or similar material; and
 - c. Barbed wire, razor wire, and other similar fencing materials capable of inflicting significant physical injury.

E. ARTICULATION

1. No fence, wall or portion thereof that fronts the paved surface of a street shall exceed 100 horizontal feet in length unless columns or pillars of brick, stone or masonry are incorporated as architectural features of the fence.
2. Articulation requirements of this chapter do not apply to a fence or wall constructed of brick, stone, masonry, or iron fencing that consists of at least 50 percent open voids.

4.5 RESIDENTIAL GARAGES AND ACCESSORY STRUCTURES

A. GENERALLY

1. Garages with more than two bays or with garage doors exceeding sixteen (16) feet in width shall separate the stalls with an offset of at least two feet, such that no more than two stalls are in the same vertical plane.
2. Side entry garages which are not on corner lots, but rather on lots with only one street frontage, shall be set back from the side property line by at least twenty-five (25) feet, as measured from the door face of the garage to the side property line.
3. All single-family residences and duplex residences shall include a garage.

B. FRONT FACING GARAGES

1. Front facing garage façades shall not visually or architecturally dominate the front façade elevation of the primary building. The living space shall be the dominant element of the front façade, and the roof accent gabling over the living space shall be visually dominant over that of the garage;
2. Front facing garages must contain at least two of the following:
 - a. Single carriage house garage doors with windows;
 - b. Garage doors that include windows and are painted to match the main or accent color of the dwelling;
 - c. Ornamental light fixtures flanking the doors;
 - d. Arbor or trellis;
 - e. Columns flanking doors and/or an eyebrow overhand;
 - f. Portico;
 - g. Dormers;
 - h. Twelve-inch overhangs over garage doors;
 - i. Eaves with exposed rafters with a minimum six-inch projection from the front plane;
 - j. A vertical element such as a tower, placed over the primary pedestrian entrance; or
 - k. Roof line changes.
3. Front facing garages protruding up to four feet from the front plane shall have garage doors with windows and shall include a porch or covered landing that extends a minimum of six feet from the plane of the living space.
4. In no case shall a street facing garage protrude more than ten feet from the plane of the living space.
5. In no case shall front facing garage doors comprise more than fifty (50) percent of the primary façade.
6. Front facing garage doors that comprise from forty (40) percent to fifty (50) percent of the primary façade shall be recessed from the primary façade by at least four feet.
7. Front facing garage doors that are flush with the primary façade or that protrude up to four feet from the front façade shall comprise no more than forty (40) percent of the primary façade.
8. Front facing garage doors protruding four to eight feet from the front façade shall comprise no more than thirty (30) percent of the primary façade.

C. SIDE AND REAR FACING GARAGES

1. Side entry garages shall be provided for all corner lots, except for the following zoning categories, which do not require side entry garages:
 - a. Agriculture and Rural Residential
 - b. Large Lot Residential
 - c. Manor Residential

4.6 RESIDENTIAL LANDSCAPING

A. CONFORMITY WITH NUISANCE REGULATIONS REQUIRED

Landscaping of all development and property in the City shall comply with The City's nuisance regulations.

B. CONFORMITY WITH TREE PRESERVATION STANDARDS REQUIRED

Landscaping for all development and property in the City shall be in accordance with the City's tree preservation requirements.

C. MEASUREMENTS

1. For all nursery stock, diameter or tree caliper measurements shall be taken 6 inches above ground level which should be at or near the top of the root flare, up to and including the four inch caliper size interval (i.e., from four inches up to, but not including 4.5 inches). If the caliper measured at six inches is greater than 4.5 inches the caliper shall be measured at 12 inches above ground level, soil line, or root flare, as appropriate. Caliper measurements should be taken 6 inches above the average grade level for multi-trunk trees.
2. Height shall be measured from the average grade level of the immediate planting area to the top horizontal plane of the shrub or tree at planting.

D. GENERAL TREE PLANTING REQUIREMENTS

1. No tree shall be planted within four feet of a right-of-way line or curb.
2. No tree shall be planted within four feet of a public utility line (water or sewer), unless it is of a species on the Approved Right of Way Plant List in the Appendix.
3. A landscape area in which trees are to be provided shall not conflict with a utility easement.
4. No tree that has a mature height of 25 feet or greater shall be planted beneath an existing or proposed overhead utility line.
5. Where canopy trees are required adjacent to or underneath overhead utility lines, ornamental trees (a minimum of two inches in caliper as measured six inches above the ground) shall be provided instead of the required canopy trees.
6. Where landscape plans are required for new development of a lot, the landscape area shall be prepared so as to achieve a soil depth of at least six inches. The six-inch soil depth should consist of 75% soil blended with 25% compost.
7. Four inches of organic mulch material shall cover the planting area.
8. Earthen berms shall have side slopes not to exceed 3:1 (three feet of horizontal distance for each one foot of height). All berms shall contain necessary drainage provisions, as required by the City Engineer.

E. NUMBER OF TREES REQUIRED ON A LOT

1. For lots over 45' at the front setback, front yard landscaping shall consist of at least two 2-inch caliper shade trees, five shrubs and turf or ground cover.
2. For lots 45' or less at the front setback, front yard landscaping shall consist of at least one 2-inch caliper shade tree, five shrubs and turf or ground cover.
3. Xeriscaping is permitted on any lot. The xeriscape area shall consist of one 2-inch caliper ornamental/shade tree and a combination of drought tolerant plants that incorporate dimension into the palette and do not require irrigation. The ground cover shall be rock sized at least 3/4-inch, and edging shall be provided of sufficient size to protect against run-off of the ground material.
4. A combination of xeriscaping and typical landscaping is permitted. At a minimum there shall be one 2-inch caliper ornamental/shade tree shall be planted in the front yard space of a lot. Depending on the percentage of xeriscaping in the front yard, the remaining area shall provide typical landscaping as stated above in an amount relative to the percentage of remaining yard. The ground cover shall be provided of sufficient size to protect against run-off of the ground material.

F. PLANT MATERIALS

1. Neither a property nor a homeowner's association shall restrict or prohibit landscaping materials that promote water conservation.
2. Existing trees on the site of the proposed development may be used to achieve the landscaping requirements of this section.
3. No artificial plant materials shall be used to satisfy the requirements of this section.
4. Plant materials required by this section shall comply with the minimum size requirements of the City at time of installation.
5. Planting areas shall consist of pervious surface areas only. The pervious surface areas for shrubs may be included within pervious surface areas required for trees.

6. Pervious, non-living groundcover may be used in up to 50% of any one particular, enclosed landscaped area.
7. Developers and homebuilders are encouraged to use xeriscape plant materials on model homes to promote the use of water-wise landscaping.

G. MAINTENANCE

1. Required plants shall be maintained in a healthy condition at all times.
2. The property owner shall provide weeding, mowing of grass, irrigation, fertilization, prevention of pests, pruning, and other maintenance of all plantings on the property.
3. Vegetation shall not obstruct the view between the street and the access drives near the entries and exits. The landscaping shall comply with the intersection visibility requirements of the City at all times.
4. Turfgrass fertilization shall not exceed two pounds of nitrogen per 1,000 square feet of turfgrass per year.

4.7 RESIDENTIAL SCREENING

All mechanical, heating and air conditioning equipment shall be screened from view from the public right-of-way and from adjacent residential property.

4.8 ON-SITE RESIDENTIAL AMENITIES

A. MAXIMUM IMPERVIOUS COVERAGE BY AMENITIES

1. Amenities on a residential lot shall not increase the impervious coverage of the lot by more than 10 % of the total lot area.
2. Amenities contributing to the impervious coverage of a lot include:
 - a. Swimming pools and hot tubs
 - b. Lined or impervious water features, such as fountains and decorative garden ponds
 - c. Patios and concrete slabs other than the foundation of approved primary and accessory buildings
 - d. Sports courts, such as basketball and tennis courts

B. SWIMMING POOLS AND HOT TUBS

1. Swimming pools and hot tubs (including all decking and equipment) shall be located behind the predominant front building line of the primary structure, and at least three feet from any property line.
2. Any swimming pool water edge shall be a minimum of five feet from any primary or accessory structure.
3. All pools must be completely enclosed by a fence or wall no less than six feet in height with self-latching and self-closing gates. The latching device shall be located on the pool side a minimum of four and one-half feet from the ground. Automatic electric gates may be used, provided closing action is initiated within 60 seconds after pass-through of a vehicle or persons.
4. Temporary fencing is required during excavation.

Chapter 5 Nonresidential Sites

DRAFT

5.1 GENERALLY

A. SHORT TITLE

This Chapter shall be known and may be cited as the "Nonresidential Site Design Standards of the Boerne Unified Development Code," or "Nonresidential Site Design Standards." Herein it may be cited as the Chapter.

B. PURPOSE

1. The Nonresidential Site Design Standards

- a. establish the requirements for nonresidential development in the City of Boerne
- b. promote the health, safety and general welfare of the community
- c. ensure that future use and development of residential properties are in accordance with the Master Plan of the City

C. TERRITORIAL LIMITS OF REGULATIONS

The territorial application of this ordinance shall include all land located within the corporate limits of the City, as from time to time extended.

D. APPLICABILITY

Upon execution of this Chapter, any private property zoned for nonresidential within the corporate limits of the City shall be required to comply with this Chapter.

5.2 ACCESS AND ON-SITE CIRCULATION

A. LOCATION OF ACCESS POINTS

1. Every lot shall be provided with permanent vehicular access to a street or an alley upon which it abuts.
2. The location of access points shall be according to street type. Access point minimum distances shall be determined by distance between curb cut of access point and curb cut of closest intersection. Curb cuts shall be a minimum distance from the ultimate curb line of the nearest intersecting street, according to the following street types:
 - a. No curb cut along a neighborhood street shall be located nearer than 50 feet to the ultimate curb line of an intersecting street. Curb cuts may be located closer than 50 feet to the ultimate curb line where narrow lot conditions limit available lot street frontage, but no curb cut shall be located nearer than 30 feet.
 - b. No curb cut along a collector street shall be located nearer than 100 feet to the ultimate curb line of another curb cut or intersecting street.
 - c. No curb cut along a major arterial street shall be located nearer than 200 feet to the ultimate curb line of an intersecting street or another curb cut.
3. Access points shall not conflict with vehicle turning movements.

B. DRIVEWAYS AND CURB CUTS

1. Driveways

- a. Driveways and access points shall be coordinated with street access standards in the Infrastructure and Land Subdivision Chapter of the Boerne Unified Development Code.
- b. Driveways for vehicle access to lots and interior of blocks shall be limited in width as follows within the first 50' of lot depth from the property line:
 - i. For primary retail and pedestrian oriented streets

- (a) No more than 15% of the lot frontage on lots with frontage on any primary retail or pedestrian-oriented street shall serve as a driveway for vehicle access, with the driveway width not to exceed 45 feet, regardless of the length of lot frontage. The width of a landscaped center median shall not count towards the 45-foot maximum.
 - (b) Where shared access easements for two or more lots are combined on a single block face, the width shall not be more than 10% of the entire block face. Individual and shared vehicle access from the lot frontage shall be prohibited on blocks with alley access to the internal of the block.
- ii. For secondary or support streets, no more than 25% of the lot frontage on secondary or support streets, up to a maximum of 30' wide on a single lot frontage.
 - iii. Any lots not capable of adequate vehicle access meeting these standards shall use alley or shared access easements for vehicle access.

2. Curb Cuts

- a. There shall be a minimum of one curb cut permitted per lot.
- b. On non-residential lots where the access point is adjacent to an on-site parking area with two-way vehicular movement patterns, the curb cut shall not exceed 40 feet in width.
- c. On all other non-residential lot types, curb cuts shall not exceed 30 feet in width.
- d. On arterials and collectors, a distance of at least 200 feet shall be maintained between curb cuts.
- e. On neighborhood streets, curb cuts on the same lot shall be separated by at least 36 feet of uncut curb.
- f. The ultimate curb line of all curb cuts shall be located at least 6 feet from the nearest property boundary line at street.

C. PARKING AISLES

Parking aisles shall be located a minimum of 36 feet from the intersection of the driveway approach and the thoroughfare.

D. DRIVE THROUGH FACILITIES AND STACK SPACE

- 1. A drive-through lane shall be a separate lane from the circulation routes and aisles necessary for ingress to or egress from the property or access to any off-street parking spaces.
- 2. All business uses containing an automobile drive-through type ordering or service facility, whether manned or unmanned, shall provide automobile stack space in conjunction with the drive-in facility.
- 3. Required stack spaces shall not be on any street rights-of-way or alley, any necessary maneuvering area for parking spaces within the general traffic circulation pattern of a parking lot, or in a designated fire lane.
- 4. Stack space may be situated in a straight alignment or in a curved pattern with functional radii, which shall be measured along the centerline from the point of entry or the beginning of a drive-through lane, to the center of the farthest service window area.
- 5. Drive-through lanes shall be oriented to the ordering and pick-up or service area.
- 6. All stack space requirements shall be in addition to all parking spaces and loading requirements.
- 7. Off-street stacking spaces shall be a minimum of 10 feet by 20 feet in size and may not impede on- or off-site traffic movements or movements into or out of off-street parking spaces.
- 8. Off-street stacking spaces shall be provided as indicated in the following table:

| Activity Type | Minimum Spaces | Measured From |
|---|--|-----------------------------|
| Bank Teller Lane | 4 | Teller or Window |
| Automated teller machine | 3 | Teller |
| Restaurant drive through | 6 | Order Box |
| Restaurant drive through | 4 | Order Box to Pick-up window |
| Auto service facility stalls; vehicle repair and body shop stalls | 2 | Entrance to stall |
| Car wash stall, automatic | 4 | Entrance to wash bay |
| Car wash stall, self-service | 3 | Entrance to wash bay |
| Gasoline pump island | 2 | Pump Island |
| Other | Determined by City Manager of their designee | |

9. The Director of Development Services may increase the amount of stacking spaces required on site based on the proposed development use. Proposed retail uses and drive thrus with historically high traffic volumes may have additional requirements to prevent congestion and backing up on the adjacent thoroughfare.

E. THROAT LENGTH

1. Driveway length is important for safe and efficient traffic operation on the site and the adjacent roadway. The driveway throat needs to be of sufficient length so that the vehicles may enter, exit, and circulate on the site without interference with each other or with through traffic on the adjacent roadway.
2. In order to determine the necessary throat length for all development driveways (minimum total storage) the sum of all driveway throat length shall equal the number of vehicles expected to accumulate in the driveways during an average peak period. Traffic volumes should be assigned to the applicable driveways and the highest lane volume should be accommodated. The determined length shall not be less than the minimum length from the following table:

| Minimum Driveway Throat Lengths for Arterials and Collectors | |
|--|------------------------------|
| Number of Exist Lanes | Minimum Throat Length (feet) |
| 1 | 60 |
| 2 | 75 |
| 3 | 200 |
| 4 | 300 |

3. The throat length may be reduced to no less than twenty (20) feet measured from the outside of the right-of-way by the City Manager by administrative exception for driveways not located on an Arterial or Collector road.
4. A TIA report may be used to determine stack space.

F. LOADING FACILITIES

1. Truck Loading Facilities Required

- a. On-site loading facilities shall be provided for certain uses for receiving and loading merchandise, supplies and materials within a building on the lot or tract.
- b. Where required, off-street loading facilities shall be indicated on required site plans, including location, design, layout and number of spaces provided.
- c. The uses that require off-street loading facilities are:
 - i. Retail
 - ii. Commercial
 - iii. Service
 - iv. Industrial

2. Minimum Spaces Required

The minimum number of truck berths or spaces shall be a function of the gross floor area (GFA) of a structure:

- a. No loading spaces shall be required for a structure with a GFA less than 5,000 square feet.
- b. 1 loading space shall be required for a structure with a GFA of 5,000 sf to 15,000 sf.
- c. 2 loading spaces shall be required for a structure with a GFA of 15,000 sf to 40,000 sf.
- d. 3 loading spaces shall be required for a structure with a GFA of 40,000 sf to 65,000 sf.
- e. 4 loading spaces shall be required for a structure with a GFA of 65,000 sf to 100,000 sf.
- f. For structures with a GFA greater than 100,000 sf, 1 additional loading space will be required for each additional 80,000 sf of GFA.

3. Dimensional Requirements

On-site loading spaces that satisfy the requirements of this section shall be at least 10 feet in width and at least 45 feet in length.

4. Location

- a. All loading operations, parking, storage, and vehicular maneuvering into or out of loading dock spaces shall take place outside of any public street or right-of-way.
- b. Service entrances and service yards shall be located only in the rear or side yard. Service yards shall be screened from adjacent residentially zoned or used property by the installation of a buffer yard, conforming to the screening and buffer requirements of this Chapter.
- c. Off-street loading facilities may be adjacent to a public alley or private service drive.
- d. Off-street loading facilities may consist of a truck berth within the structure.
- e. The existence of a 20-foot alley adjacent to the property shall be the equivalent of one berth.
- f. Off-street truck loading facilities shall be located on the same lot on which the structure for which they are provided is located, unless a Combined Facility Agreement is approved by the City.
- g. No loading dock shall be located or constructed facing a major arterial or collector.
- h. No loading dock on the side wall of any building shall be located or constructed within 50 feet of the nearest right of way line of a major arterial or collector.

- i. Should orientation of the structure be such that the rear and/or side yard faces a major arterial or collector, off-street loading may be permitted in the rear yard space or side yard space, provided that:
 - i. there is no other location on the site where the off-street loading criteria may be met;
 - ii. the loading area is totally (100%) screened from view from the arterial or collector with an 8-foot tall screen that conforms to the screening and buffer requirements of this Chapter, with no openings except for required driveway access.
 - iii. The loading area is set back at least 50 feet from the nearest right of way line of the arterial or collector.
5. Combined Facility Agreements
 - a. Requirements for the provision of off-street truck loading facilities with respect to two or more structures may be satisfied by the permanent allocation of the requisite number of spaces for each use in a common truck loading facility.
 - b. The total number of spaces designated in a common truck loading facility shall be at least the sum of the individual requirements unless the City Manager determines that a lesser number of spaces will be adequate.
 - c. In determining the number of revised spaces, the City Manager shall consider the respective times of usage of the truck loading facilities by the individual users and the character of the merchandise.
6. Design districts with additional locational requirements for off-street loading

In keeping with the goals and objectives of the comprehensive plan, viewshed protection shall be a consideration in matters of off-street loading in certain areas of the City. Additional loading requirements are therefore assigned for certain design districts, which correspond to the overlay districts of the Zoning Chapter of the Boerne Unified Development Code.
7. Center City Overlay District
 - a. Loading facilities are not required in the District.
 - b. Loading facilities shall only be permitted to face alleys. Loading facilities shall not front any public street in the Downtown District.
8. Interstate Corridor Overlay District
 - a. No loading dock shall be located or constructed to front a major arterial or collector.
 - b. No loading dock on the side wall of any building shall be located or constructed within 100 feet of the nearest right of way line of a major arterial or collector.
 - c. Should orientation of the structure be such that the rear and/or side yard faces a major arterial or collector, off-street loading may be permitted in the rear or side yard space, provided that there is no other location on the site where the off-street loading criteria may be met; the loading area is totally (100%) screened from view from the arterial or collector with an 8-foot tall screen that conforms to the screening requirements of this Chapter, with no openings except for required driveway access; and the setback of the loading area is at least 100 feet from the nearest right of way line of the arterial or collector.
9. North Main Overlay District
 - a. No loading dock shall be located or constructed facing a major arterial or collector.
 - b. No loading dock on the side wall of any building shall be located or constructed within 50 feet of the nearest right of way line of a major arterial or collector.
 - c. Should orientation of the structure be such that the rear and/or side yard faces a major arterial or collector, off-street loading may be permitted in the rear or side yard space,

provided that there is no other location on the site where the off-street loading criteria may be met; the loading area is totally (100%) screened from view from the arterial or collector with an 8-foot tall screen that conforms to the screening requirements of this Chapter, with no openings except for required driveway access; and the setback of the loading area is at least 50 feet from the nearest right of way line of the arterial or collector.

10. Construction and Maintenance

- a. Off-street truck loading facilities shall be constructed, maintained, and operated in accordance with the specifications of the City's Public Works Department.
- b. All off-street loading areas shall be properly graded for drainage; surfaced with Portland cement concrete, or asphalt, in conformance with City standards; and maintained in good condition free of weeds, dust, trash, and debris.
- c. All off-street loading areas shall be provided with protective screening in conformance with the screening and buffer requirements of this Chapter.
- d. If an existing structure is required to provide off-street loading, any expansion of more than 10% of the total floor area of the structure shall require expansion of the loading area, in conformance with the requirements of this section.

11. Waiver

The City Manager is authorized to waive the off-street loading requirements for structures that are required to provide and maintain fewer than five off-street parking spaces, or any other structure if the design and the proposed use of the structure shows no need of off-street loading.

5.3 NONRESIDENTIAL BUILDINGS

A. AWNINGS AND CANOPIES

1. In single-tenant buildings, one awning or one canopy is allowed per building wall facing a public street or public space.
2. In multi-tenant buildings, one awning or one canopy is allowed per tenant, per building wall facing a public street or public space.

B. WINDOW COVERAGE

1. For public safety, no more than 75% of a first floor window that can be viewed from a public space shall be covered with a material that obstructs the view through the window.
2. A permit shall be required for temporary or seasonal window signs and displays that cover more than 75% of a first floor window,

5.4 NONRESIDENTIAL FENCES AND WALLS

A. CONFORMITY WITH THE BUILDING REGULATIONS REQUIRED

All fences and walls for all development and property in the City of Boerne shall comply with the building regulations of the City.

B. HEIGHT LIMIT

1. Front Yard

No fence or wall, other than the wall of a permitted structure, shall exceed a height of 4 feet in the front yard space, except those fences or walls conforming to the screening requirements of this Chapter.

2. Side or Rear Yard

No fence or wall, other than the wall of a permitted structure, shall be erected or altered in any side or rear yard to exceed a height of 8 feet unless:

- a. a higher fence for screening or security purposes is required by the City;
- b. the ground-floor elevation of a principal dwelling on an abutting lot is at least 4 feet higher than the elevation at the abutting lot line; or
- c. the fence or wall is being used to satisfy the screening and buffer requirements of this Chapter; or
- d. the fence is a sound wall or fence required by the State Department of Transportation. In this case the additional fence height may be permitted by the City with a special use permit (SUP).

C. INTERSECTION VISIBILITY

On any corner lot on which a front yard is required by this ordinance, no wall, fence or other structure shall be erected, and no hedge, shrub, tree or other growth shall be maintained within the triangular area formed by the intersecting street lines and a straight line connecting such street lines at points 25 feet from the point of intersection measured along such street lines.

D. MATERIALS

1. The materials used for fences and walls shall consist of:
 - a. Brick masonry, stone masonry, or other architectural masonry finish;
 - b. Tubular steel (primed and painted) or wrought iron fence with masonry columns spaced a maximum of 20 feet on center with structural supports spaced every ten feet, and with sufficient evergreen landscaping to create a screening effect;
 - c. Living plant screen, upon approval by the City; or
 - d. Alternate equivalent screening, upon approval by the City
2. A fence shall be constructed of permanent material, such as stone, rock, concrete block, masonry brick, brick, decorative wrought iron, or other materials that are similar in durability.
3. The following materials shall not be used for fencing:
 - a. Cast-off, secondhand, or other items not originally intended to be used for constructing or maintaining a fence;
 - b. Plywood less than 5/8 inches thick, particle board, paper, plastic tarp, or similar material; and
 - c. Barbed wire, razor wire, and other similar fencing materials capable of inflicting significant physical injury.

E. ARTICULATION

1. No fence, wall or portion thereof that fronts the paved surface of a street shall exceed 100 horizontal feet in length unless columns or pillars of brick, stone or masonry are incorporated as architectural features of the fence.
2. Articulation requirements of this chapter do not apply to a fence or wall constructed of brick, stone, masonry, or iron fencing that consists of at least 50 percent open voids.

5.5 NONRESIDENTIAL LANDSCAPING

A. CONFORMITY WITH NUISANCE REGULATIONS REQUIRED

Landscaping of all development and property in the City shall comply with The City's nuisance regulations.

B. CONFORMITY WITH TREE PRESERVATION STANDARDS REQUIRED

Landscaping for all development and property in the City shall be in accordance with the City's tree preservation requirements.

C. EXEMPTIONS

The landscape regulations do not apply if any of the following hold true.

1. The landscaping standards do not apply if the development consists of construction work on an existing structure that does not increase:
 - a. The number of stories in a building on the lot;
 - b. The total floor area of all buildings on the lot by more than 20%, or 10,000 square feet, whichever is the less;
 - c. The impervious coverage on the lot, exclusive of the area used for parking, by more than 20% or 10,000 square feet, whichever is less.
2. The landscaping standards do not apply to paving or repaving of existing parking areas, or to parking areas that are paved, constructed or expanded no more than 25% of the original area after the date of adoption of this ordinance.
3. The landscape regulations do not apply to temporary structures, such as those associated with construction activities or to on-site structures that do not create or expand building square footage for the property.
4. The landscape regulations do not apply to any area associated with aircraft movement.

D. MEASUREMENTS

1. For all nursery stock, diameter or tree caliper measurements shall be taken 6 inches above ground level which should be at or near the top of the root flare, up to and including the four inch caliper size interval (i.e., from four inches up to, but not including 4.5 inches). If the caliper measured at six inches is greater than 4.5 inches the caliper shall be measured at 12 inches above ground level, soil line, or root flare, as appropriate. Caliper measurements should be taken 6 inches above the average grade level for multi-trunk trees.
2. Height shall be measured from the average grade level of the immediate planting area to the top horizontal plane of the shrub or tree at planting.

E. TREES AND PUBLIC INFRASTRUCTURE

1. No tree or shrub shall be planted within four feet of a right-of-way line or curb.
2. No tree or shrub shall be planted within eight feet of a buried public utility line (water or sewer).
3. No tree that has a mature height of 25 feet or greater shall be planted beneath an existing or proposed overhead utility line.
4. Where canopy trees are required adjacent to or underneath overhead utility lines, ornamental trees (a minimum of two inches in caliper as measured six inches above the ground) shall be provided instead of the required canopy trees.

F. PLANTING AREAS

1. Soil depth of new planting areas shall be at least six inches, with a blend of 75% soil and 25% compost.
2. Four inches of organic mulch material shall cover the planting area.
3. Earthen berms shall have side slopes not to exceed 3:1 (three feet of horizontal distance for each one foot of height). All berms shall contain necessary drainage provisions, as required by the City Engineer.
4. All landscape areas shall be protected by a monolithic curb, sawtooth curb or wheel stops and remain free of trash, litter, and car bumper overhangs.
5. Permeable, non-living groundcover may be used in up to 20% of each individual, enclosed landscaped area.

6. Planting areas may be designed as Low Impact Development (LID) stormwater management features.

G. PLANTING SPECIFICATIONS BY PLANT TYPE

1. Medium and Large Trees

- a. Trees shall be planted within an island at least 18 feet wide.
- b. Each single-trunk tree shall have a minimum diameter of 2 inches at time of planting.
- c. Multi-trunk trees shall have a minimum height of 6 feet at time of planting.
- d. Minimum planting area for large and small trees is 100 square feet per specimen. This area may be reduced to 50 square feet per specimen if an irrigation system and internal drainage mechanism are incorporated into the planting area, unless the area is designated as a LID feature on the site.

2. Small Trees

- a. Each small, single-trunk tree shall have a minimum diameter of 1½ inches at time of planting.
- b. Small, multi-trunk trees shall have a minimum height of 6 feet at time of planting.
- c. Minimum planting area for small trees is 25 square feet per specimen. This may be reduced to 16 feet if an irrigation system and internal drainage mechanism are incorporated into the planting area.

3. Large Shrubs

- a. Large shrubs shall have a minimum container size of 1 gallon at time of planting.
- b. Minimum height of large shrubs at time of planting is 2 feet.
- c. Minimum planting area for large shrubs is 9 square feet per specimen.

4. Small to medium shrubs

- a. Small and medium shrubs shall have a minimum container size of 1 gallon at time of planting.
- b. Minimum height of large shrubs at time of planting is 1 foot.
- c. Minimum planting area for small and medium shrubs is 6 square feet per specimen.

5. Vines and groundcover

- a. Vines and groundcover shall have a minimum container size of 1 gallon at time of planting.

6. Xeriscaping is permitted on any lot. The xeriscape area shall consist of one 2-inch caliper ornamental/shade tree and a combination of drought tolerant plants that incorporate dimension into the palette and do not require irrigation. The ground cover shall be rock, sized at least ¾-inch, and permanent edging material shall be provided of sufficient size to protect against runoff of the ground material.
7. A combination of xeriscaping and typical landscaping is permitted. At a minimum there shall be one 2-inch caliper ornamental/shade tree shall be planted in the front yard space of a lot. Depending on the percentage of xeriscaping in the front yard, the remaining area shall provide typical landscaping as stated above in an amount relative to the percentage of remaining yard. The ground cover shall be provided of sufficient size to protect against run-off of the ground material.

H. LANDSCAPE MATERIALS

1. Existing trees on the site of the proposed development may be used to achieve the landscaping requirements of this section.
2. No artificial plant materials shall be used to satisfy the requirements of this section.
3. Invasive plants shall not be used in planting design for non-residential properties. See the Invasive Plant List in the Appendix for prohibited species.
4. Planting areas shall consist of permeable surface areas only.

I. STREETSCAPE LANDSCAPING

1. The location of landscaping shall conform to the City's street design standards and shall be placed to accommodate traffic and circulation.
2. Where no existing or proposed overhead utility lines exist, street trees shall be large canopy trees from the City's approved tree list.
3. If existing or proposed overhead utility lines exist along the right-of-way that are greater than 35 feet in height, then the trees shall be medium trees.
4. If existing or proposed overhead utility lines exist along the right-of-way that are lower than 35 feet in height, then the trees shall be small trees.
5. Except for I-10 frontage roads, the distance between street trees shall not exceed 100 feet on center.
6. Geometry of street tree planting
 - a. In the following overlay districts, street tree planting shall be linear and uniform, with no more than 10 feet of variation on-center, if needed to accommodate driveways, utilities or other required features of a site.
 - i. South Boerne Overlay District
 - ii. Historic District
 - iii. Entrance Corridor Overlay District
 - b. For streetscaping outside of these overlay districts, uniform and linear spacing is not required.
7. Median landscaping
 - a. Landscaping improvements shall be installed within the medians of all proposed or planned divided roadways within the city limits, as shown on the City's thoroughfare plan.
 - b. Standard landscaping for medians is established as follows:
 - i. Trees planted in the median shall be according to the City's approved tree list.
 - ii. Trees shall be at least 8 feet in height at time of planting.
 - iii. Median trees shall be planted at least 30 feet from median street lights.
 - iv. Ornamental trees may be used in median spaces but shall be used as accent trees at the median nose or dispersed among larger canopy trees.
 - v. Irrigation installation is to include bubblers or drip irrigation for all trees and irrigation to uniformly water median planting beds.
 - vi. Planting beds shall be separated from turf grass using 14-gauge steel edging or decorative concrete curbing to define ground cover beds.

J. SETBACK LANDSCAPING

1. At least 10% of the required front and side yard setback space, which lies between property line and building, shall be landscaped. The landscaping required for parking areas may be used to meet this requirement.
2. The trees shall be planted in the space between the property line and the building. The trees may be planted in groups. A minimum of two trees per 100 linear feet of frontage at property line shall be planted on each lot.

K. CORNER LOT LANDSCAPING

1. Corner lots shall meet the minimum requirements for setback landscaping along both frontages.
2. Non-living, pervious groundcover shall not exceed 20 percent of the total ground coverage in this area.
3. Landscaping in this area shall meet the City's intersection visibility requirements.

L. LANDSCAPING OF PARKING AREAS

1. Parking for Under 100 vehicles
 - a. There shall be at least one shade tree planted per 12 required parking spaces. Trees shall be at least 3 - caliper inches measured 6 inches above ground level at time of planting.
 - b. At least 100 square feet of landscaped area is required per shade tree. Landscaped areas can be islands, peninsulas or medians in the parking area.
 - c. If a shade tree of three caliper inches measured 6 inches above ground level or larger already exists in the landscaped area, there shall be no requirement to plant an additional shade tree.
 - d. The location, size and shape of landscape islands, peninsulas, and medians shall be at the discretion of the owner within the following guidelines:
 - i. the placement of trees in parking lots provide additional cooling and shade
 - ii. no parking space shall be further than 80 feet from any tree canopy.
 - iii. The size, shape and location of the landscaping area may be adjusted to accommodate existing trees or other natural features, provided the total area and tree requirements are satisfied.
 - iv. In parking areas, the islands may be designed with a curbless or perforated curb system to facilitate sheet flow of surface water, provided that infiltration measures for runoff, such as a rain garden or bioswale, are also incorporated into the site design.
2. Parking area for Over 100 vehicles.
 - a. A planting median shall be placed, at a minimum, between every third parking bay of adjacent parking bays to prevent traffic movement across parking isles.
 - b. The planting median shall be a minimum of 15 feet wide. It may be designed with a curbless or perforated curb system to facilitate sheet flow of surface water, provided that infiltration measures for runoff, such as a rain garden or bioswale, are also incorporated into the site design.
 - c. The planting median shall contain the following vegetation, at a minimum:
 - i. For commercial properties with a total building footprint of less than 40,000 square feet, 3-inch caliper shade trees shall be planted at a maximum planting interval of 30 feet on center, in a continuous or staggered row.
 - ii. For commercial properties with a total building footprint of 40,000 square feet or more, 3-inch caliper shade trees shall be planted at a maximum interval of 40 feet on center, in a continuous or staggered row.
 - iii. Ten shrubs for every tree required, planted in rows or clustered groups.
 - iv. The planting median shall contain defined breaks, as necessary, to provide pedestrian circulation between bays of parking. The breaks shall allow for handicap accessibility from one side of the planting median to the other and onto the sidewalk within the planting median, if a sidewalk is located within the median.
 - d. Existing trees may be counted toward planting requirements in the median. If existing trees are used to satisfy planting requirements in the median, uniform planting in the median shall not be required, as this conflicts with natural patterns of tree growth.

- e. In addition to any other required plantings, all parking lot planting areas shall be planted with drought tolerant species normally grown as permanent lawns, such as Zoysia or Buffalo. Grass areas shall be solid sided.
- f. Permeable, non-living materials may be used for up to 20% of the planting median.

M. IRRIGATION

1. No person shall install an irrigation system in the city without first having obtained a permit authorizing such installation. An application for installation of an irrigation system must be accompanied by a full set of plans setting forth the design and operation parameters of the irrigation system to be installed.
2. Irrigation plans shall comply with all State of Texas design and installation requirements including, but not limited to, applicable provisions of V.T.C.A., Administrative Code Title 30, Chapter 344.
3. In addition to the provisions of V.T.C.A. Administrative Code Title 30, Chapter 344, as amended, all new irrigation systems shall meet the following requirements:
 - a. The irrigation plan shall be sealed by a licensed irrigator or Texas registered landscape architect.
 - b. The system must include an automatic controller and sensors that prevent the operation of irrigation during rainfall or in freezing weather.
 - c. All drip irrigation and/or pressure compensating tubing shall be designed and installed according to manufacturer's specifications.
 - d. Turfgrass areas utilizing irrigation rotors are to be designed and installed using low-angle nozzles.
 - e. Irrigation heads shall be installed to provide maximum distribution uniformity.
 - f. The irrigation design shall prevent overspray on impervious surfaces and excessive runoff.
 - g. New irrigation systems installed in landscaped areas (including turfgrass) that are less than ten feet in width and adjacent to impervious surfaces, or installed in landscape islands with an area of 200 square feet or less shall be designed with drip irrigation and/or pressure compensating tubing (no above-ground spray).
 - h. When existing irrigation systems are expanded by more than 25 percent (25 percent of the land area covered by the system); or more than 25 percent (25 percent of the land area covered by the system) of the irrigation system is replaced, the portion being expanded or replaced shall meet the requirements of this Code.

N. MAINTENANCE

1. Required plants shall be maintained in a healthy condition at all times.
2. The property owner shall provide weeding, mowing of grass, irrigation, fertilization, prevention of pests, pruning, and other maintenance of all plantings on the property.
3. Any plant that dies shall be replaced with another living plant that is comparable to the existing plant materials or plant materials specified in the approved greenspace plan within 60 days following notification by the City. The City may extend this time period up to an additional 60 days due to weather considerations.
4. If the plants have not been replaced after appropriate notification and/or extension, the property owner, or his/her designee or lease, shall be in violation of this chapter.
5. Vegetation shall not obstruct the view between the street and the access drives near the entries and exits. The landscaping shall comply with the intersection visibility requirements of the City at all times.
6. Turfgrass fertilization shall not exceed two pounds of nitrogen per 1,000 square feet of turfgrass per year.

5.6 ON-SITE PARKING FOR NONRESIDENTIAL PROPERTIES

A. PARKING DESIGN AND CIRCULATION

On-street and shared central parking areas shall be the primary parking strategy for commercial areas and mixed-use centers. In meeting the on-site parking requirements, the following design and location standards shall apply:

1. Rear and side yard parking is preferred over parking in yard space fronting a street.
2. All parking in yard space fronting a street shall be setback at least 10 feet from the lot frontage and screened in accordance with the screening requirements of this Chapter.
3. Customer parking areas interior to a block with a contiguous building longer than 150 feet shall have pedestrian access to the buildings through one of the following:
 - a. A mid-block pedestrian passage at least 8' wide providing access to the public streetscape. The passage may be covered or uncovered, but shall not be enclosed; or
 - b. Secondary rear building entrances.
4. Shared or cooperative parking serving 3 or more lots, or parking areas for an Anchor building in a commercial area, may front secondary or support streets, provided it is set back at least 10 feet and screened around the perimeter.
5. On secondary or support streets that are not the primary retail and pedestrian-oriented streets of a commercial center, on-site parking for single or adjacent lots may be permitted, provided:
 - a. A building occupies at least 50% of the Required Front Building Line on the lot.
 - b. Parking areas are screened on sides fronting a street, conforming to the screening requirements of this Chapter. An alternative street wall of materials and features matching or complementing the main building is used to screen the parking at the extension of the Front Building Line. Alternatively, the parking may be screened by landscape and Civic Open Space.

B. ON-SITE PARKING REQUIREMENTS

1. APPLICABILITY

- a. No nonresidential building or structure shall be designed, erected, altered, used, or occupied, and no nonresidential use shall be operated, unless the on-site parking requirements are satisfied.
- b. On-site parking requirements do not apply to property located in the River Corridor Overlay District.
- c. Enlarging, expanding or changing the structures or uses of a property after the execution of this Chapter shall require conformity of all new additions, expansions or changes to the onsite parking requirements of this Chapter, as if the expansion, addition or change were a separate tract, structure or use.

2. Responsibility for Provision of Facilities

The provision for and maintenance of on-site parking facilities herein required shall be the joint and several responsibility of the operator and owner of the land, building, structure or use on which is located the use for which the on-site parking facilities are required.

3. Size and Location

- a. Each on-site parking space shall be at least 9 feet by 18 feet in area, exclusive of access or maneuvering area, ramps and other appurtenances.
- b. Except as otherwise permitted under a special plan for location or sharing of facilities, on-site parking facilities shall include adequate maneuvering room and shall be located on the lot on which the use for which they are provided is located.
- c. No parking space shall be nearer than 10 feet to any adjacent residential lot.
- d. Commercial and construction vehicles shall not be parked on the premises or on any street adjacent to a residential property containing 1.5 acres or less.

- e. A commercial or construction vehicle may be parked on the premises of or on a street adjacent to a residential property for the limited purposes of loading and unloading the vehicle, or for temporary work that has been contracted by the resident.

4. Construction and Maintenance

On-site parking facilities shall be constructed, maintained and operated in accordance with the following specifications:

a. Drainage and Surfacing

- i. All commercial parking areas, vehicle maneuvering areas and driveways shall be paved with concrete, asphaltic concrete, asphalt, brick or interlocking paving blocks, or other durable and all-weather material acceptable to the City.
- ii. All facilities shall be properly graded for drainage and maintained in good condition, free of weeds, dust, trash and debris.

b. Wheel Guards

Boundary or perimeter areas shall be provided with wheel guards or bumper guards, so located that no part of a parked vehicle will extend beyond the lot line of the parking area.

c. Screening of Parking Areas

Screening of parking areas shall conform to the screening requirements of this Chapter.

d. Prohibition of Other Uses

Parking areas shall not be used for any business involving the sale, repair, dismantling or servicing of any vehicles, or the sale of any equipment, materials, or supplies.

5. Minimum Parking Requirements

a. Calculating the Number of Spaces Required

- i. Where parking spaces result from the computation of requirements, the fractional space will be treated as another full parking space required.
- ii. In computing the parking requirements for any building or development, the total parking requirements shall be the sum of the specific parking space requirements for each class of use included in the building for development.
- iii. Floor Area of structures devoted to off-street parking of vehicles shall be excluded in the computing of off-street parking requirements.
- iv. The City shall determine the parking requirement for uses that do not correspond to the categories listed in the Parking Rates Table. In such instances, the applicant shall provide adequate information by which the proposal can be reviewed, which may include, but not necessarily be limited to, the following:
 - (a) Type of uses
 - (b) Number of employees
 - (c) Building design capacity
 - (d) Square feet of sales area and service area
 - (e) Parking spaces proposed on site
 - (f) Parking spaces provided elsewhere
 - (g) Hours of operation

- v. Where the application identifies accessory or multiple uses within a structure or multiple structures, the minimum standards shall apply to each use or structure.

b. Minimum Parking Spaces by Use

The Parking Rates table indicates the minimum number of parking spaces required for nonresidential uses. The minimum requirements for on-site parking facilities are intended to include all similar uses. Where the classification of use is not determinable from said table, the City Manager shall determine the appropriate classification. Parking requirements shall be the cumulative requirements of the uses within a building and the total may be considered separately for a cumulative total (i.e. Restaurant dining area and an office or kitchen area for staff only) – all would be counted as separate uses to come up with a total number of parking spaces).

| TABLE 3-2: PARKING RATES | |
|---|--|
| USES | MINIMUM PARKING SPACES REQUIRED |
| Dwelling, except Multi-Family | 2 for the first three bedrooms plus 1 for each additional bedroom in each family unit |
| Multi-Family Dwelling | 1.5 for each studio, one or two-bedroom unit; 2 for each unit with 3 or more bedrooms |
| Retirement Community | 1 for each dwelling unit |
| Church, auditorium, theater, gymnasium, assembly hall, convention hall, stadium, funeral home | 1 for each 4 seats w/ outdoor facilities – add 1 for each 800 square feet of outdoor area |
| Health Clinic/Medical Office | 1 for each 200 square feet of gross floor area |
| Mixed Use | 1 for 300 square feet of gross floor area |
| Hospital | 1 for each 1.5 beds |
| Long Term Care Facility | 1 for each 4 beds |
| Residential Care Facility | 1 for each on duty or resident care provider and 1 for each bedroom |
| Office | 1 for each 300 square feet of gross floor area |
| Library, club or lodge | 1 for each 300 square feet of gross floor area |
| Hotel, motel, travel trailer court | 1 for each guest room or travel trailer space, plus 1 for each 2 employees. (Bars and restaurants are counted as additional uses.) |
| General retailing, business and commercial uses | 1 for each 200 square feet of gross floor area |
| Retailing with outdoor sales yards | 2 for each 1,500 square feet of site area |
| Gas station | 2, plus 3 for each service bay |
| Restaurant | 1 for each 100 square feet of gross floor area |

| | |
|---|--|
| Mobile Food Vendor | 2 for each vendor |
| Bar, night club | 1 for each 150 square feet of gross floor area |
| Outdoor recreation and entertainment facilities | 1 for each 800 square feet of outdoor recreational area |
| Manufacturing, processing, wholesaling | 1 for each 400 square feet of gross floor area |
| Warehousing | 1 for each 1,000 square feet of gross floor area |
| Shopping Center | 1 for each 175 square feet of gross floor area The total floor area used for restaurants and health clinics (but not including bar/nightclub) which exceeds 25% of the shopping center floor area, shall require additional parking to be provided in accordance with the requirements for restaurants or health clinics. |

C. SHARED PARKING

Adjacent land uses, lots, or sites may share parking under the following conditions and standards:

1. All landowners participating in the shared parking shall execute the necessary cross-access easements to facilitate shared parking and record all documents for the easements with the County.
2. A written agreement for the joint use of parking facilities shall be executed by the parties and approved by the City.
3. Parking spaces shall be located no more than 600 feet from the main entrance to the building for which the shared parking credit is applied.
4. Direct pedestrian access, either by way of pedestrian alleys and passages, or by way of public sidewalks in the streetscape, shall be provided between parking areas and any buildings counting the parking area toward their minimum parking requirement.
5. Parking requirements shall be the cumulative requirements for each of the land use categories indicated in the Shared Parking Requirements Table.
6. For shared parking areas, the spaces required for each use or building is a percentage of the minimum parking requirements of the City. The percentage is given in the Shared Parking Requirements Table, and the standard minimum number of spaces is given in the Parking Rates Table.
7. For each use, the time period requiring the highest total number of parking spaces shall be used to determine the amount of parking required for that use.
8. Alternative parking allocations may be approved by the City, based on industry data or other sufficient evidence and analysis of peak parking demands for specific uses.

| TABLE 3-1: SHARED PARKING | | | | | |
|----------------------------------|--|--------------|-----------------------|--------------|--------------|
| ✓ LAND USE | PERCENTAGE OF REQUIRED PARKING SPACES BY TIME PERIOD | | | | |
| | WEEKDAY DAY & EVENING | | WEEKEND DAY & EVENING | | NIGHTTIME |
| | 6 AM TO 5 PM | 5 PM TO 1 AM | 6 AM TO 5 PM | 5 PM TO 1 AM | 1 AM TO 6 AM |
| EMPLOYMENT | 100 % | 10 % | 5 % | 5 % | 5 % |
| RETAIL OR SERVICE | 75 % | 75 % | 100 % | 90 % | 5 % |
| RESTAURANT | 50 % | 100 % | 75 % | 100 % | 25 % |
| ENTERTAINMENT & RECREATION | 30% | 100 % | 75 % | 100 % | 5 % |

| | | | | | |
|-----------|-------|------|-------|-------|-------|
| CHURCH | 5 % | 25 % | 100 % | 50 % | 5 % |
| SCHOOL | 100 % | 10 % | 10 % | 10 % | 5 % |
| DWELLINGS | 25 % | 90 % | 50 % | 90 % | 100 % |
| LODGING | 50 % | 90 % | 75 % | 100 % | 100 % |

D. PARKING CREDITS

A credit may be used to meet the on-site parking requirements. under the following conditions:

1. On-street Parking Credit

On-street parking within 300 feet of any lot line may be credited to the parking requirement at a rate of one credit for every two on-street parking spaces, provided the parking used as a credit is in front of or on the side of, and does not extend beyond the property line of, a non-residential property.

2. Bicycle Parking Credit

Bicycle parking facilities within 150 feet of the primary building entrance may be credited at a rate of one credit for every four bicycle parking spaces, up to a maximum of 5% percent of the required vehicle parking. The applicant shall provide sufficient justification that the site can be reasonably accessed by bicycles and that land uses on the site can generate bicycle access in order to receive the bicycle parking credit.

3. Walkable Neighborhood Credit

Where the density and pattern of the development is such that there exists more than 1 dwelling unit for each 200 square feet of leasable non-residential area in the district as a whole, individual uses may apply for a Walkable Neighborhood Credit. If substantial pedestrian connections exist between the site and the adjacent residential neighborhoods, non-residential uses located may propose that the parking requirements. be reduced by up to 25%. The City may approve the credit based on an assessment of the existing mix of uses, the likely parking impact generated by the proposed use, and other physical conditions that contribute to the pedestrian access to the site.

4. Valet Parking Credit

By utilizing valet parking, the number of required parking spaces may be reduced up to 40%, subject to City review.

- A business utilizing the valet parking credit shall have a valid valet parking permit before a Certificate of Occupancy is issued. Failure to institute valet parking upon the occupancy of the building for which valet parking is provided or cessation of valet parking after occupancy has commenced without approval of the City Manager shall constitute a violation of this ordinance.
- Site Plan required: An individual requesting the valet parking credit shall present a site plan of the business that identifies kiosks, fare gates, walkways, customer waiting areas and all other facilities necessary to accommodate valet parking to the City Manager.
- Attendant parking service shall be available for the days and hours required by the City.
- If the valet parking service utilizes the public right-of-way, it may be located at the face of the existing curb.

5. Tree Preservation Credit

- a. Upon application and verification by the City, an individual shall be entitled to a reduction in the minimum parking requirements of this Chapter to help meet the community's tree preservation goals.
- b. The minimum parking requirements may be reduced by one parking space for every tree having a DBH of 12 inches or more that has been preserved or mitigated on a site.
- c. Up to 15% of the required spaces may be waived regardless of trees location; however, a waiver in excess of 15% of the required spaces shall require that some of the preserved or mitigated trees be in the interior of the parking areas. No waiver may exceed 30% of the required spaces.

E. MAXIMUM PARKING

1. No use shall provide more than 10% percent, excluding shared parking and parking credits applied, without incorporating two or more of the following mitigation measures:
 - a. The surface of parking areas exceeding the 10% overage shall be a permeable surface that allows all storm water to be infiltrated below the surface, in conformance with the City's requirements for permeable surfaces.
 - b. The amount of open space on the site shall be increased above the minimum by the same square footage of parking area exceeding the 10% overage and shall be subject to the design and location requirements of the open space design standards of the Infrastructure and Land Subdivision Design chapter.
 - c. Landscape material requirements for the site shall be increased by 10% percent above the minimum amount required in the landscaping requirements of this Chapter. The extra landscape space shall be used as a buffer or screen of the parking area.
 - d. Internal landscape islands for the on-site parking shall be increased by 5% percent above the minimum requirements.

F. ACCESSIBLE PARKING

1. Accessible parking spaces shall be provided according to State of Texas Program for the Elimination of Architectural Barriers and shall conform to the Americans Disability Act (ADA) of 1991, as may be amended, accessibility guidelines (ANSI Standards).
2. In each parking facility, a portion of the total parking shall be specifically designated, located, and reserved for vehicles licensed by the state for use by the physically disabled. These spaces will be provided according to the following schedule:

| | Total Spaces in Lot | Min. # Accessible Spaces |
|----|----------------------------|---------------------------------|
| a. | Up to 25 | 1 |
| b. | 26 to 50 | 2 |
| c. | 51 to 75 | 3 |
| d. | 76 to 100 | 4 |
| e. | 101 to 150 | 5 |
| f. | 151 to 200 | 6 |
| g. | 201 to 300 | 7 |
| h. | 301 to 400 | 8 |
| i. | 401 to 500 | 9 |
| j. | Over 500 | 2% of total |

3. Location of accessible spaces. Such parking spaces shall be located on an accessible circulation route and as near as is reasonably possible to the primary entries to the building or facility. In separate parking structures, lots or basement garages parking spaces shall be located on the

shortest possible circulation route. In addition, the parking spaces shall be located in proximity to the accessible point of ingress including elevators and there shall be an accessible route from the point of egress to the nearest primary entrance into the building or facility.

4. Additional requirements. One in every eight accessible spaces, but not less than one, shall be served by an access aisle eight feet wide minimum and shall be designated “van accessible.”

G. BICYCLE PARKING

1. Bicycle parking spaces shall be required for all multi-family and nonresidential uses and structures. One bicycle parking space shall be required for each 20 parking spaces.
2. Bicycle spaces may be provided through spaces or bicycle storage racks. Bicycle spaces shall be at least 2 feet 6 inches in width and 6 feet in length, with a minimum overhead vertical clearance of 7 feet.
3. Bicycle racks and other bicycle storage fixtures for nonresidential uses must be securely and permanently affixed to the ground and allow for the bicycle to be locked and chained. The design of bicycle racks and fixtures shall be included in final site plans approved by the City and shall be separately marked.
4. Where bicycle spaces are required, the spaces may be indoors or outdoors and shall be located within 50 feet of the main building entrance. The spaces shall not be located behind any wall, shrubbery, or other visual obstruction lying between the principal building and the bicycle spaces. If required bicycle spaces are not visible from the street, signs must be posted indicating their location.
5. Areas used for required bicycle parking shall be paved, drained, and well lighted. Internal bicycle storage facilities shall not be counted toward required parking.

5.7 OUTDOOR STORAGE AND DISPLAY

A. GENERALLY

1. All limited outdoor storage and general outdoor storage areas shall be clearly shown on the site plan submitted for the property.
2. Unless specifically authorized elsewhere in the city's ordinances, all outdoor storage and display shall be located outside the public right-of-way.
3. Outdoor storage shall meet the applicable screening requirements of this Chapter.
4. Outdoor storage and display are allowed in certain nonresidential districts in accordance with this section. Any merchandise, material or equipment situated outdoors shall be subject to the requirements of this section. Outdoor storage and display shall be according to the following categories:
 - a. Limited Outdoor Storage
 - b. Temporary Outdoor Storage and Display
 - c. General Outdoor Storage

B. LIMITED OUTDOOR STORAGE

1. Limited outdoor storage is temporary storage of goods in individual packaging and not in storage containers. Organic materials in plastic packaging are considered limited outdoor storage.
2. Limited outdoor storage is allowed for the following zoning categories, provided that all other requirements have been met:
 - a. Neighborhood Commercial
 - b. Community Commercial
 - c. General Commercial
 - d. Center City Commercial
 - e. Craft Industrial
 - f. Storage and Transportation
 - g. General Industrial

3. Limited outdoor storage shall be screened from view outside the site in accordance with the screening requirements of this Chapter. Limited outdoor storage in the following zoning categories is exempt from the screening requirements, provided that all other requirements have been met:
 - a. Storage and Transportation
 - b. General Industrial
4. Except for the Storage and Transportation category and the General Industrial category, limited outdoor storage shall not occur:
 - a. In the required front setback;
 - b. Between a front setback and the building front; and
 - c. Between a side setback along a public right-of-way and any building or structure.
5. Limited outdoor storage shall not be allowed in any on-site parking spaces.

C. TEMPORARY OUTDOOR STORAGE AND DISPLAY

1. Temporary outdoor storage and display includes merchandise that is temporarily displayed in the outdoor space on a nonresidential property.
2. Temporary outdoor storage and display is permitted for the following zoning categories, provided that all other requirements have been met:
 - a. Neighborhood Commercial
 - b. Community Commercial
 - c. General Commercial
 - d. Center City Commercial
 - e. Craft Industrial
 - f. Storage and Transportation
 - g. General Industrial
3. Temporary Outdoor Storage and Display shall not encroach upon the sidewalk space or the public right of way.

D. GENERAL OUTDOOR STORAGE

1. General outdoor storage consists of all remaining forms of outdoor storage not classified as limited outdoor storage. General outdoor storage also includes items stored in shipping containers, Conex containers, and semi-trailers not attached to a truck.
2. Shipping containers, Conex containers, and semi-trailers not attached to a truck shall not be stacked more than two units high.
3. General outdoor storage shall be allowed in unlimited quantity, provided that the storage area is screened from any public right-of-way by means of an opaque wall at least six (6) feet in height.
4. General outdoor storage is only permitted for these zoning categories:
 - a. Storage and Transportation
 - b. General Industrial
5. General outdoor storage shall not be allowed in any on-site parking areas.
6. The placement of general outdoor storage shall not conflict with any public utilities, easements or rights-of-way.
7. The location of general outdoor storage shall meet the accessory building requirements for the applicable zoning category.

5.8 SCREENING AND BUFFERS

A. ITEMS REQUIRING SCREENING

Any delivery and service areas, external support equipment, site utility areas, or other similar high-impact elements of site and building design shall be subject to the following:

1. All mechanical, heating and air conditioning equipment shall be screened from view from the public right-of-way and from adjacent residential property.
2. All delivery or service areas and loading docks shall be located on a discrete façade, and internal to the block wherever possible.
3. Any rooftop equipment shall be screened from view of the adjacent public streetscape or other public or common open spaces by a parapet on flat roofs or located on a discrete pitch for pitched roofs.
4. Any service areas, loading docks, service equipment, or other site utility area that is visible from adjacent property or public right-of-way shall be screened with a combination of landscape and wall built of a similar material to the main structure of at least 6 feet high.
5. Any service use that involves vehicle service bays on a primary or secondary façade shall be located on only secondary or support streets, shall have the service bay portion of the building screened with a combination of landscape and wall built of a similar material to the main structure at least 6 feet high, and shall not have service bays that occupy more than 40% of a single façade.

B. SCREENING AND BUFFERS FOR COMMERCIAL USES**1. Parking areas**

- a. A street wall between 3 and 5 feet, matching the materials and ornamentation of the building is permitted along the building front line and secondary street frontage.
- b. The street wall must provide openings for pedestrian traffic and act as a screen between the right-of-way and any visible parking area.
- c. The materials for fencing should match the materials and ornamentation of the building.
- d. Landscaping in front of the street wall must be incorporated every ten feet (10') using the methods described below.
 - i. A three-foot landscaped berm
 - ii. A planting of native trees or large evergreen shrubs that shall grow to a minimum height of eight feet as determined by a registered landscape architect, certified nurseryman or master gardener, or as determined by the City Manager or the City Manager's designee
 - iii. A combination of the above

2. Screening of Mechanical Equipment

- a. All roof, ground and wall mounted mechanical equipment (e.g. air handling equipment, compressors, duct work, transformers and elevator equipment) from view at ground level of the property line.
- b. Roof-mounted mechanical equipment shall be shielded from view on four sides. Screening shall consist of materials consistent with the primary building materials, and may include metal screening or louvers, which are painted to blend with the primary building.
- c. Screening shall result in the mechanical equipment blending in with the primary building and not appearing separate from the building. The slab shall be sized to accommodate the proposed container and sufficient area to receive the front axle loaded points of the collection vehicle.
- d. Wall or ground-mounted equipment screening shall be constructed of one of the following:
 - i. Evergreen planting screens

- ii. Brick, stone, reinforced concrete, or other similar masonry materials
- iii. Redwood, cedar, preservative pressure treated wood, or other similar materials
- iv. A combination of the above

e. All fence posts shall be rust-protected metal, concrete-based masonry or concrete pillars.

3. Screening of Outside Storage

- a. Outside storage shall be located on the side or rear of the primary building and shall be screened from public view.
- b. Outside storage shall be screened with:
 - i. A masonry wall or other material that is similar to the primary structure and at least eight feet tall
 - ii. A three-foot landscaped berm
 - iii. A planting enclosure of large evergreen shrubs planted a maximum of four feet (4') apart
 - iv. that shall create a solid screen to a minimum height of eight feet within five (5) years as determined by a registered landscape architect, certified nurseryman or master gardener, or as determined by the City Manager or the City Manager's designee
 - v. A combination of the above

4. Screening of Waste Containers

- a. Waste containers shall be discretely located on the side or rear of the building and screened from public view.
- b. Waste containers must be located at least 50 feet (50') away from residentially zoned property lines.
- c. Waste containers shall be located on a minimum six-inch (6") reinforced slab, sloped to drain.
- d. Waste containers shall be screened on four sides, using an enclosure that screens the waste container from view at the property line.
- e. Screening shall be composed of:
 - i. Brick, stone, reinforced concrete, or other similar masonry materials that have a similar finish to the primary finish; or
 - ii. Redwood, cedar, preservative pressure treated wood, or other similar materials; or
 - iii. Large shrubs planted four feet on center and staggered 30 to 36 inches. Shrubs shall be watered with an irrigation system
- f. All fence posts shall be rust-protected metal, concrete based masonry or concrete pillars.
- g. Six-inch (6") concrete filled steel pipes or better shall be located to protect the enclosure from truck operations.
- h. Waste container enclosures shall have steel framed gates with spring-loaded hinges or the equivalent and fasteners to keep them closed. When in use, tiebacks should be used to secure the steel framed gates in the open positions.
- i. Waste container screening shall be maintained by the owner at all times.
- j. Planting Enclosures using large evergreen shrubs shall incorporate plants similar to those used elsewhere on primary site and shall be not less than 15-Gallon in size.

5. Screening of Loading Docks

Any delivery and service areas, loading docks, external support equipment, site utility areas, or other similar high impact elements of site and building design shall be subject to the following:

- a. All delivery or service areas and loading docks shall be located on a discrete façade, and internal to the block wherever possible.

- b. Any rooftop equipment shall be screened from view of the adjacent public streetscape or other public or common open spaces by a parapet on flat roofs or located on a discrete pitch for pitched roofs.
- c. Loading areas shall be enclosed on three sides by a wall or other screening device not less than seven feet in height.
- d. Loading areas shall not be located closer than 50 feet (50') to any single-family lot, unless wholly located within an enclosed building.
- e. Any service areas, loading docks, service equipment, or other site utility area that is visible from adjacent property or public right-of-way shall be screened with a combination of landscape and wall built of a similar material to the main structure at least 6 feet high.
- f. Any service use that involves vehicle service bays on a primary or secondary façade shall be located on only secondary or support streets, shall have the service bay portion of the building screened with a combination of landscape and wall built of a similar material to the main structure at least 6 feet high, and shall not have service bays that occupy more than 40 percent of a single façade.

Chapter 6 Subdivision Design

DRAFT

6.1 GENERALLY

A. SHORT TITLE

This Chapter shall be known and may be cited as the " Subdivision Design Standards," or "Subdivision Standards" of the City of Boerne. Herein it may be referred to as the "Chapter."

B. PURPOSE

1. The following regulations shall control the subdivision of land within the corporate limits of the City of Boerne, Texas, and within the extraterritorial jurisdiction thereof, in order to promote the health, safety, morals, or general welfare of the municipality and the safe, orderly, and healthful development of the municipality, as established in the comprehensive plan,.
2. In implementing the Comprehensive Plan, these regulations have the following purposes:
 - a. Prevent premature divisions of land that by its permanence may negatively impact long-term development patterns or that lack appropriate infrastructure, both of which may result in inefficient use of land and resources that would later require excessive expenditures of public funds to correct.
 - b. Ensure that all development blocks and lots are served by necessary infrastructure services, including utilities, transportation, storm drainage, public safety, and community facilities, but recognize that necessary service levels may differ based on the context, character, and intensity of development.
 - c. Encourage more efficient development by analyzing adjacencies and identifying on- and off-site opportunities for infrastructure, facility, or site design systems and that operate independent of lot and subdivision boundaries.

C. INTENT

It is the general intent of this Chapter to:

1. Emphasize an integrated planning and design approach towards investment in the core community design elements of subdivisions and achieve both immediate and long-range needs that support the growth and character of the community.
2. Place all proposed subdivisions of land in a context that relates to its surrounding areas and to the region.
3. Create development patterns that are coordinated and efficiently accommodate immediate and planned uses, but that are also more resilient to change and pressures from future growth and development.

D. TERRITORIAL LIMITS OF REGULATIONS

The territorial application of this ordinance shall include all land located within the corporate limits of the City and all land lying within the extra-territorial jurisdiction of the City, as from time to time extended.

E. CONFORMITY REQUIRED

1. It shall be unlawful for any landowner, or the agent of any landowner, to lay out, subdivide, plat or replat any land into lots, blocks and streets within the territorial limits of the City without the approval of the Planning and Zoning Commission in accordance with this ordinance.
2. Compliance with the requirements of this Chapter shall be required for any subdivision construction plans which have not been approved by the City prior to the execution of this Chapter.
3. No transfer of land in the nature of a subdivision as defined herein shall be exempt from the provisions of this ordinance even though the instrument or document of transfer may describe land so subdivided by metes and bounds.

F. PLATTING REQUIRED

1. No building permit shall be issued by the City for any structure on a lot in a subdivision until the final plat of the subdivision has been approved and filed for record and the subdivision has been accepted by the City.
2. The City shall not repair, maintain, install or provide any streets or public utility services in any subdivision for which a final plat has not been approved and filed for record, or in which the standards contained herein or referred to herein have not been complied with in full.
3. The City shall not sell any water, gas, electricity or sewage service within a subdivision for which a final plat has not been approved or filed for record.

G. PENALTY

1. Any person violating this Chapter, or any portion thereof shall, upon conviction, be guilty of a misdemeanor and shall be fined \$1,000.00.
2. Each day that such violation continues, or each occurrence shall be considered a separate offense and punished accordingly.

6.2 LOTS

A. LOT SIZE AND ARRANGEMENT

1. Minimum Lot Size – City Limits

All lots in a subdivision within the corporate limits of the City shall meet the minimum standards of the Zoning Chapter for the zoning district applicable to the land being subdivided.

2. Minimum Lot Size – Extraterritorial Jurisdiction (ETJ)

- a. Properties that are not provided water and wastewater service by a public utility must follow the Cow Creek Groundwater Conservation District rules, or the Kendall County rules, whichever is greater.
- b. Exceptions – Extraterritorial Jurisdiction

The following are exceptions to the minimum lot standards in the Extraterritorial Jurisdiction:

- i. Applications where the land division requires no public improvements and where each proposed parcel has access to existing roads shall have a minimum lot size of 5 acres, provided lots, buildings, and improvements are arranged in a manner that would allow the efficient and coordinated opening of streets should the property be re-subdivided in the futures.
- ii. Applications for Conservation Subdivisions shall meet the lot requirements of 6.8 Conservation Subdivisions.
- iii. Applications pursued under a development agreement for municipal services shall have lot requirements according to a development plan. The development plan shall use lot standards for the most similar zoning district from Chapter 3: Zoning. Planned Developments shall include a Transportation Network Plan, Civic Open Space System standards, and Block and Lot standards required by this Code, and which meet the Boerne Master Plan goals for Centers and Residential Neighborhoods.

B. LOT LINES

1. Frontage

All lots shall have a frontage on a public right-of-way. Cottage developments may provide frontage on a shared access/utility easement provided at either the front or rear of the lot line.

2. Side Lot Lines

All side lot lines shall be at right angles to the right-of-way line. On curved rights of-way or streets, side lot lines shall be radial to that line.

3. Rear Lines

Rear lot lines shall be established at a depth sufficient to permit two-tiers of lots on each block. Lots backing to public rights-of-way shall only be permitted if separated by open space.

4. Orientation

All lots shall have a general orientation of width to depth between 1:3 and 2:1, with a width that is relatively consistent dimension throughout the lot. “Piano key” and “flag lots” shall not be permitted, unless warranted by an unusual shape of the land or the ownership of property.

5. Building/Setback Lines

All lots shall have the required building lines specified by the zoning district and street network type applicable to the property. For un-zoned parcels outside of corporate limits of the City but within the City's extraterritorial jurisdiction, building setback lines shall meet the minimum requirements which would be applicable in the least intensive zoning district and street network type which would permit the proposed land use if the subdivision were located inside the City's corporate limits, or the building setback lines of a development plan approved in association with a development agreement for municipal services.

6. Exceptions – Special purpose lots

Special purpose lots established for private streets, parkland dedication, landscaping, postal boxes, floodplain, drainage conveyance, storage, or sedimentation and filtration, lift stations, or water storage, electrical substations, switching stations and other similar facilities needed for transmission and supply of public utilities, may be approved as exceptions to the lot requirements provided in this Code. In addition, except for private streets, a special purpose lot does not require street frontage but must be provided vehicular access approved by the City Manager. A special purpose lot established for a private street must connect to either a public street or another private street that connects to a public street. A special purpose lot that is to serve as a common area, open space, or recreational field for a new subdivision in the residential zoning districts shall be irrigated by reuse water where available.

C. LOT ACCESS

1. Lot Access

a. Access Width

- i. Lot access width shall be limited based upon the lot width at the lot frontages subject to the standards in Table 3-15.

| TABLE 3-15: LOT ACCESS WIDTH | |
|-------------------------------------|---|
| Lot Frontage Width | Maximum Access Width |
| RESIDENTIAL | 18' at Right of Way |
| NON-RESIDENTIAL | 25% of lot width for a single lot, but the cumulative width of access points along a single block face may never be more than 15% of the entire block face. |

- ii. Maximum width shall be measured along the right-of-way at the lot frontage or at any crossing of pedestrian facilities in the right-of-way and may allow additional apron

approach within the right-of-way to the street edge to permit adequate turning movements.

- iii. Where maximum access widths limit or prohibit individual lot access points, shared access easements, or rear and mid-block Access Streets or easements shall be used. *[See Residential Design Standards / Lot Access in Article 3, Section 06.007 of the Boerne Zoning Ordinance for related lot access types and design standards within the lots.]*

2. Minimum Separation

- a. Lot access points shall be separated from other access points along a single block face and from the street edge of intersections streets by the Table establishing access separation. (“access separation” / “separation from intersecting street”).

| TABLE 3-16: MINIMUM ACCESS SEPARATION** | | |
|--|--|------------------------|
| | ACCESS TYPE | |
| FUNCTIONAL CLASSIFICATION | RESIDENTIAL* | NON-RESIDENTIAL |
| MAJOR ARTERIAL | None | None |
| MINOR ARTERIAL | None | None |
| PRIMARY COLLECTOR | None, except as provided in Note 3 below | 300' / 300' |
| SECONDARY COLLECTOR | None, except as provided in Note 3 below | 300' / 300' |
| LOCAL | 45' / 60' | 100' / 100' |
| NEIGHBORHOOD LOCAL | 45' / 60' | 75' / 75' |
| ACCESS | None / 30' | None / 75' |

* Minimum separation of residential lot access points may be averaged along a single block face.

** Separation between access points is measured from centerlines; separation from intersecting streets is measured from the center line of the access and the street edge of the intersecting street.

- b. Where applicable, driveways shall be aligned directly across from other driveways or street intersections on the opposite side of the street.
- c. Where minimum separation distances limit individual lot access points, shared access easements, or rear and mid-block Access Streets or easements shall be used.
- d. Where due to pre-existing lot and/or street configurations application of these standards would lead to ineffective and inefficient lot access, or for residential access to primary and secondary collectors to which the City Manager may grant exceptions to the access requirements of Table 3-16 provided:
 - i. The street design and transportation network will not be adversely affected by the exception, and the proposed access is generally consistent with the Specific Intent of this Section;
 - ii. The proposed access is designed to provide the least possible impact on the public streetscape and transportation network; and
 - iii. The proposed access has been reviewed and recommended by the Public Works Director and Planning and Community Development Director.

3. Pedestrian Crossings

- a. Where vehicular lot access crosses pedestrian facilities, including any mid-block Access Streets or easements, the continuation of the pedestrian connection shall be maintained at the same grade and with the same material as other parts of the sidewalk.
- b. Where high-speed or frequent vehicle access is expected, vehicle lot access at street grade may be allowed, provided design details for pedestrian crossings at intersections shall be used.

6.3 BLOCKS

All applications shall propose an orderly system of blocks that result from the proposed *Transportation Network Plan* in the Infrastructure Design chapter of the Unified Development Code.

A. BLOCK SIZES

1. The block size standards are specified in Table 3-12 and shall be based upon the development pattern identified in the Boerne Master Plan.

| TABLE 3-12: STREET CONNECTIVITY / BLOCK SIZES | |
|--|---|
| CONTEXT / DEVELOPMENT PATTERN* | BLOCK PERIMETER** |
| DOWNTOWN AND MIXED-USE DISTRICTS | 1,600 feet maximum perimeter; 500 feet maximum on any one block face; 250 feet minimum on any one block face |
| HIGHWAY/COMMERCIAL CENTER | 2,000 feet maximum; 600 feet maximum on any one block face; 300 feet minimum on any one block face |
| NEIGHBORHOOD RESIDENTIAL | 2,200 feet maximum; 800 feet maximum on any one block face; 250 feet minimum on any one block face |
| LOW-DENSITY RESIDENTIAL | 2,600 feet maximum; 1000 feet maximum on any one block face; 300 feet minimum on any one block face; Except no requirement if subdivided as a Conservation Subdivisions. |
| RURAL RESIDENTIAL | No requirement |
| SPECIAL DISTRICTS | No requirement; block sizes may be based on an overall development plan provided it supports the <i>Transportation Network Plan</i> for this property and adjacent properties. |

* Per Boerne Master Plan

** Standards are based on the perimeter formed by the centerline of the public rights-of-way forming the block. Blocks on the perimeter of the property being subdivided which are formed by the streets, any stub streets, and the subdivision boundary with property that may be subdivided in the future, shall not exceed 60% of the maximum perimeter in Table 3-12.

2. Exceptions to or Alternative Compliance permitted in sub-sections C. and D. may be used in place of the Standards in Table 3-12 when establishing a Transportation Network Plan. Use of the exceptions or alternative compliance should result in an overall plan that equally or better meets the General Intent of this Article, and the Specific Intent of each Section in this Article.

B. BLOCK ARRANGEMENT

Blocks shall be numbered consecutively within the subdivision and/or sections of an overall plat and arranged as follows:

1. Blocks may be irregular in shape if necessary, to serve important urban design goals, transportation planning goals, or address topographic and natural features, provided they still meet the general street network and connectivity standards.
2. Whenever feasible, each lot should face the front of a similar lot across the street. Transitions between distinct lot types and land uses should occur at the rear of lots internal to the block rather than across the frontage and public streetscape.

C. EXCEPTIONS

The following exceptions to the Block Size standards in Table 3-12 may be granted by the Planning and Zoning Commission or Council, after consideration of the recommendations of the Planning Department.

1. Natural Features

Blocks or parcels abutting or containing important natural features or topographical constraints may be larger provided the proposed street layout preserves important natural features in accordance with the City's Open Space System standards.

2. Rural Parcels

- a. A tract divided into rural lots substantially larger than called for under these regulations may be larger but shall be arranged to permit:

- i. the opening of future streets in compliance with these regulations; and
- ii. a logical pattern of re-subdivision with minimal future disruption to buildings and structures that are proposed to be built under the original subdivision.
- iii. The Planning and Zoning Commission or Planning Department may restrict building locations and site elements to permit future re-subdivision in compliance with these regulations and require a sketch plan of re-subdivision demonstrating potential future division in compliance with all regulations to be submitted with the preliminary plat.

3. Oversized Parcels

Where oversized parcels are platted for the Special Districts, internal access streets and drive aisles may be required by operation of applicable zoning and site design standards to mimic the design and connectivity of the public streetscape.

D. ALTERNATIVE COMPLIANCE

1. Parcels proposed for subdivision that are larger than 30 acres may propose an Average Perimeter Block Size as a means of alternative compliance for Block Size standards in Table 3-12.
2. In calculating the average, all parcels and blocks shall be used, including blocks formed by edges along open spaces and connections to the perimeter of the subdivision.

| TABLE 3-13: ALTERNATIVE COMPLIANCE / AVERAGE PERIMETER BLOCK SIZE | |
|--|--------|
| DOWNTOWN AND MIXED-USE DISTRICT | 1,400' |
| HIGHWAY / COMMERCIAL CENTERS | 1,600' |
| RESIDENTIAL NEIGHBORHOOD | 1,800' |

| | |
|-------------------------|--------|
| LOW-DENSITY RESIDENTIAL | 2,200' |
|-------------------------|--------|

E. CUL-DE-SAC AND DISCONNECTED STREET LIMITATIONS

In any case where a disconnected street may be permitted by the standards, exceptions, or alternative compliance of these regulations, they shall be further limited by the following standards and design requirements:

1. Permanent

a. Residential

- i. In the interior of a subdivision, Local streets ending in cul-de-sacs may be platted where the Planning and Zoning Commission deems appropriate.
- ii. Where the land being subdivided adjoins property not being subdivided, Local streets ending in cul-de-sacs may be platted provided the streets are carried to the boundaries of the subdivision.
- iii. Streets permanently ending in cul-de-sacs may not be longer than 600 feet.
- iv. The closed end of the cul-de-sac in residential areas shall provide a paved turnaround at least 96 feet in diameter on a street right-of-way of at least 120 in diameter

b. Commercial

- i. In the interior of a subdivision, Local streets ending in cul-de-sacs may be platted where the Planning and Zoning Commission deems appropriate.
- ii. Where the land being subdivided adjoins property not being subdivided, Local streets ending in cul-de-sacs may be platted provided the streets are carried to the boundaries of the subdivision.
- iii. Streets permanently ending in cul-de-sacs may not be longer than 600 feet and shall be provided at the closed end with a paved turnaround at least 96 feet in diameter on a street right-of-way of at least 120 feet in diameter.

c. Temporary

- i. A temporary turn-around must be built at the end of a street more than 150 feet long that will be extended in the future.
- ii. The following note shall be placed on the plat: "cross-hatched area in a temporary easement for turn-around purposed until the street is extended to the (direction) on a recorded plat."

- d. Street designs such as "loop streets" or "closes" with a minimum turning radius of 30 feet are preferred as an alternative to cul-de-sacs.
- e. The Planning and Zoning Commission or Council may require alternative connections for bicycle or pedestrians at the end of disconnected streets to best meet the Specific Intent of this section, such as pathways at the ends of cul-de-sacs.

6.4 EASEMENT REQUIREMENTS

1. Where necessary to adequately serve a subdivision with public infrastructure, the developer shall dedicate or grant easements for poles, wires, conduits, drainage channels, storm sewers, sanitary sewers, water lines, gas lines, and other infrastructure. Easements parallel and adjacent to streets shall be at least 10 feet wide on each side of Local and Collector streets. On Arterial streets these easements shall be 10' on one side (gas and water) and 20' on the other side (electric/cable/telephone). Where easements are not parallel and adjacent to streets, the minimum width shall be 15'. Where an easement contains multiple utilities or special circumstances require, the City Manager may require wider easements.

2. The easements required under this Section shall be continuous for the entire length of the block. These easements shall parallel as closely as possible the street line frontage of the block. Easements may not straddle but may cross property lines, and they may cross lots other than along lot boundary lines, if in the opinion of the Planning and Zoning Commission such locations are needed. Utilities may be located in the right-of-way or in alleys, subject to the appropriate streetscape design standards.
3. All fences crossing an easement shall have double swing gates to allow ready access to the easement and provide a minimum open width of 12 feet.
4. The easements required under this Section shall be considered a part of the lot area for purposes of the minimum lot size requirements of this Section.
5. Where overhead electric utilities are located in easements along common property lines, an overhead easement at least six feet wide may be required by the City Manager on the opposing side of the 15-foot easement strip. In all alleys, overhang easements at least six feet wide must be provided on each side of the alley for electric and telephone lines.
6. Additional easement areas shall be provided to include all public infrastructure appurtenances.
7. Drainage Easements – See the Engineering Design Manual for additional requirements for drainage easements.
8. Routine maintenance of weeds and grass in all drainage and utility easements shall be maintained by the property owner, HOA, or Property Owner Association on which the easement is located in accordance the City Code of Ordinances provisions for high weeds and grass.

6.5 SURVEY REQUIREMENTS

A. BENCHMARK PLACEMENT AND VERIFICATION

1. Lot Markers, Street Monuments and Benchmarks shall be set immediately after completion of all required infrastructure improvements. Prior to acceptance of subdivision improvements by the City, the developer's surveyor or engineer shall certify that all monuments and markers are in place and correctly positioned.

B. LOT MARKERS FOR UTILITY EASEMENTS

1. There shall be markers placed where a lot line crosses a utility easement with the exception of those blanket utility easements placed around all lots.

6.6 PERIMETER STRUCTURES FOR RESIDENTIAL SUBDIVISIONS

A. CONDITIONS REQUIRING A PERIMETER FENCE OR WALL

1. A wall or fence shall be constructed at the perimeter of a residential subdivision or neighborhood where it abuts a Collector or Arterial street, as defined in Chapter 7: Infrastructure Design.
2. A fence constructed of solid masonry or other material approved by the Planning and Zoning Commission shall be a minimum of 6 feet in height.

B. PERIMETER STRUCTURES AND UTILITY EASEMENTS

1. Perimeter structures may be erected along the street right-of-way within a public utility, drainage or storm drain easement, provided they do not impede the operation, installation, maintenance, repair, or replacement of public utilities, drainage facilities, and storm drains within the easement(s).
 - a. Such structures include fences and walls.
 - b. All fences and walls crossing an easement shall have double swing gates to allow ready access to the easement and provide a minimum open width of 12 feet.
 - c. This shall be as determined by the Director of Development Services.

6.7 PUBLIC AND COMMUNITY FACILITIES

A. SPECIFIC INTENT

It is the Specific Intent of this Section to:

1. Anticipate and evaluate the incremental and long-term impact of development on broader public and community facility needs.
2. Identify opportunities to integrate plans for public and community facilities into the planning and design of proposed land divisions.
3. Consider the location of public and community facilities with initial planning considerations for streets, open spaces, blocks, and lots, so that needed facilities are located conveniently in neighborhoods and districts and serve as focal points for the community.
4. Provide the opportunity to negotiate a fair and equitable price for land needed to develop public or community facilities, or alternatively to provide an incentive for landowners to dedicate land for needed facilities where the lack of facilities may otherwise constrain potential future development.
5. Ensure that the most appropriate locations of public and community facilities are identified and considered prior to the premature commitment of these areas to conflicting development patterns.

B. DEDICATION OF PUBLIC SITES

The Planning and Zoning Commission or Council may request the dedication of land to the City or other government entity with jurisdiction over public and community facilities, for parks, playgrounds, open space, public safety facilities, cultural facilities, or school sites wherever parcels proposed for division include locations identified for such facilities in an official master plan for the jurisdiction. The Planning and Zoning Commission or council shall require that such dedication be in conformance with the Master Plan, or any similar official plan for parks, recreation, public safety, community, or education facilities.

C. RESERVATION OF LAND

Where the land area shown on such plan for such public sites is not dedicated and serves an impact beyond that caused by the proposed development, the Planning and Zoning Commission or Council may require that the land be reserved for a period of one year to permit such land to be acquired by the appropriate public body.

D. CREDITS

Where the land area shown on such plan for such public sites is not dedicated and serves an impact beyond that caused by the proposed development, the Planning and Zoning Commission or Council may require that the land be reserved for a period of one year to permit such land to be acquired by the appropriate public body.

6.8 CONSERVATION SUBDIVISIONS

A. PURPOSE

Conservation subdivisions allow for the aggregation of lots for the purpose of conserving natural areas for ecosystem services, aesthetics and community enjoyment.

B. APPLICABILITY

1. Conservation subdivisions are permitted within the corporate limits of the City and within the extraterritorial jurisdiction (ETJ) of the City.
2. Conservation subdivisions are subject to the same requirements as standards subdivisions, except for the additional requirement for a dedicated conservation area, as established by this Section.

C. CONSERVATION AREA REQUIREMENTS FOR CONSERVATION SUBDIVISIONS

1. At least 40% of the total land area of the plat or development shall be preserved as a conservation area.
2. At least one of the following shall be present within the boundaries of a designated conservation area:
 - a. 100-year Floodplain
 - b. Drainageway Protection Zone identified by the City
 - c. At least 10% of the area shall be classified as having a steep slope, in accordance with the City's steep slope specifications
 - d. Scenic vista from a point of high elevation
 - e. Scenic vista of a point of high elevation
 - f. Critical native habitat area meeting at least one of the following criteria:
 - i. At least 8 different species of native grasses documented in the designated natural area
 - ii. Heritage trees
 - iii. Presence of an oak mott
 - iv. Native habitat supporting native bees, monarch butterflies, migratory birds, or rare, threatened or endangered species for Central Texas
3. The conservation area shall be contiguous, based upon consistent and substantial linkages of natural systems, including links to areas on adjacent sites. While a Cluster Development or Conservation Subdivision may involve more than one preserved area, no single, contiguous conservation area shall be less than 5 acres or 15% of the site, whichever is greater.
4. All lots in a conservation subdivision or a cluster development shall be within 500 feet of a conservation area, as measured by the most direct pedestrian connection.
5. The width of the conservation area shall not be less than 100 feet in any direction, except where connecting to other park land, trail easement, or open space.
6. No more than 6% of the designated conservation area shall be covered with an impervious surface.
7. Active open spaces such as parks, landscaped areas, outdoor recreation areas or other amenities shall not count towards the 40% minimum dedication requirement.
8. Dark skies shall be preserved in conservation areas, and the lighting plan for the development shall demonstrate how impact of any lighting in a conservation area on dark skies will be minimized.

D. DEDICATION, MANAGEMENT AND MAINTENANCE

1. Only land dedicated through easement or another means of establishing perpetuity of the designation shall count toward the 40% minimum dedication requirement.
2. The conservation easement may be privately held or dedicated to the City, subject to consent of the City. For consideration of the conservation area for public dedication:
 - a. The City must consent;
 - b. The area must be connected to the City's trail network if applicable; and
 - c. The area must be consistent with the Boerne Master Plan and the Park Master Plan

Chapter 7 Infrastructure Design

DRAFT

7.1 PROVISIONS

A. SHORT TITLE (§1.01)

This Chapter shall be known and may be cited as the "Infrastructure Design Standards," or "Infrastructure Standards" of the City of Boerne. Herein it may be referred to as the "Chapter."

B. PURPOSE

1. The Infrastructure Design Standards

- a. lessen congestion in the streets,
- b. secure safety from fire, panic, and other dangers,
- c. promote health and general welfare
- d. provide adequate light and air,
- e. avoid undue concentration of population, or
- f. facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements.

C. INTENT

It is the General Intent of this Article to:

1. Emphasize an integrated planning and design approach towards investment in infrastructure to manage future growth while preserving community character.
2. Enable street design solutions appropriate to the context, unique character, and anticipated land uses of each proposed division of land.
3. Integrate natural systems into the design of common or public open spaces to allow open space to serve multiple aesthetic, recreational, and ecological functions.
4. Create development patterns that are coordinated and efficiently accommodate immediate and planned uses, but that are also more resilient to change and pressures from future growth and development.
5. To facilitate the planning and development of public and community facilities in a timely manner in association with future development of the City and its surroundings.

D. TERRITORIAL LIMITS OF REGULATIONS

The territorial application of this ordinance shall include all land located within the corporate limits of the City and all land lying within the extra-territorial jurisdiction of the City, as from time to time extended,

E. APPLICABILITY

1. The requirements of this Chapter shall apply for any and all projects or properties requiring a subdivision plat, a development plat, or a construction permit from the City of Boerne.

F. CONFORMITY REQUIRED

1. No building, repair, plumbing or electrical permit shall be issued by the City for any structure on a lot in a subdivision until the final plat of the subdivision has been approved and filed for record and the subdivision has been accepted by the City.
2. The City shall not repair, maintain, install or provide any streets or public utility services in any subdivision for which a final plat has not been approved and filed for record, or in which the standards contained herein or referred to herein have not been complied with in full.

3. The City shall not sell any water, gas, electricity or sewage service within a subdivision for which a final plat has not been approved or filed for record, or in which the standards contained herein or referred to herein have not been complied with in full.
4. On or after the passage of this ordinance, any person, firm or corporation (developer) seeking approval of any plat, plan or replat of any land within the City and its legally established extraterritorial jurisdiction shall be required to comply with the requirements of this ordinance before such approval may be granted.
5. Any subdivision construction plans that have not been approved by the City before the passage of this ordinance shall be required to comply with the requirements of this ordinance.
6. No transfer of land in the nature of a subdivision as defined herein shall be exempt from the provisions of this ordinance even though the instrument or document of transfer may describe land so subdivided by metes and bounds.

G. PENALTY

1. Any person violating this Chapter, or any portion thereof shall, upon conviction, be guilty of a misdemeanor and shall be fined \$1,000.00.
2. Each day that a violation continues, or each occurrence, shall be considered a separate offense and punished accordingly.

H. SEVERABILITY

If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be unconstitutional, void or invalid, the validity of the remaining portions of this ordinance shall not be affected thereby, it being the intent of the Council in adopting this ordinance that no portion hereof, or provision or regulation contained herein shall become inoperative or fail by reason of the unconstitutionality or invalidity of any section, subsection, sentence, clause, phrase or provision of this ordinance.

7.2 TRANSPORTATION NETWORK AND RIGHT OF WAY DESIGN

A. SPECIFIC INTENT

The Specific Intent of this Section is to:

1. Prioritize planning street networks and the design of street types as an important and substantial civic asset that establishes permanent patterns and the character of the public realm of the City.
2. Provide for efficient and safe movement and access along all public ways through a variety of modes of transportation, including automobiles, bicycles, pedestrians, and potentially transit.
3. Complement regional transportation systems with local networks that support multiple and alternative routes for daily trips, do not overly burden any single roadway, and include logical connections to existing, planned, or potential future streets.
4. Plan street networks that allow the design of streets to transition along their length to best support anticipated and adjacent land uses and development patterns.
5. Develop balanced street designs for regional and local routes that accommodate all potential users of the street and rights-of-way, so that the interests of a single mode of transportation do not unnecessarily compromise other modes of transportation.

B. TRANSPORTATION NETWORK PLAN REQUIRED

All applications shall include a Transportation Network Plan. Applications featuring small parcels shall relate any proposed streets and access points to the surrounding existing transportation network according to these standards.

C. TRANSPORTATION NETWORK TYPES

The Transportation Network Plan shall demonstrate how the application is consistent with the Boerne Master Plan, the Major Thoroughfare Plan, any specific sub-area transportation plan, and the existing adjacent transportation network. The Transportation Network Plan shall identify one of the following network types to be applied for the development.

1. Grid or Modified Grid Network

- a. Grid Networks are intended to be used for urban centers and areas with higher traffic impact, as they are the most efficient network for distributing vehicle trips. They are also the most navigable network type for pedestrians.
- b. Grid Networks and Modified Grid Networks are permitted anywhere within the corporate limits of the City.
- c. Grid Networks and Modified Grid Networks are permitted in the City's ETJ in nonresidential subdivisions or nonresidential development plats.
- d. A Grid Network shall:
 - i. Have interconnected streets;
 - ii. Create a defined, generally rectilinear block structure; and
 - iii. Design rights-of-way which support a more compact and walkable development pattern
- e. Permitted modifications of the grid network:
 - i. Radial streets used to create or connect to focal points or important community destinations;
 - ii. Off-sets, shifts or T-intersections which preserve connectivity but discourage through traffic in neighborhoods;
 - iii. Modifications required due to existing cultural amenities, heritage structure or government regulation;
 - iv. Modifications required due to environmental constraints, such as floodplain, steep slope, Drainageway Protection Zone restrictions, or a required conservation area; or
 - v. Irregularities or interruptions for the preservation of valuable topographic or natural features, provided that such valuable topographic or natural features are highlighted in the overall development design, either through subdivision design, open space dedication or wayfinding and neighborhood design, in order to justify the irregular treatment of the Grid Network.

2. Curvilinear Network

- a. Curvilinear Networks are intended to be used in neighborhoods and master planned communities, as they maintain a hierarchy of street types with effective connectivity and traffic distribution, while encouraging a more flexible arrangement of local streets.
- b. Curvilinear Networks are permitted in all neighborhoods and residential subdivisions within the corporate limits of the City
- c. Curvilinear Networks are permitted in all residential subdivisions and master planned communities in the City's ETJ.
- d. A Curvilinear Network shall have:
 - i. Arterials which follow a rectilinear grid pattern;
 - ii. Collectors following a curvilinear pattern and looser block structure; and
 - iii. Irregularly spaced and non-linear local streets.

3. Organic Network

- a. Organic Networks are intended to be used in rural areas and to minimize impact of development on natural features.
- b. In the corporate limits of the City, Organic Networks are permitted in areas zoned Agricultural and Rural Residential or in Cluster Developments
- c. In the corporate limits of the City, Organic Networks are permitted in Cluster Developments or Conservation Subdivisions
- d. In the City's ETJ, Organic Networks are permitted in
 - i. conservation subdivisions; or
 - ii. master planned communities where:
 - (a) there are at least two access points from an arterial; and
 - (b) low impact development methods are incorporated into the design and construction of the development
 - (c) traffic calming measures are incorporated into the design and construction of the streets of the development

4. Special District Network

- a. Special District Networks are intended for use within the corporate limits or ETJ of the City in mixed-use developments, campuses, office parks, industrial areas or master planned commercial areas.
- b. Special District Networks must have at least two points of access from major thoroughfares, or from arterials which demonstrate both the capacity and suitability to accommodate the traffic generated by the Special District Network.

D. DESIGNATING STREETS USING DESIGN TYPES AND FUNCTIONAL CLASSIFICATION

1. Designating streets in the Transportation Network Plan

- a. The Transportation Network of the City shall employ a "transitional" approach to street design utilizing both street design type and functional classification.
- b. A Transportation Network Plan shall therefore designate all existing and planned streets by both a Functional Classification and a Street Design Type.
 - i. Street Design Type shall be based on right of way configuration and may vary at different segments of the same street to best support the existing or planned land uses fronting on that segment.
 - ii. Functional Classification refers to the general function of the street in the overall transportation system of the City and shall be based on the consistent role of the street with respect to continuity and capacity.

2. Functional Classification of City Streets

The Functional Classification of City Streets shall be in accordance with the Master Thoroughfare Plan of the City.

- a. Regional Thoroughfares:
 - i. provide access to and from the City, and are designed for high volumes of traffic moving over long distances
 - ii. designed for traffic volumes > 54,000 vehicles per day
 - iii. shall only be located by the City or by TxDOT, based on the City's Thoroughfare Plan
- b. Arterials:

- i. provide direct connections to different areas within the City and surrounding areas
 - ii. are further classified as major arterials and minor arterials, based on traffic volumes, where:
 - (a) major arterials accommodate between 20,000 and 54,000 vehicles per day; and
 - (b) minor arterials accommodate between 10,000 and 20,000 vehicles per day
 - iii. shall be located every 1/2 to 1 mile of separation, except in rural areas, as may be specified in the City's Thoroughfare Plan
 - iv. shall have the same meaning and be interpreted as a "Major Thoroughfare" on the City's Thoroughfare Plan existing at the time of adoption of these regulations, until that plan is updated to use the Functional Classifications and the Design Types established by this Chapter.
 - c. Collectors:
 - i. Provide direct access between adjacent neighborhoods or districts
 - ii. Are further classified as primary collectors or secondary collectors, based on traffic volumes, where:
 - (a) Primary collectors accommodate between 3,000 and 10,000 vehicles per day; and
 - (b) Secondary Collectors accommodate between 500 and 3,000 vehicles per day
 - iii. Shall be located every 1/4 to 1/2 mile of separation, except in rural areas, as may be specified in the City's Thoroughfare Plan
 - d. Local Streets:
 - i. Provide connections within neighborhoods and districts and are not designed for through traffic
 - ii. Accommodate between 1,000 and 2,000 vehicles per day
 - e. Access Streets:
 - i. are also called alleys
 - ii. provide little continuity and are designed solely for access to lots or the interior of blocks.
 - iii. do not permit through traffic
 - iv. are further classified as residential access streets or nonresidential access streets, where:
 - (a) residential access streets accommodate less than 250 vehicles per day; and
 - (b) nonresidential access streets accommodate less than 1,000 vehicles per day
3. Street Design Type
- a. Application of Street Design Types

- i. Street Design Type refers to the specific design characteristics of the street or “cross section” at any one point.
 - ii. Many different Street Design Types may be applied over the course of a street with a single Functional Classification to allow streets to transition and best support adjacent or planned land uses and development patterns.
 - iii. The Street Design Types vary to address the array of elements that make streets complete:
 - (a) the finished street width and allocation of this width to travel lanes, parking, or alternative modes of travel;
 - (b) the landscape area and the pedestrian area;
 - (c) the necessity for clear utility zones in association with the street network, and block and lot layout;
 - (d) the ability for fire apparatus to access sites; and
 - (e) the building orientation on adjacent sites.
 - iv. Proper arrangement of these elements is necessary to balance and best meet the needs of all users of the right-of-way while supporting immediately adjacent property.
- b. Rural Streets
- i. Characteristics
 - (a) Medium or low capacity roadway
 - (b) Designed for moderate speeds
 - (c) Rough, informal natural vegetation
 - (d) Appropriate for rural areas
 - (e) Unfinished or flat curb
 - (f) Narrow lanes
 - (g) No paved sidewalk space (although trails could intersect and join these streets on occasion)
 - ii. Applicability
 - (a) Rural residential areas
 - (b) Large lot residential developments
 - (c) Cluster developments
 - (d) Conservation subdivisions
- c. Neighborhood Streets
- i. Characteristics
 - (a) Medium or low capacity roadway
 - (b) Moderate or slow speeds
 - (c) Pedestrian and landscape amenities in the public right of way
 - (d) Appropriate within residential areas
 - (e) Narrow to medium lanes
 - (f) Occasional on-street parking permitted
 - (g) Right of way landscaping (sometimes referred to as a parkway) is used to buffer pedestrian spaces
 - (h) Street trees or formal landscaping encouraged
 - (i) Sidewalks that are at least 5 feet wide on both sides of the street
 - ii. Applicability

- (a) Any street supporting residential uses
 - (b) High volume streets that go through a neighborhood, provided a parkway element is added to the cross section
- d. Avenues
 - i. Characteristics
 - (a) High or medium capacity roadway
 - (b) Designed for slow speeds and high pedestrian amenities
 - (c) Narrow to medium lane widths
 - (d) Slow traffic speeds
 - (e) on-street parking
 - (f) formal, ornamental landscaping and expanded pedestrian amenity area
 - (g) wide sidewalks on both sides of the street
 - ii. Applicability
 - (a) Any mixed-use development, commercial center or Grid or Modified Grid Network
- e. Standard Streets
 - i. Characteristics
 - (a) Designed for moderate or high speeds
 - (b) Can be high, medium or low capacity
 - (c) Primary function is accommodating vehicle flow
 - (d) Landscape and pedestrian amenities are accommodated where available but are secondary in priority to accommodation of traffic volumes.
 - (e) Wider lanes and limited or no on-street parking
 - ii. Applicability
 - (a) Applicable functional classes include:
 - (v) Local Residential;
 - (vi) Secondary Collector;
 - (vii) Primary Collector;
 - (viii) Minor Arterial; and
 - (ix) Major Arterial
- f. Fire Apparatus Access Road
 - i. Characteristics
 - (a) Provides fire apparatus access from a fire station to a facility, building or portion thereof
 - ii. Applicability
 - (a) Applicable for all developments

E. EXTERNAL CONNECTIONS

All new streets shall align with any existing or proposed streets on adjacent property, and shall continue and extend arterial, collector, and local streets within the proposed subdivision externally to the parcel boundary as follows:

1. New Arterial and Collector streets shall be provided at the intervals identified in this Chapter, or as depicted in the City of Boerne Thoroughfare Plan. All Arterial and Collector streets shall be connected and extended to the boundary of the site.
2. Local street connections shall be provided and extended to the boundary of the site in any subdivision that contains more than 30 residential lots in a manner that all blocks and parcels in the subdivision meet the block standards of the Subdivision Design chapter of the Unified Development Code. All subdivisions containing more than thirty (30) lots must have at least two (2) points of vehicular access. These two (2) vehicular access point shall be constructed of such standards that are in accordance with the Boerne requirements for public streets and meet the location remoteness requirements of the Fire Code.
3. In addition to all of the above requirements, all commercial development shall have at least one connection to an existing external Arterial or Collector street in the surrounding transportation network, or to a newly proposed Arterial or Collector street connected to the external network.
4. All Residential development shall have at least one connection to an existing external Arterial or Collector street in the surrounding transportation network, or to a newly proposed Arterial or Collector street connected to the external network. Additional connections similar to the one described above shall be required for each additional set of 50 lots if said connections are practicable, considering the existing and or proposed collector network.

F. STREET CROSS-SECTIONS

1. Requirements

- a. All streets in a Transportation Network Plan shall be in keeping with the cross-section design standards of the City.
 - i. The appropriate application of each particular design type shall be based upon the planned land uses immediately abutting the street, the overall function of the Transportation Network Plan, the Major Thoroughfare Plan, and any Traffic Impact Analysis required by the City's TIA ordinance, all subject to the review and approval of the City Manager.
- b. The cross-section of a street shall be determined based on functional classification, anticipated traffic volume and street design type.
- c. Assigned cross sections shall accommodate build-out level traffic conditions as indicated in the TIA.
- d. Minor adjustments to cross sections may be permitted but shall be identified in the preliminary plat application. Minor adjustments are allowed for the following:
 - i. Approved TIA mitigation method
 - ii. Enhanced pedestrian spaces, in addition to minimum lanes required to accommodate projected vehicular traffic volumes
 - iii. Increased median width to accommodate median street trees, in lieu of street trees in the parkway space, for collector streets. This solution must be applied consistently for all streets of the same type for which the adjustment is requested throughout the proposed subdivision.

- e. The Rural street design type is a special type permitted only for Local or Collector streets in Cluster Developments or Conservation Subdivisions, or in the Rural Residential or Low-Density Residential Development Patterns of the Boerne Master Plan.
 - f. The Neighborhood street design type is a special type permitted only for residential uses platted with a Grid / Modified Grid or Curvilinear Transportation Network Plan. It may be applied to the Local or Collector street classifications, or to an Arterial street classification as a “Parkway”, according to the Cross-Section Table of this Section.
 - g. The Avenue street design type is a special type permitted only for non-residential uses platted with a Grid / Modified Grid Transportation Network Plan, and supporting the Neighborhood, Mixed Use or Commercial Development Patterns in the Boerne Master Plan. It can be applied to Local, Collector or Arterial street classifications, but shall be applied only along those blocks where a pedestrian atmosphere is anticipated and where street designs can transition to slower desired speeds.
 - h. The Yield Lane shall be limited in application.
 - i. Sidewalks and Parkways shall be designed and located based on context.
 - j. Additional landscape or utility easements may be necessary to allow appropriate urban design and still meet the pedestrian and utility accessibility standards.
 - k. If a trail that provides direct access from each lot is provided, the Planning and Zoning Commission may waive the requirement to have sidewalks on both sides of the street. A 12’ concrete (or like material) multi-use trail shall be provided in lieu of a 5’ sidewalk/bike lane on some collectors/arterials as determined by the Planning Director.
 - l. The requirements for medians may be waived by the directors of Public Works and Planning if deemed unnecessary.
 - m. Right-of-Way classified by TxDOT as an Interstate Highway (IH-10) shall be constructed per TxDOT standards.
2. Street Cross Section Standards

Cross Sections shall be as established in the following table:

| FUNCTIONAL CLASS | ACCESS | | LOCAL | | | | | COLLECTOR | | | | | | | | ARTERIAL | | | | | | |
|--|---|--|-------------------------|---|--------------------------|---------------------------------------|---|----------------|-------------------------|---|----------------|---|---------------------------------|---------------------------------|----------------|-----------------------|-----------------------|---------------|---------------|----------------|---------------|---------------|
| | R e s i d e n t i a l | C o m m e r c i a l | [R u r a l] | N e i g h b o r n g h b o r n | Lot widths < 65 ft | Lot widths 65 ft and greater | R e s i d e n t i a l | A v e | [R u r a l] | N e i g h b o r n | A v e | S e c o n d a r y | P r i m a r y | P a r t i a l | A v e | M i n o r | M a j o r | | | | | |
| Expected Daily Traffic (vehicles per day) | < 250 | < 1,000 | < 1,000 | < 1,000 | > 1,000 | < 2,500 | < 3,000 | < 10,000 | > 10,000 | < 3,000 | > 3,000 | < 10,000 | > 10,000 | < 3,000 | < 10,000 | > 10,000 | < 20,000 | < 54,000 | > 54,000 | < 20,000 | < 54,000 | > 54,000 |
| Desired Vehicle Speeds | < 10 mph | < 10 mph | 25 – 30 mph | 25 - 30 mph | 25 - 30 mph | 25 – 30 mph | < 25 mph | 30 – 35 mph | 30 – 35 mph | 30 – 35 mph | 30 – 35 mph | < 25 mph | > 25 mph | 30 – 35 mph | 35 – 40 mph | 35 – 40 mph | 35 – 40 mph | < 25 mph | > 25 mph | 40 – 45 mph | 45 + mph | 45 + mph |
| Right-of-way Width [4] | 20’ | 26’ | 56’ | 60’ | 54’ | 60’ | 66’ | 62’ | 84’ | 56’ | 62’ | 70’ | 108’ | 74’ | 72’ | 94’ | 100’ | 92’ | 112’ | 104’ | 108’ | 132’ |
| Traffic Lanes [5] | 1 yield | 2 | 2 | 2 | 1 yield | 2 | 2 | 2 | 4 | 2 | 2 | 2 | 4 | 2 | 2 | 4 | 4 | 2 | 4 | 4 | 4 | 6 |
| Lane Width [5] | 14’ yield lane | 10’ | 10’ | 10’ | 14’ | 10’ | 10’ | 11’ | 11’ | 11’ | 11’ | 10’ | 10’ | 11’ | 11’ | 11’ | 11’ | 10’ | 10’ | 12’ | 12’ | 12’ |
| On-street Parking Type | -- | -- | -- | Both sides | One side only | Both sides | Both sides | -- | -- | One side | Two sides | Both sides | Both sides | Both sides, | -- | -- | -- | Both sides | Both sides | -- | -- | -- |
| On-street Parking Width | -- | -- | -- | 8’ parallel | 8’ parallel | 8’ parallel | 8’ parallel | -- | -- | 8’ parallel | 7’ parallel | 8’ parallel | 17’ angled | 8’ parallel | -- | -- | -- | 17’ angled | 17’ angled | -- | -- | -- |
| Median (min. width / min. uninterrupted length) [7] | -- | -- | -- | -- | -- | -- | -- | -- | -- | -- | -- | -- | -- | -- | 14’ / 330’ | 14’ / 330’ | 20’ / 330’ | -- | -- | 16’ / 660’ | 20’ / 660’ | 20’ / 660’ |
| TOTAL Paved Width (including median) | 20’ | 26’ | 28’ | 36’ | 30’ | 36’ | 36’ | 30’ | 52’ | 30’ | 36’ | 36’ | 74’ | 48’ | 46’ | 68’ | 64’ | 54’ (2-ln) | 74’ (4-ln) | 74’ | 78’ | 102’ |
| Sidewalk width / Both sides[6] | -- | -- | -- | 5’ | 5’ | 5’ | 8’ | -- | -- | 5’ | 5’ | 10’ | 10’ | 5’ | 5’ | 5’ | 8’ | 12’ | 12’ | 5’ | 5’ | 5’ |
| Parkway [6] | -- | -- | -- | 7’ | 7’ | 7’ | 7’ | -- | -- | 8’ | 8’ | 7’ | 7’ | 8’ | 8’ | 8’ | 10’ | 7’ | 7’ | 10’ | 10’ | 10’ |
| Borrow Ditch | -- | -- | 14’ | -- | -- | -- | -- | 16’ | 16’ | -- | -- | -- | -- | -- | -- | -- | -- | -- | -- | -- | -- | -- |
| Shoulder width | -- | -- | 4’ | -- | -- | -- | -- | 4’ | 4’ | -- | -- | -- | -- | -- | -- | -- | -- | -- | -- | -- | -- | -- |
| *Bike Lanes | -- | -- | -- | -- | -- | -- | -- | -- | -- | -- | -- | -- | -- | 5’ | 5’ | 5’ | -- | -- | -- | 5’ | 5’ | 5’ |
| Landscape / Utility Easement [6] | -- | -- | -- | 10’ | 10’ | 10’ | N/A | -- | -- | 10’ | 10’ | N/A | N/A | 10’ | 10’ | 10’ | 10’ | -- | -- | 10’ | 5’ | 10’ |
| *Bike Lanes | | | | | | | See Bike Facility standards | | | | | | | | | | | | | | | |
| Driveway Access | | | | | | | See Lot Access standards in Chapter 6 Subdivision Design and any applicable lot access and design standards Chapter 4: Residential Sites or Chapter 5 Nonresidential Sites. | | | | | | | | | | | | | | | |

G. LIMITATION ON YIELD LANES

Yield lanes are narrower lanes that accommodate two-way traffic, although at certain sections of the street it may only allow one un-obstructed moving lane. This is most common on streets that allow on-street parking where the presence of parked cars is not continuous on the length of the street or not present at all times of the day. Yield lanes are only appropriate on Access streets or on Local streets supporting only residential uses. Use of these types of lanes shall be limited to these standards:

| LIMITATIONS ON YIELD LANES | | |
|----------------------------|-----------------------|---------------------------------------|
| DWELLING UNITS [1] | LENGTH LIMITATION [2] | QUEUING REQUIREMENTS [3] |
| < 20 | 800' | No specific queuing area required |
| 20 TO 30 | 660' | Queuing areas at least every 150 feet |
| > 30 | 440' | Queuing area at least every 200 feet |

- [1] Dwelling units refers to the total number of dwelling units that have frontage on the particular section of street between two intersecting streets. Any accessory dwelling units permitted are not counted in this number.
- [2] Length specifies maximum distance between intersections with other through streets, measured from the centerlines of the intersecting streets.
- [3] "Queuing areas" may be any area in the finished street design that allow for the pull-out and stopping of at least one vehicle to allow for oncoming vehicles to pass. Examples include driveway curb-cuts that prohibit parking in the on-street parking lane or other similar designs that prohibit parking, or effectively widen the street to allow 2 cars to pass at all times.

H. BICYCLE FACILITY STANDARDS

Bicycle facilities shall be added to any street designated as a Secondary Collector or larger street or in an official transportation plan or trail plan of the City as a bicycle route and should be added at any other location where bicycle transportation is likely. The following bicycle facility standards shall be used in amending the typical Street Cross-sections and added to the minimum right-of-way width.

| BICYCLE FACILITY STANDARDS | | |
|----------------------------|---|---|
| FACILITY TYPE | DIMENSION | APPLICABILITY |
| DEDICATED BICYCLE LANE | 5' to 6' minimum, each lane and located immediately adjacent to outermost vehicle lanes and included in the Total Paved Width | Required on identified bike routes with vehicle speeds above 35 mph, unless Off-street Multi-use Trail provided |
| SHARED BICYCLE LANE | 4' added to outer most vehicle lane, but no more than 14' total lane width | Acceptable on identified bike routes with speeds below 35 mph |

| | | |
|-----------------------------------|---|---|
| COMBINED VEHICLE/ BICYCLE LANE | No designated area, as bicycles and vehicles share the same space with low vehicle speeds | Acceptable on any portion of the street with design speeds of 25 mph or less; often associated with streets with yield lanes or where angled parking is allowed. |
| OFF-STREET MULTI- USE TRAIL | 10' to 12' minimum, located adjacent to roadway in the Parkway | Preferred on identified bicycle routes with vehicle speeds above 35 mph or where on-street facilities are not appropriate or are impractical. Particularly where Greenways (Article 3, Section 03) are located along the roadway. |

I. UTILITY CLEAR ZONES

Utilities may be located in the right-of-way or within easements if designed consistent with Trees and Utility Clear Zone Table. Easement locations in alleys or utility corridors out of the right-of-way may also be acceptable to allow appropriate urban design and application of the Street Cross-section standards. However, to allow proper maintenance and function of utilities, the following standards shall apply to Utility Clear Zones, whether in the right-of-way, easement, or in alleys and utility corridors.

| TREES AND UTILITY CLEAR ZONES | | | | |
|---|---|---|--|--|
| TREE TYPE | DISTANCE FROM OVERHEAD LINES (< 600 VOLTS) | DISTANCE FROM OVERHEAD LINES (> 600 VOLTS) | DISTANCE FROM UTILITY POLE OR STREET LIGHT | DISTANCE FROM UNDERGROUND LINES (ALL UTILITIES) |
| SMALL / ORNAMENTAL | No limit | No limit | 10 feet | 5 feet |
| MEDIUM / ORNAMENTAL OR SHADE | 7 feet | 20 feet | 20 feet | 5 feet |
| LARGE / SHADE | 7 feet | 30 feet | 30 feet | 7 feet |

* Distance measured in lateral feet from the center of the line to the center of the tree. Large/Shade Trees are species that reach over 50' total height at maturity; Medium/Ornamental or Shade Trees are species that reach between 20' and 50' total height at maturity; Small/Ornamental trees are species that reach under 20' total height at maturity.

J. PEDESTRIAN FACILITIES

- The pedestrian facilities and parkway of the right-of-way shall be designed to best balance the need for clear utility access and maintenance, for direct pedestrian connections, and for enhanced civic design of the right-of-way. The following are the minimum standards to effectively balance these needs. An additional landscape or utility easement may be necessary on the edge of the right-of-way to allow the most appropriate urban design while meeting these needs.

2. Required pedestrian facilities shall always be separated from moving traffic lanes of the roadway by a landscape buffer and only located immediately adjacent to the finished street as an expanded pedestrian amenity area where on-street parking will likely be present.
 - a. In all cases where sidewalks are provided, they shall be at least 5 feet wide to permit two persons to walk side-by-side comfortably.
 - b. If direct access to a trail from each lot is provided the Planning and Zoning Commission may waive the requirement to have sidewalks on both sides of the street.
 - c. On any block face below 3.5 dwelling units per acre, sidewalks on only one side may be acceptable, provided the Planning Commission determine that the street is not important to the overall pedestrian network.
 - d. On any block face that includes a Green Way and 10' to 12' multi-purpose trail, sidewalks are not required.

K. PARKWAYS

1. The Parkway shall be designed to buffer pedestrians from moving traffic lanes.
2. All planting in the right of way should be coordinated with Utility Clear Zone guidelines, and any planting in this area may be counted towards a landscape requirement of the zoning regulations.
3. Species should be based on guidance from the Texas Forest Service, Urban Forestry Program, or other similar guidance on species appropriate to South-Central Texas, and the following standards
 - a. In cases where large shade street trees are planted between the street edge and the sidewalk, the parkway shall be at least 6' wide (7' to 8' preferred) to avoid the root zone disturbing or heaving the sidewalk when trees reach maturity.
 - b. In cases where medium or small trees are planted between the street edge and the sidewalk, the parkway should be at least 5' wide (6' to 8' preferred) to avoid the root zone disturbing or heaving the sidewalk when trees reach maturity.
 - c. In all cases where a parkway is provided between the street edge and the sidewalk, low shrubs and/or perennial ground cover shall be planted.
 - d. In cases where on-street parking is provided and will serve as a buffer between pedestrians and moving vehicles at most times of the day, the parkway may be designed as an extension of the sidewalk to provide transitional pedestrian amenity area. Ornamental or small street trees may be planted in tree-wells within an expanded pedestrian amenity area. Tree wells shall be large enough to ensure sufficient soil areas for the survival of the tree species and shall generally have at least 30 square feet of impervious area, or otherwise include constructed soil volumes for the roots to access. Tree wells should be spaced at regular intervals, typically every 25' to 60'. The under canopy of all trees should be sufficient to allow a clear view of all storefronts along the street.
 - e. Parkway on Rural street design types, or any other streets where no sidewalks may be required, should have expanded parkways with more informal, rough, low-maintenance and natural vegetation. These areas may need to incorporate trails or multi-use bicycle/pedestrian facilities in some cases and planting may occur in or along borrow ditches provided all drainage functions may be retained with no additional maintenance.
4. Civic Open Space Credit

Where the Parkway and pedestrian facilities in the right-of-way in excess of the requirements of this Section, and where these areas are designed to create a greater civic amenity by meeting the Open Space Standards of this Chapter, the areas in excess of the minimum right-of-way standards may contribute to the Parkland Dedication requirement of the proposed subdivision.

7.3 STREET SPECIFICATIONS AND CONSTRUCTION STANDARDS

A. GENERAL LAYOUT AND ALIGNMENT OF STREETS

1. Adequate streets shall be provided by the developer, and the arrangement, character, extent, width, grade and location of each shall be as specified in this Chapter.
2. Private streets are restricted, conforming to the conditions of this Section.

B. REQUIRED STREET IMPROVEMENTS

1. General Specifications

- a. In the City limits or in the extrajurisdiction (ETJ) of the City of Boerne, the developer shall, at his/her sole cost and expense, provide all necessary street grading, pavement, curbing, gutters, sidewalks, bike lanes and storm drains required to service the subdivision as identified by the City of Boerne Thoroughfare Plan, including the perimeter streets contiguous to the subdivision.
- b. All street improvements shall meet the requirements for Street Cross Sections unless an exception has been approved by the Planning and Zoning Commission and City Council.

2. Street Improvement – Timing

- a. Streets improvements as set forth in 7.2.F Street Cross Sections shall be made at such time as subdivision or development occurs.
- b. If a street improvement is required to be made to an existing street, arterial, collector or street identified in the Thoroughfare Plan, the improvement shall be made to the entire length of the development that is contiguous to that street.

3. Street Geometry Standards

- a. The Design elements of all streets shall conform to requirements as established in the Engineering Design Manual.

4. Private Streets

a. Private Streets

- i. Private streets are allowed in certain subdivisions only under the terms set forth in this Section, and pursuant to any other ordinances or guidelines for private street developments as may be adopted for use by the City.
- ii. All private streets shall be designed and constructed in accordance with this ordinance and applicable Standard Construction Details for publicly dedicated streets.
- iii. The term Private Street shall be inclusive of alleys, if such are provided within the subdivision.

b. Subdivision Eligibility Criteria

Private streets shall be permitted only within a subdivision satisfying each of the following criteria:

- i. The subdivision shall have a sufficient number of lots and value to demonstrate through an approved economic analysis the viability of private maintenance by the development served;
- ii. The streets to be restricted to private use are not intended for regional or local through traffic circulation;
- iii. The subdivision shall conform to the City's requirements for restricted access.;

- iv. The subdivision is located adjacent to an existing or approved public street that can be reasonably connected, even though the street connection may require the construction of a bridge or culvert;
 - v. All subdivisions containing more than thirty (30) lots must have at least two (2) points of vehicular access. These two (2) vehicular access point shall be constructed of such standards that are in accordance with the Boerne requirements for public streets and meet the location remoteness requirements of the Fire Code. A mandatory property owners (homeowners) association, which includes every owner of a lot within the private street development, shall be formed and shall be responsible for maintenance of the private streets and alleys (see Subsection 5.11.005 below); and
 - vi. The subdivision conforms to any other special guidelines for private street developments as may be approved separately by the City Council.
- c. Certain Streets Excluded
- i. Roads or streets that are shown on the City's Thoroughfare Plan, such as highways, major or minor thoroughfares or arterials, or collectors, shall not be used, maintained or constructed as private streets, and a private street subdivision shall not cross or interfere with an existing or future collector or arterial street.
 - ii. Also, the Planning and Zoning Commission may deny the creation of any private street if, in their sole determination, the private street would negatively affect traffic circulation on public streets, or if it would impair access to the subject or adjacent property; impair access to or from public facilities including schools or parks; or if it would cause possible delays in the response time of emergency vehicles.
- d. Parks, Greenbelts and Wildlife Preserves Excluded
- A private street subdivision shall not cross, interfere or hinder public access to an existing or future public pedestrian pathway, hike and bike trail, greenbelt, park or wildlife preserve as shown on the City of Boerne's Parks and Open Space Master Plan or as already dedicated for public use.
- e. Property Owner's or Homeowners' Association Required
- i. Subdivisions developed with private streets shall have a mandatory property owners' or homeowners' association (the "Association"), which must include all property, and lots served by the private streets and be in accordance with requirements of this Chapter.
 - ii. The Association documents shall be reviewed and approved by the City Manager and the City Attorney to ensure that they conform to these and other applicable City requirements prior to final plat approval.
 - iii. The Association documents shall be filed of record at Kendall County prior to final plat acceptance in order to ensure that there is an entity in place for long-term maintenance of private streets and all related appurtenances.
 - iv. The Association may not be dissolved without the prior written consent of the City Council.
 - v. No portion of the Association documents pertaining to the maintenance of private streets and alleys, and assessments therefore, may be amended without the prior written consent of the City Council.
 - vi. The Association shall own and be responsible for the maintenance of private streets and appurtenances and the City shall not be required to pay for or assist with any portion of the construction or maintenance of such private streets.
 - vii. The Association shall provide for the payment of dues and assessments required to maintain the private streets.
 - viii. Out of such dues and assessments, the Association must establish a reserve fund for the maintenance of private streets and other improvements such as common

greenbelts, security station structures and equipment, and other significant Association infrastructure.

- (a) This reserve fund shall not be commingled with any other Association fund.
 - (b) The balance of the fund shall be equal to the total replacement cost of the private streets and other improvements divided by the average life expectancy of those improvements times the age of the improvements. The life expectancy for a subdivision with private streets shall be a minimum of twenty (20) years.
 - (c) The Association shall have an annual review performed by a certified public accounting firm verifying the amount in the reserve fund. A copy of the review shall be provided to City.
 - (d) If the private streets are converted to public streets, the reserve fund shall become the property of the City.
- ix. The Association documents shall provide that should the Association fail to carry out its duties as specified in these regulations, the City or its lawful agents shall have the right and ability, after due notice to the Association, to perform the responsibilities of the Association if the Association fails to do so in compliance with any of the provisions of these regulations or of any applicable City Codes, regulations or agreements with the City and to assess the Association or the individual lot owners for all costs incurred by the City in performing said responsibilities if the Association fails to do so, and the City shall further have any and all liens and lien rights granted to the Association to enforce the assessments required by the declaration and/or to avail itself of any other enforcement actions available to the City pursuant to state or City codes and regulations.
- x. Pursuant to Section 542.008 of the Transportation Code, the Association documents shall provide that all traffic rules and regulations enforced and applied by the City on all public streets, alleys and rights-of-way governing the operation and movement of vehicles are extended to all private streets, alleys and rights-of-way within the subdivision. All such streets, roads, alleys, and rights-of-way are governed and controlled by all traffic laws set forth in state law and City ordinance.
- f. Private Street Lot
 - i. Private streets must be constructed within a separate lot owned by the Association. Private streets must conform to the City's standards for public street rights-of-way.
 - ii. An easement covering the street lot shall be granted to the City and its employees providing unrestricted access to and use of the private streets and private street lot in pursuit of their official duties, private Street rights of way or lots shall be dedicated as utility easements so that the utilities can be installed in their usual locations and configurations.
 - iii. This right shall also extend to all utility providers operating within the City and to other necessary governmental service providers, such as the U.S. Postal Service.
 - iv. The easement shall also permit the City to remove any vehicle or obstacle within the private street lot that may impair emergency access.
 - v. The easement shall also allow emergency vehicle access to the lot and enforcement of all laws and ordinances therein.
 - vi. The City will not assist in enforcing deed restrictions.
- g. Infrastructure and Utilities
 - i. Any public water, reclaimed water, gas, sewer and drainage facilities, street lights, and traffic control devices, such as traffic signs, placed within the private street lot shall be designed and constructed to City standards, and shall be accepted by and dedicated to the City prior to filing the record plat for the subdivision.

- ii. All private traffic control devices and regulatory signs shall conform to the Texas Manual of Uniform Traffic Control Devices, as may be amended, and to City standards.
 - iii. Should it be necessary that the City erect and place such traffic control signs, signals and devices as may be necessary or appropriate in the application and extension of traffic rules and regulations to the subdivision, all costs of erection, placement, replacement, maintenance and/or removal shall be borne by the Association such sum shall include but not be limited to the acquisition of property for sign placement.
 - iv. Street lighting shall be provided on private street in accordance with the City's requirements. It shall be the responsibility of the Homeowners Association HOA/POA to pay for the cost of operating the streetlights in private streets.
 - v. The metering for utilities such as water, reclaimed water, gas and electricity shall be located on the individual lots to be served, not grouped together in a centralized location(s), such as "gang-box" style metering stations, which shall not be permitted.
- h. Plans and Inspections
- i. Development applications for subdivisions with private streets must include the same plans and engineering information required for public streets and utilities.
 - ii. City requirements pertaining to inspection and approval of improvements shall apply.
 - iii. The City may periodically inspect private streets and may require any repairs necessary to ensure efficient emergency access and to protect the public health, safety, convenience and welfare.
- i. Restricted Access
- i. The entrances to all private streets shall be clearly marked with a sign, placed in a prominent and visible location, stating that the streets within the subdivision are private, and that they are not maintained by the City.
 - ii. Guard houses, access control gates, and cross arms, if used, shall be constructed per Subsection (i) herein below.
 - iii. All restricted access entrances must be manned twenty-four (24) hours every day, or they must provide a reliable, alternative means of ensuring City and emergency access to the subdivision for emergency access, the Fire Marshal shall approve of all alternative means of access, by the City and other utility or public service providers, such as postal carriers and utility companies, with appropriate identification.
 - iv. The method to be used to ensure City and emergency access into the subdivision shall be approved by all applicable emergency services providers prior to engineering release for construction of the development.
 - v. If the Association fails to maintain reliable access as required herein, the City may enter the subdivision and remove any gate or device which is a barrier to access at the sole expense of the Association.
 - vi. The Association documents shall contain provisions in conformity with this Section which may not be amended without the written consent of the City Council.
 - vii. Pedestrian and bike access for the site must be provided with separate gates outside the vehicle travel lanes.

7.4 ACCESS RESTRICTED ENTRANCE DESIGN STANDARDS

A. ACCESS STANDARDS

1. A gated community shall not impede the current or future development of a collector street or arterial or another minor or major thoroughfare identified in the City's Master Thoroughfare Plan.
2. A gated community shall not disrupt an existing or proposed public pedestrian pathway, bike trail or park.
3. Private or restricted access entry features shall not impede necessary sight lines for traffic, nor create vehicular stacking that adversely affects an adjacent street.

4. Any private street (and any other type of controlled access entrance street) which has an access control gate or cross arm must have a minimum uninterrupted pavement width of twenty feet (20) at the location of the gate or access control device, both ingress point and egress point, regardless of the type of device used.
5. There shall be at least two points of vehicular access, except for a gated community containing no more than 30 dwelling units. The second entry may be designated for an exit only.
6. A site plan showing the design and location of all proposed access restricted entrances shall be submitted for review by the City Manager or designee, along with the engineering plans for the subdivision, and must be approved by the Planning and Zoning Commission along with approval of the plat.
7. All private traffic signs shall conform to the Texas Manual of Uniform Traffic Control Devices, as amended, and city ordinances and regulations.

7.5 WATER AND SEWER

A. GENERAL REQUIREMENTS FOR WATER SYSTEMS

1. Service Required

Each developable lot within a new subdivision within the corporate limits of the City shall be provided with domestic water service from the City of Boerne Water System. Each lot within a subdivision outside the corporate limits of the City, but within the limits of the City's extraterritorial jurisdiction, shall be provided with domestic water service from a community water system meeting the design requirements of the Texas Commission on Environmental Quality (TCEQ) or may be served by an individual private well that is permitted and approved by Cow Creek Groundwater District. The water distribution system required under this section shall include all pumping station production facilities, elevated storage tanks, fire hydrants and other appurtenances required to adequately serve the area being subdivided.

The water system improvements required under this section shall include the extension of existing water mains (including the installation of new fire hydrants) across the entire length (frontage) of all newly established lots adjacent to a public right of way and/or to the perimeter of the subdivision for future extension into undeveloped areas, or for connections to the systems in adjoining developed areas.

2. Obligations of Developer

Within the perimeter of the subdivision, the developer shall install, at his/her own cost and expense, all necessary lift stations, booster pumps, mains and appurtenances, including, but not limited to, valves, manholes and fire hydrants. The developer shall provide all water lines necessary to properly serve each lot of the subdivision and to ensure that existing and/or new water facilities can supply the required demand for domestic use and for fire protection at the desired pressure. The developer shall install all mains and shall extend the service to all lots terminating thereon with a curb stop and meter box. The developer shall submit a certificate to the City Manager certifying that the system has been designed in accordance with the requirements of the State Health Department, rules of the Texas Insurance Commission and this ordinance.

B. WATER SYSTEM DESIGN STANDARDS

All water production, trunk main and distribution facilities shall be designed and sized to meet the minimum design standards as listed in the Engineering Design Manual.

C. SANITARY SEWERS

1. General Requirements

- a. Every subdivision shall be provided with a sewage disposal system meeting the design requirements of the Texas Commission on Environmental Quality and approved by the City Manager.
- b. Sanitary sewers shall be connected to serve each developable lot in the subdivision unless the Planning and Zoning Commission determines that such connection would require an unreasonable expenditure of funds when compared with other methods of sewage disposal or unless the subdivision meets the requirements of Section 6 of this Article.
- c. Where connection to the sewer system is not to be made immediately, plans shall be prepared for installation of a sewage collection system to serve each lot, and those parts of such system which will lie in the portion of streets intended for vehicular traffic shall be installed before the street is paved.
- d. The sewage collection and disposal systems required under this section shall include all lift stations, force mains, treatment facilities and appurtenances required to adequately serve the area being subdivided.
- e. The sewage collection and disposal systems improvements required under this section shall include the extension of sanitary sewer mains to the boundaries of the subdivision as required to provide for the future extension of the systems into adjoining undeveloped areas or for connection to the systems in adjoining developed areas.
- f. No variance shall be granted to this section without the provision of permanent utility easements and temporary construction easements for the future extension of said improvements.
- g. The easement widths and location shall be determined by the City.

2. Obligations of Developer

- a. The developer shall install all sanitary sewer mains and lines to serve each lot.
- b. The developer shall submit a certificate to the City Manager certifying that the sewer system has been approved by the Texas Commission on Environmental Quality.

D. ON-SITE SEWAGE FACILITIES

1. General Requirements

- a. When specifically authorized by the Planning and Zoning Commission, on-site sewage facilities in the city limits may be utilized for wastewater disposal.
- b. All lots in the subdivision which utilize private wells and on-site sewage facilities shall obtain approval from and adhere to the regulations provided by Cow Creek Groundwater District and TCEQ (Texas Commission on Environmental Quality).
- c. Lots in subdivisions being served with water provided by a public or other community water system may utilize individual on-site sewage facilities provided all lots within the subdivision have a minimum area of 45,000 square feet unless the water system is providing water from a source that is outside the jurisdiction of the Cow Creek Underground water District then the standards set forth in Section 3.04.003.B shall be followed.
- d. On-site sewage facilities shall be installed on each lot concurrent with any development thereon and the design of such system and the method of installation shall conform in all respects to the requirements of the Kendall County Office of Development Management.

E. WASTEWATER SYSTEM DESIGN STANDARDS

1. General Design Standards

- a. All wastewater collection system improvements shall be designed and sized to meet the minimum design standards as listed in the Engineering Design Manual.

7.6 DRAINAGE

A. GENERAL REQUIREMENTS

1. Specific Intent

It is the Specific Intent of this Section to:

- a. Preserve and protect sensitive natural areas that serve an ecological function in minimizing flood damage.
- b. Create a priority for maintaining natural drainage systems wherever possible and emphasize the design and arrangement of storm water facilities as community amenities, appropriate to the planning context.
- c. Minimize the amount of impervious surface directly connected to storm water systems, and reduce the amount of flow, speed of flow and level of contaminants entering both natural and manmade storm water systems.
- d. Allow flexibility in site designs and cooperation among adjacent development sites, to allow the most efficient development of sites and encourage individual designs that support more regional or watershed-based storm water solutions.
- e. Integrate high-performance flood protection and storm water systems into the open space system.
- f. Encourage creative design solutions that allow areas to perform multiple functions in terms of storm water management, flood protection, open space and recreation, landscape and urban design, or other site development support functions.

2. Facilities Required

The developer shall provide an adequate storm drainage system to protect each individual lot throughout the subdivision from flooding. These drainage facilities may consist of a combination of natural features, swales, watercourse improvements, bridges and culverts, enclosed storm drains and other man-made improvements to mitigate increased stormwater within the subdivision. The drainage system shall use detention ponds, retention ponds and siltation ponds, individually or in concert, to control runoff and to protect upstream, downstream, and adjacent properties from any increase in flooding originating from the subdivision. The system shall be integrated with the overall drainage system of the city, and the design of the system must be approved by the City Manager in accordance with the requirements of this ordinance.

3. Stormwater Management

Stormwater management facilities shall be provided prior to site construction or clearing, where design is required at the time of platting.

- a. Stormwater management shall be designed and constructed to prevent adverse conditions from arising on property adjoining, upstream and downstream of the subdivision site. Adverse conditions include increases in peak stormwater flows, water surface elevations and flow velocity. The applicant shall provide a drainage report, as described in the Engineering Design Manual, that shows mitigation of the impacts of development or redevelopment on the existing downstream drainage system. Mitigation may include detention, retention, infiltration, channel improvements, and other means acceptable to the City Manager. Stormwater Management facilities shall be designed to reduce post-development or redevelopment peak flow rates of discharge to pre-development rates for the fifty, twenty, ten, four, two and one percent annual chance (2, 5, 10, 25, 50 and 100-year) storm events at all points of discharge. The drainage report shall also include an evaluation of immediately upstream, downstream and adjacent property conditions to confirm no adverse impact.
- b. Exemptions of Stormwater Management requirements

The following types of development are exempt from the requirements as set forth in Section 7.2 Facilities Required, if the following criteria is met:

- i. An individual single-family residential lot, whether created by metes and bounds or plat, meeting the criteria in a. or b. below:
 - (a) The lot is larger than 3 acres and the total impervious cover on the lot, excluding the right of way, is less than 15 percent or,
 - (b) The lot is less than 3 acres and the total impervious cover on the lot, excluding the right of way, is less than 20 percent.

Or;

- ii. An individual lot (commercial or residential - one lot) whether created by metes and bounds or by plat if the owner/applicant is adding 100 square feet or less of new impervious cover and will direct the runoff from any new impervious cover into a vegetated area outside of the right-of-way but within the same lot using methods described in the LID Manual or as provided by the City of Boerne for residential lots.

4. Construction Sequencing and Erosion Controls

The final construction plans shall be accompanied by a comprehensive and detailed report and plan for the control of erosion and sedimentation. The report shall include a construction sequencing plan which details the proposed placement, maintenance and removal of temporary erosion controls, the slope stabilization techniques which are to be employed and the restoration measures, including vegetative types, which are to be employed as part of the process of subdivision development. The plan shall list and show the location of temporary erosion controls, show the physical details of the controls, and include a construction sequencing list which will govern the timing of the use of various controls in relation to distinct steps in subdivision construction.

5. Land Clearing Restrictions

No clear-cutting or rough-cutting of land shall be permitted until a Tree Removal and Land Clearing Permit is issued. No other clearing or rough-cutting shall be permitted except as necessary for construction of temporary erosion and sedimentation controls until these controls are in place and approved by the City Manager. Areas to be cleared for temporary storage of spoil or construction equipment, or for the permanent disposal of fill material or spoils, shall be shown on Master Development Plan. The natural vegetation within any water supply protection zone which is required by Section 6 B of this Article shall not be disturbed except for purposes consistent with the ultimate use of the land in that zone.

6. Enforcement of Erosion Controls and Clearing Restrictions

If a developer does not comply fully with an approved erosion control and construction sequencing plan, or violates the restrictions on land clearance in the preceding subsection, the City Manager shall notify the developer in writing that the City may correct the violation and revegetate the disturbed area at the developer's expense unless, within 15 days after the date of the notice, the developer complies, corrects the violation, provides the required erosion and sedimentation controls and provides continuing maintenance thereof acceptable to the City Manager.

7. Alterations to Existing Drainageways

No person, individual, partnership, firm or corporation shall deepen, widen, fill, reclaim, reroute or change the course or location of any existing ditch, channel, stream or drainageway without first obtaining floodplain development and grading permits from the City and any

other applicable agency having jurisdiction, such as FEMA or the U.S. Army Corps of Engineers. The costs of such study, if required, shall be borne by the developer.

B. DRAINAGE LAW

This section briefly references the laws and related policies that affect hydrologic and hydraulic designs for all public and private projects within the City of Boerne and its Extraterritorial Jurisdiction (ETJ). These laws and policies include Federal, State, and Local Codes and regulations. Not all laws, statutes, codes, or regulations are included.

1. Federal Laws and Regulations

- a. The Code of Federal Regulations, National Flood Insurance Program, National Environmental Policy Act, Rivers and harbors Acts, The Federal Water Pollution Control Act, Section 402 of the Clean Water Act (CWA), Endangered Species Act (ESA)

2. State Statutes and Rules

- a. Texas Water Code Sections 11.086 and 16.236, Texas Commission on Environmental Quality (TCEQ) chapter 213 and 299

C. DRAINAGE STUDY REQUIRED

1. The developer shall submit a drainage study with the infrastructure documents for subdivisions, and wherever stormwater management facilities shall be regional and dedicated to the public.
2. The drainage report shall be a stand-alone document. When references are made or assumptions are based on previously approved submitted reports, the drainage report must include the appropriate excerpts, pages, tables, and maps containing the referenced information. Assumptions made in previous reports must be verified and substantiated. All submitted reports should be clearly and cleanly reproduced. Photocopies of charts, tables, nomographs, calculations, or any other referenced material must be legible.

D. DRAINAGE SYSTEM DESIGN STANDARDS

1. General Requirements

Drainage facilities shall be provided and constructed as specified by the City Manager in accordance with the Engineering Design Manual.

7.7 RECLAIMED WATER

A. GENERAL REQUIREMENTS FOR RECLAIMED WATER SYSTEMS

1. Service Requirements

New subdivisions or platted properties within the corporate limits of the City or within the limits of the City's extraterritorial jurisdiction may request reclaimed water service from the City of Boerne Reclaimed Water System. In the event the City approves the request, the Developer shall provide reclaimed water system improvements. System improvements shall include the extension of reclaimed water mains, design and installation of distribution system within property and all required appurtenances. The City may require the extension of lines across the entire length (frontage) of all newly established lots adjacent to a public right of way and/or to the perimeter of the subdivision for future extension into undeveloped areas, or for connections to the systems in adjoining developed areas.

A reclaimed water master meter or individual service meters are required for the measurement of the quantity of reclaimed water.

2. Provision of Reclaimed Water Service

- a. Upon the Utility Director's recommendation that the provision of Reclaimed Water is feasible, the City Manager may enter into an Agreement for the provision of Reclaimed Water to properties within the City's Reclaimed Water Service Area upon application, and in compliance with this Article and all applicable laws and regulations.
- b. Requests for Reclaimed Water Service from the City must meet all requirements provided in this Article and all minimum design, construction and operation standards for Reclaimed Water systems.
- c. The request for Reclaimed Water Service, must come from the owner or authorized agent of the property for which the service is to be provided.

3. Obligations of the City

The City and its authorized agents, employees, or contractors are responsible for the operation, management, and control and the oversight of the Reclaimed Water System.

4. Obligations of Developer

Within the proposed Reclaimed Water Service Area, the Developer shall install, at their own cost and expense, all necessary booster pumps, mains, valves and appurtenances to properly serve the subdivision as approved by the City.

Developer shall:

- a. Provide an engineering report documenting the existing and/or new reclaimed water facilities can supply the required demand at the desired pressure. Report shall include calculations for proposed system demands.
- b. Be responsible for the design and construction of new reclaimed water facilities to proposed service areas in accordance with TCEQ Design Criteria in Chapter 210 and other applicable chapters of the Texas Administrative Code, as amended;
- c. Provide construction supervision of work to assure compliance with this Article;
- d. Provide access to work during construction for inspections by the City;
- e. Train all City operations personnel on any constructed facilities;
- f. Submit a certificate to the City Manager certifying that the system has been designed in accordance with the requirements of the Texas Administrative Code and this ordinance. Certificate shall be sealed by a Professional Engineer licensed in the State of Texas.

B. RECLAIMED WATER SYSTEM DESIGN STANDARDS

1. General Specifications

Piping and appurtenances for reclaimed water mains and connections shall meet the minimum criteria as required by the City of Boerne Engineering Design Manual and the "Standard Specifications for Public Works Construction."

7.8 GAS DISTRIBUTION

A. GENERAL REQUIREMENTS FOR GAS DISTRIBUTION

1. Service Requirements

New subdivisions or platted properties within the corporate limits of the City or within the limits of the City's extraterritorial jurisdiction may request natural gas service from the City of Boerne. In the event the City approves the request, the Developer shall provide gas distribution system improvements. System improvements shall include the extension of gas mains, design and installation of distribution system within property and all required appurtenances. The City may require the extension of lines across the entire length (frontage) of all newly established lots adjacent to a public right of way and/or to the perimeter of the

subdivision for future extension into undeveloped areas, or for connections to the systems in adjoining developed areas.

2. Provision of Gas Service

- a. Upon the Utility Director's recommendation that the provision of natural gas is feasible, the City Manager may approve the provisions for natural gas to properties within the City's Gas Service Area upon application, and in compliance with this Article and all applicable laws and regulations.
- b. Requests for Natural Gas Service from the City must meet all requirements provided in this Article, the International Fuel Gas Code (IFGC) latest edition, and all minimum design, construction and operation standards for the gas distribution system.
- c. The request for gas service, must come from the owner or authorized agent of the property for which the service is to be provided.

3. Obligations of the City

The City and its authorized agents, employees, or contractors are responsible for the operation, management, and control and the oversight of the Gas Distribution System.

The City's standard gas service shall be provided to all customers at 4 ounces per square inch, except that the City may provide gas service at a nonstandard pressure only upon request from the customer and where the customer's facilities in place prior to the effective date of this ordinance are inadequate to properly operate at the City's standard service pressure.

4. Obligations of Developer

Within the proposed Gas Service Area, the Developer shall install, at their own cost and expense, all necessary mains, valves and appurtenances to properly serve the subdivision as approved by the City.

Developer shall:

- a. Provide an engineering report documenting the existing and/or new gas system can supply the required demand at the desired pressure.
- b. Be responsible for the design and construction of new gas facilities and service lines to proposed service areas;
- c. Provide construction supervision of work to assure compliance with this Article;
- d. Provide access to work during construction for inspections by the City;
- e. Train all City operations personnel on any constructed facilities;
- f. Submit a certificate to the City Manager certifying that the system has been designed in accordance with the requirements of the Title 16 of the Texas Administrative Code and this ordinance. The certificate shall be sealed by a Professional Engineer licensed in the State of Texas.

B. GAS MAIN DESIGN STANDARDS

All natural gas production and distribution facilities shall be designed and sized to meet the minimum design standards of the Engineering Design Manual.

7.9 UTILITY EXTENSIONS AND OBLIGATIONS

A. OBLIGATIONS OF DEVELOPER

1. The developer shall install at his/her own cost and expense all of the improvements required by this Code. It shall be the developers responsibility to ensure that all improvements are constructed in accordance with the Engineering Design Manual, the approved final design plans, and all applicable regulatory rules and regulations. The developer shall comply with all other provisions of this Code prior to acceptance of the subdivision by the City.

B. ENGINEER RESPONSIBLE

1. The developer shall retain the services of a licensed professional engineer, licensed in the State of Texas, whose seal shall be placed on each sheet of the construction plans, and who shall be responsible for the design and supervision of all public infrastructure improvements constructed for the subdivision.

C. INSTALLATION OF UTILITIES BEFORE PAVING

1. Unless the developer shall have received prior written permission to the contrary from the City Manager, all utilities, including but not limited to water, sewer, gas, and electric utilities, must be installed prior to the paving of a street or alley or portion thereof.

D. INSPECTION OF IMPROVEMENTS

1. The City Manager shall from time to time inspect the construction of all utility facilities, drainage infrastructure, and streets in the subdivision during the course of construction to see that they comply with the standards governing them.
2. In this regard, free access to the subdivision shall be accorded the City Manager by the developer and the developer's agents and employees.

E. COST OF UTILITY EXTENSIONS

1. Water and Sewer Main Extensions

- a. The developer shall install water and sewer mains from their present locations to the boundaries of the subdivision at his/her own cost and expense, subject to the provisions of this ordinance.

2. Reclaimed Water Main Extensions

- a. The developer shall either (a) reimburse the City for the cost of extension of the reclaimed water distribution system from their present locations to the perimeter of the subdivision or (b), with the City Manager's approval, extend the distribution system at the developer's own expense.

3. Electric Distribution System and Gas Main Extensions

- a. The developer shall either (a) reimburse the City for the cost of extension of the electrical primary distribution system and/or the natural gas mains from their present locations to the perimeter of the subdivision or (b), with the City Manager's approval, extend the electric distribution system and/or gas mains at the developer's own expense.

4. Electric and Gas Systems within the Subdivision

- a. The developer shall reimburse the City for the cost of installation of the electrical primary distribution system and the natural gas distribution system within the perimeter of the subdivision, including the installation of required street lights and services to any required lift stations, booster pumps, and similar facilities.
- b. The electrical primary distribution system and natural gas distribution system extensions required under this section shall include the extension of the utilities to the boundaries of the subdivision as required by the City to provide for the future extension of the systems into adjoining unsubdivided areas or for connection to the systems in adjoining developed areas.

5. Lift Stations, Booster Pumps and Related Equipment

In the event that it is determined that installation of equipment or appurtenances such as lift stations, booster pumps, or similar facilities is necessary in the area between the existing utility mains and the perimeter of a subdivision, the City Council shall, taking all circumstances into consideration, determine who shall bear the cost of such necessary equipment and appurtenances, and in what proportion each party shall be liable.

6. Waiver of Costs for Industrial Parks and Commercial Developments.

The requirements for the developer to install water and sewer mains from their present locations to the perimeter of the subdivision at his/her own cost and expense, and either to reimburse the City for the cost of electrical primary distribution system extensions and natural gas main extensions from their present locations to the perimeter of the subdivision or to extend these systems at his/her own expense, may be waived by the City Council for proposed industrial parks and commercial developments. Such waiver shall be at the discretion of the Council after taking into consideration all the circumstances including, but not limited to, the following:

- a. The ratio of the potential tax revenues and utility system revenues from property within the industrial park or commercial development to the costs to the City of extending water, gas and sewer mains and electric primary distribution lines to the proposed industrial park or commercial development.
- b. The availability of funds for the extension of such mains and distribution lines.
- c. The contribution, if any, by the developer for the extension of the mains and distribution lines.

F. COST DISTRIBUTION FOR OVERSIZED FACILITIES

1. In the event that the Planning and Zoning Commission, City Manager or his designee deems it necessary and prudent to require lift stations, booster pumps, mains, equipment, streets and/or appurtenances which are larger or whose capacities are in excess of those which are usual, customary and necessary to meet the needs and requirements of a particular subdivision, then the Planning and Zoning Commission or City Manager may recommend to the City Council and the Council may determine that the City shall pay to the developer the difference in cost (including construction and installation) between those lift stations, booster pumps, mains, equipment, streets and/or appurtenances which the City requires the developer to install, and the cost of like equipment of the size and/or capacity which would have adequately met and served the needs of the subdivision.
2. Providing that funds are available, the City may also participate in the extra cost of bridges and/or large drainage structures on regional thoroughfares and Arterial streets shown on the Major Thoroughfare Plan.

G. MINIMUM SIZES FOR OVER-SIZING CALCULATIONS

1. When calculations are made for oversizing requirements, the minimum sizes assumed to be necessary to serve the subdivision itself shall not be less than those in the following table.

| MINIMUM SIZES FOR OVERSIZING CALCULATIONS | |
|---|---------------------------------|
| Water and Sewer Main | 8 inches |
| Reclaimed Water Main | 4 inches |
| Sewer Force Main | 6 inches |
| Lift Station Capacity | 100 gallons per minute per pump |

| | |
|------------------------------|--|
| Residential Street Width | Per TIA requirements, an approved Major Thoroughfare plan of the City, or programmed in a Capital Improvements Plan. |
| Non-Residential Street Width | Per TIA requirements, an approved Major Thoroughfare plan of the City, or programmed in a Capital Improvements Plan. |

H. WATER, RECLAIMED WATER AND SEWER MAIN REIMBURSEMENTS

1. Eligibility for Reimbursement

When a developer must extend water, reclaimed water and/or sewer mains through previously unserved and unsubdivided areas of a drainage basin, the City may reimburse the developer for that proportional cost of the extension by those entities who plat property between the original developer's subdivision and the point of connection to existing City utilities and connect pipelines directly to that water/sewer main extension.

2. Formula for Reimbursement

The amount of the reimbursement under this section shall be calculated as follows.

a. Total Acreage

Determine the total area to be served by the water and sewer main extensions, including the original subdivision. It shall be the responsibility of the developer to provide the City with this information, to be substantiated by City staff.

b. Total Adjusted Cost

Determine the cost of extension of the trunk mains minus any oversizing costs contributed by the City.

c. Determine the trunk main unit cost per acre by dividing the total adjusted cost by the total acreage.

d. The unit cost per acre shall be charged to each subsequent developer who may connect to the trunk main and shall be paid to the developer who originally installed the trunk main, or the original developer's heirs or assigns.

e. Force mains or inter-basin transfers which may connect to the trunk main shall not be included in the reimbursement for trunk main extension.

3. Forfeiture of Trunk Main Reimbursement

It shall be the sole responsibility of the developer due reimbursement under this section to maintain his/her current address on file with the City Manager. Should a reimbursement be payable and the developer cannot be contacted at the address on file in the City Manager's office, the right to a reimbursement under this section shall lapse 24 months after the date of the initial attempt to contact the developer and the developer shall forfeit all claims to the reimbursement. The City may utilize all forfeited reimbursements for any purpose related to the water and sewer systems as determined by the City Council.

4. New Developer's Contribution for Trunk Main Extension

When water, reclaimed water and sewer mains for a new subdivision are to be connected to trunk mains installed per the requirements of this section to prior subdivisions, the developer shall deliver to the City Manager, prior to final plat approval, a check for his/her portion of the trunk main based on the formula in Subsection 8.06.002. The contribution shall be based on the trunk main unit cost per acre multiplied by the number of acres in the subject subdivision. It shall be the responsibility of the developer to provide the City staff with evidence of the acreage involved.

7.10 PARK AND TRAIL DESIGN

A. PERIODIC REVIEW

1. The City Manager or designee shall consider and make periodic recommendations to the City Council on design standards and other provisions of this Section.
2. All such recommendations should be compiled and included within a Parks, Recreation and Open Space Master Plan for the City, subject to final review and adoption by the City Council.

B. PARK AND TRAIL DESIGN REQUIREMENTS

1. Connectivity requirement

All internal open spaces as well as open spaces of adjacent subdivisions shall either be connected directly, or provisions shall be made for the future connection of these areas. The connection may be through Drainageway Protection Zones if present, rural trails or trails associated with collector or higher classified streets, through the residential neighborhood sidewalk systems, or a combination of all of the above. In cases where corridors are not present or identified and no collector streets are present alternative connectivity concepts shall be considered.

2. Site Criteria for Parks

- a. Any land to be dedicated to meet the requirements of this Chapter shall be reasonably located and adaptable for use as parkland or recreation facility, consistent with the most recent edition of the Comprehensive Plan or any Parks and Recreation Plan as may be adopted by the City Council.
- b. The City Manager or designee shall make recommendations to the Planning and Zoning Commission and the City Council regarding the suitability of proposed parkland. The location, access, size, shape, topography, natural drainage, utilities, parking facilities, and wooded areas and other vegetative cover of the parcel or tract of land to be dedicated shall be appropriate for public parks and recreation purposes. All such parkland shall be designated and located so as to satisfy the following general requirements:

3. Dedication of Smaller Site

Dedicated land of less than the minimum required acreage may be developed based upon the recommendation from the City Manager or designee that a smaller park area is in the public interest, or that additional contiguous land will be reasonably available for dedication to or purchase by the City. Such developments may be required to contribute fees in lieu of parkland or a combination of fees and parkland. Wherever possible, the dedicated land should be adjoining a school site, public or nonprofit institution, church, or other community facility that enhances the open space and recreational benefit of the parkland.

4. Street Frontage

Unless specifically exempted elsewhere in this section, access to parkland designated on a subdivision plat shall be provided by the dedication of at least 200 feet of street frontage, in a manner satisfactory to the City, preferably a 200 foot by 200 foot corner site at the intersection

of two streets. When the land abutting the designated parkland is developed, the developer of such abutting land shall furnish and pay for paving of all abutting street frontage and shall provide water and sewer access to the boundary of one side of the delineated parkland area to meet minimum requirements of these regulations. No linear parking will be allowed on such frontage.

5. Site Criteria

The land to be dedicated to meet the requirements of these regulations shall be suitable for public parks and recreation activities. Requirements include but are not limited to:

a. Grade/Slope Required

No more than (50) percent of the dedicated land exceeding five (5) percent grade is permitted.

b. Utilities Required for Park Development

- i. The developer shall be responsible for certain minimum utilities as listed below at a location acceptable to the City Manager or designee.
- ii. The City Manager or designee will be required to approve such location in writing.
- iii. These requirements are applicable for both public and private parks.
- iv. All neighborhood parks shall have:
 - (a) A two (2) inch water service shall be located 12 feet behind the curb.
 - (b) A six (6) inch sewer stub shall be located 10 feet behind the curb.
 - (c) One electricity service line shall be provided and located along at least one property line of the dedicated land.
 - (d) Ready access to at least two hundred (200) feet of street frontage. Preferably the land will be located at the intersection of two internal subdivision streets providing at least 200 feet of frontage on each corner side. If the park is in excess of 2 acres a minimum of eight onsite parking spaces shall be included on the site.
- v. Mini Parks shall have a 2-inch water service located 12 feet behind the curb.

6. Permanent Property Boundary Markers/Monuments Required

Above-ground, grade level survey markers are required to be permanently installed on all property lines of the dedicated land, in accordance with the survey requirements of Section 6.5.

7. Restoration of Parkland

Any disturbed parkland shall be restored, and the soil stabilized by a vegetative cover by the developer using Texas native species. The use of any species on the Invasive Plant List in the Appendix is prohibited.

8. Parking

Where the City determines that parking is necessary to provide for access and ease of use to dedicated parkland, the amount of parking shall be provided in a manner determined by the City Manager or designee.

9. Hazardous Substances

- a. Prior to dedication of parkland, the developer shall make full disclosure of the presence of any hazardous substances or Underground Storage Tank (U.S.T.s) of which the developer has knowledge.
- b. The City, at its discretion, may proceed to conduct such initial environmental tests and surveys on the land as it may deem appropriate, and the developer shall grant to the City and its agents and employees such reasonable access to the land as is necessary to conduct such surveys and tests.
- c. If the results of such surveys and tests indicate a reasonable possibility of environmental contamination or the presence of U.S.T.s, the City may require further survey and tests to be performed at the developer's expense as the City may deem necessary prior to its acceptance of the dedication, or in the alternative, the developer may be required to identify alternative property or pay the fees in lieu of such parkland dedication. The owner continues as the responsible party until remediated and accepted.

10. Site Condition

- a. The park site shall be free of trash and debris.
- b. If the condition of the dedicated parkland is disturbed during construction of subdivision improvements, then the developer shall be responsible for returning the dedicated land to its previous condition prior to or at the time of final plat filing.
- c. The public improvements to be constructed per the applicable subdivision plat will not be accepted by the City until such time that the above conditions have been met.

11. Greenbelts

- a. Greenbelts are areas that are left in a natural condition, but which are publicly accessible.
- b. Greenbelt widths, right-of-way and construction shall be in conformance with the requirements of this Chapter and the Infrastructure and Subdivision Design Chapter of the Unified Development Code.
- c. Trail specifications and trail furnishings, such as signage, trash receptacles, benches and pet waste stations, shall be in accordance with City standards.
- d. Minimum frontage requirements where a greenbelt intersects a road shall be according to road type, as follows.
 - i. Arterials
Minimum frontage required for arterial roads is 50 feet.
 - ii. Collectors
Minimum frontage required for collector roads is 40 feet.
 - iii. Local Roads
Minimum frontage required for local roads is 30 feet.
 - iv. Cul-de-sacs
Minimum frontage required for cul-de-sacs is 15 feet.
- e. Rights-of-way and construction shall be in conformance with the requirements of this Chapter and the construction standards and specifications of the City Development Services Department.

12. Trails

Land shall be dedicated and trails constructed to conform to the City of Boerne Parks Master Plan as follows:

- a. Extensions of the trail network, other than as shown in the Parks Master Plan shall be included in the calculation of the amount of dedicated park and recreational area.
- b. Trail Standards

All trails shall conform to the following standards:

- i. General

Unless specified otherwise, all trails shall be constructed to City specifications and shall conform to the requirements of the Americans with Disabilities Act, as may be amended. Specifications for trail surfaces, bollards, and signs shall be provided by the City.

- ii. Multipurpose Trails

A multipurpose trail is a trail alignment specifically identified in the Parks Master Plan. Trails designated as multipurpose trails in the Parks Master Plan shall be a minimum of eight (8) feet in width.

- iii. Auxiliary Trails

An auxiliary trail is a trail/walkway located within an open space area that is not linked to a multipurpose trail. Auxiliary trails shall be a minimum of six (6) feet in width.

- iv. Access Walkways

An access walkway is any trail/walkway that links to a multipurpose trail. All access walkways shall be a minimum of six (6) feet in width.

- c. Trail Rights of Way or Easements

Trails shall be placed in a right of way or pedestrian access easement. Pedestrian access easements shall be a minimum of twelve (12) feet in width. This may be a shared easement with public utilities as approved by the City Manager or designee.

Chapter 8 Environmental Design

DRAFT

8.1 FLOODPLAIN MANAGEMENT

A. STATUTORY AUTHORIZATION, FINDINGS OF FACT, PURPOSE AND METHODS

1. Statutory authorization

The Legislature of the State of Texas has in the Flood Control Insurance Act, Texas Water Code, Section 16.315, delegated the responsibility of local governmental units to adopt regulations designed to minimize flood losses. Therefore, the City Council of Boerne, Texas does ordain as follows:

2. Findings of fact

- a. The flood hazard areas of Boerne are subject to periodic inundation, which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, and extraordinary public expenditures for flood protection and relief, all of which adversely affect the public health, safety and general welfare.
- b. These flood losses are created by the cumulative effect of obstructions in floodplains which cause an increase in flood heights and velocities, and by the occupancy of flood hazard areas by uses vulnerable to floods and hazardous to other lands because they are inadequately elevated, flood proofed or otherwise protected from flood damage.

3. Statement of purpose

It is the purpose of this ordinance to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

- a. Protect human life and health;
- b. Minimize expenditure of public money for costly flood control projects;
- c. Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- d. Minimize prolonged business interruptions;
- e. Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in floodplains;
- f. Help maintain a stable tax base by providing for the sound use and development of flood-prone areas in such a manner as to minimize future flood blight areas; and
- g. Ensure that potential buyers are notified that property is in a flood area.

4. Methods of reducing flood losses

In order to accomplish its purposes, this ordinance uses the following methods:

- a. Restrict or prohibit uses that are dangerous to health, safety or property in times of flood, or cause excessive increases in flood heights or velocities;
- b. Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- c. Control the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of flood waters;
- d. Control filling, grading, dredging and other development which may increase flood damage;
- e. Prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands.

B. GENERAL PROVISIONS SECTION

1. Lands to which this ordinance applies

The ordinance shall apply to all areas of special flood hazard (SFH) and local floodplain with the jurisdiction of Boerne.

2. Basis for establishing the areas of special flood hazard and local floodplain

The areas of special flood hazard identified by the Federal Emergency Management Agency in the current scientific and engineering report entitled, "The Flood Insurance Study (FIS) for City of Boerne, Texas, Kendall County," dated March of 1983, with accompanying Flood Insurance Rate Maps and/or Flood Boundary-Floodway Maps (FIRM and/or FBFM) dated September 1983, and any revisions thereto are hereby adopted by reference and declared to be a part of this ordinance.

Local Flood Plains shall be designated as the area inundated by the one percent (1%) annual chance (100-year) flood for all watersheds draining 25 acres or more that do not have a regulatory floodplain and are defined as a drainageway per this ordinance. Local floodplains are further defined by a minimum 1-foot flow depth to exclude shallow concentrated or sheet flows from being identified as elevated risk zones per FEMA guidelines.

3. Establishment of development permit

A Floodplain Development Permit shall be required to ensure conformance with the provisions of this ordinance.

4. Compliance

No structure or land shall hereafter be located, altered, or have its use changed without full compliance with the terms of this ordinance and other applicable regulations.

5. Abrogation and greater restrictions

This ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance and another ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

6. Interpretation

In the interpretation and application of this ordinance, all provisions shall be;

- a. considered as minimum requirements;
- b. liberally construed in favor of the governing body; and
- c. deemed neither to limit nor repeal any other powers granted under State statutes.

7. Warning and disclaimer or liability

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. On rare occasions greater floods can and will occur and flood heights may be increased by man-made or natural causes. This ordinance does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This ordinance shall not create liability on the part of the community or any official or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made hereunder.

C. ADMINISTRATION

1. Designation of the floodplain administrator

The City Manager shall designate a Floodplain Administrator to administer and implement the provisions of this ordinance and other appropriate sections of 44 CFR (Emergency

Management and Assistance - National Flood Insurance Program Regulations) pertaining to floodplain management.

2. Duties & responsibilities of the floodplain administrator

Duties and responsibilities of the Floodplain Administrator shall include, but not be limited to, the following:

- a. Maintain and hold open for public inspection all records pertaining to the provisions of this ordinance.
- b. Review permit application to determine whether to ensure that the proposed building site project, including the placement of manufactured homes, will be reasonably safe from flooding.
- c. Review, approve or deny all applications for development permits required by adoption of this ordinance.
- d. Review permits for proposed development to assure that all necessary permits have been obtained from those Federal, State or local governmental agencies (including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334) from which prior approval is required.
- e. Where interpretation is needed as to the exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions) the Floodplain Administrator shall make the necessary interpretation.
- f. Notify, in riverine situations, adjacent communities and the State Coordinating Agency which is the Texas Water Development Board (TWDB) and also the Texas Commission on Environmental Quality (TCEQ), prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency.
- g. Assure that the flood carrying capacity within the altered or relocated portion of any watercourse is maintained.
- h. When base flood elevation data has not been provided in accordance with Article 3, Section B, the Floodplain Administrator shall require the owner of the property, or his representative, to perform the necessary hydraulic studies to determine the one percent (1%) annual chance (100-year) flood plain, base flood elevation and floodway to obtain a letter of map revision from FEMA.
- i. The Floodplain Administrator may obtain, review and reasonably utilize any base flood elevation data, hydrology and floodway data available from a Federal, State or other source, in order to administer the provisions of Article 5.
- j. When a regulatory floodway has not been designated, the Floodplain Administrator must require that no new construction, substantial improvements, or other redevelopment or development (including fill) shall be permitted within local floodplains, Zones A 1-30 and AE on the community's FIRM, unless that the cumulative effect of the proposed development, complies with Article 5 of this ordinance.
- k. Under the provisions of 44 CFR Chapter 1, Section 65.12, of the National Flood Insurance Program regulations, a community may approve certain redevelopment in Zones A 1- 30, AE, AH, on the community's FIRM which increases the water surface elevation of the base flood provided that the community first completes all of the provisions required by Section 65.12.

3. Permit procedures

- a. Application for a Floodplain Development Permit shall be presented to the Floodplain Administrator on forms furnished by him/her and may include, but not be limited to, plans in duplicate drawn to scale showing the location, dimensions, and elevation of proposed landscape alterations, existing and proposed structures, including the placement of manufactured homes, and the location of the foregoing in relation to areas of special flood hazard. Additionally, the following information is required:

- i. Elevation (in relation to mean sea level), of the lowest floor (including basement) of all new and substantially improved structures;
 - ii. Elevation in relation to mean sea level to which any nonresidential structure shall be flood proofed;
 - iii. A certificate from a registered professional engineer or architect that the nonresidential flood proofed structure shall meet the flood proofing criteria of Article 5, Section B (2);
 - iv. Description of the extent to which any watercourse or natural drainage will be altered or relocated as a result of proposed development;
 - v. Maintain a record of all such information in accordance with Article 4, Section (B)(1);
 - b. Approval or denial of a Floodplain Development Permit by the Floodplain Administrator; shall be based on all of the provisions of this ordinance and the following relevant factors:
 - i. The danger to life and property due to flooding or erosion damage;
 - ii. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
 - iii. The danger that materials may be swept onto other lands to the injury of others;
 - iv. The compatibility of the proposed use with existing and anticipated development;
 - v. The safety of access to the property in times of flood for ordinary and emergency vehicles;
 - vi. The costs of providing governmental services during and after flood conditions including maintenance and repair of streets and bridges, and public utilities and facilities such as sewer, gas, electrical and water systems;
 - vii. The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site;
 - viii. The necessity to the facility of a waterfront location, where applicable;
 - ix. The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use.
4. Variance procedures
- a. The Zoning Board of Adjustments, as established by the community, shall hear and render judgment on requests for variances from the requirements of this ordinance.
 - b. The Appeal Board shall hear and render judgment on an appeal only when it is alleged there is an error in any requirement, decision, or determination made by the Floodplain Administrator in the enforcement or administration of this ordinance
 - c. Any person or persons aggrieved by the decision of the Appeal Board may appeal such decision in the courts of competent jurisdiction.
 - d. The Floodplain Administrator shall maintain a record of all actions involving an appeal and shall report variances to the Federal Emergency Management Agency upon request.
 - e. Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in the remainder of this ordinance.
 - f. Variances may be issued for new construction and substantial improvements to be erected on a lot of 1/2 acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing the relevant factors in Section C(2) of this Article have been fully considered. As the lot size increases beyond the 1/2 acre, the technical justification required for issuing the variance increases.
 - g. Upon consideration of the factors noted above and the intent of this ordinance, the Appeal Board may attach such conditions to the granting of variances as it deems necessary to further the purpose and objectives of this ordinance (Article 1, Section C).
 - h. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
 - i. Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's

continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.

- j. Prerequisites for granting variances:
 - i. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
 - ii. Variances shall only be issued upon:
 - (a) showing a good and sufficient cause;
 - (b) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and
 - (c) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
 - iii. Any application to which a variance is granted shall be given written notice that the structure will be permitted to be built with the lowest floor elevation below the base flood elevation, and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.
- k. Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that:
 - i. the criteria outlined in Article 4, Section D (1)-(9) are met, and
 - ii. the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

D. PROVISIONS FOR FLOOD HAZARD REDUCTION

1. General standards

In all areas of special flood hazards the following provisions are required for all new construction and substantial improvements:

- a. All new construction or substantial improvements shall be designed (or modified) and adequately anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
- b. All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damage;
- c. All new construction or substantial improvements shall be constructed with materials resistant to flood damage;
- d. All new construction or substantial improvements shall be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;
- e. All new and replacement water supply systems shall be designed to City of Boerne standards to minimize or eliminate infiltration of flood waters into the system;
- f. New and replacement sanitary sewage systems shall be designed to City of Boerne standards minimize or eliminate infiltration of flood waters into the system and discharge from the systems into flood waters; and,
- g. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.
- h. New construction and substantial improvements, when located in multiple flood zones with varying base flood elevations or in same flood zone with multiple base flood elevations must meet the requirements for the flood zone with the most stringent requirements and the highest base flood elevation.

- i. The developer of new construction, substantial improvements, and other development proposals must assure that all necessary permits have been obtained from those governmental agencies from which approval is required by federal or state law, including Section 404 of the Federal Water Pollution Control Act, as amended, or by other regulating agencies.
- j. For all construction (residential and non-residential) and substantial improvements within, where allowed, or adjacent to the 1% annual chance (100-year) local or FEMA floodplain limits, the lowest floor (including basements), shall be elevated as follows:

| <u>Basis of Study</u> | <u>Minimum building slab elevation</u> |
|------------------------------|---|
| Atlas 14 Rainfall | 1.0 foot above the Base Flood Elevation |
| Rainfall other than Atlas 14 | 2.0 feet above the Base Flood Elevation |

A registered professional engineer, architect, or land surveyor shall submit a certification to the Floodplain Administrator that the standard of this subsection is satisfied.

- k. Filling or the disposal of any materials which will diminish the water flow capacity of any waterway or floodplain defined by this ordinance must be compensated with remedial action. An equal amount of storage volume must be created in another location of the same local watershed to compensate for the storage capacity lost.

2. Specific standards for A & AE zones

In all areas of special flood hazards where base flood elevation data has been provided as set forth in this Chapter, the following provisions are required:

- a. Compliance with Section 8.1.D of this Chapter.
- b. Residential Construction

- i. New Construction on existing undeveloped lots

New Construction of a habitable structure on existing platted lots, platted prior to the effective date of this ordinance, is allowed if the proposed structure is outside the 1% annual chance (100-year) local or FEMA floodplain.

- ii. Redevelopment of existing structures

Redevelopment of existing habitable structure, other than rebuilding activity, within the 1% annual chance (100-year) local or FEMA floodplain limits is not allowed. Rebuilding activity shall raise the finished floor above the Base Flood elevation as described in Article 5, Section A of this ordinance.

- c. Nonresidential Construction

New construction and substantial improvements of any commercial, industrial or other nonresidential structure shall either have the lowest floor (including basement) elevated, as required in Section 8.1.D, above the base flood level or together with attendant utility and sanitary facilities, be designed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered professional engineer or architect shall develop and/or review structural design, specifications, and plans for the construction, and shall certify that the design and methods of construction are in accordance with

accepted standards of practice as outlined in this subsection. A record of such certification which includes the specific elevation (in relation to mean sea level) to which such structures are flood proofed shall be maintained by the Floodplain Administrator.

3. Floodway Encroachments

Encroachments are prohibited, including fill, new construction, substantial improvements and other development within the adopted local floodplain and regulatory floodway, except for activities allowed within drainageway protection zones as described in the Subdivision Ordinance, current version.

4. Enclosures

New construction and substantial improvements, with fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters.

Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria:

- a. A minimum of two openings on separate walls having a total net area of not less than 1 square inch for every square foot of enclosed area subject to flooding shall be provided.
- b. The bottom of all openings shall be no higher than one foot above grade.
- c. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

5. Manufactured Homes

- a. Require that all manufactured homes to be placed within Zone A on a community's FHBM or FIRM shall be installed using methods and practices which minimize flood damage. For the purposes of this requirement, manufactured homes must be elevated and anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces.
- b. Require that manufactured homes that are placed or substantially improved within Zones A 1-30, AH, and AE on the community's FIRM on sites (i) outside of a manufactured home park or subdivision, (ii) in a new manufactured home park or subdivision, (iii) in an expansion to an existing manufactured home park or subdivision, or (iv) in an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as a result of a flood, be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated to or above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.
- c. Require that manufactured homes be placed or substantially improved on sites in an existing manufactured home park or subdivision with Zones A 1-30, AH and AE on the community's FIRM that are not subject to the provisions of paragraph (4) of this section be elevated so that either:
 - i. the lowest floor of the manufactured home is at or above the base flood elevation, or
 - ii. the manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement .

6. Recreational Vehicles

Require that recreational vehicles placed on sites within Zones A 1-30, AH, and AE on the community's FIRM either (i) be on the site for fewer than 180 consecutive days, or (ii) be fully licensed and ready for highway use, or (iii) meet the permit requirements of Article 4, Section C (1), and the elevation and anchoring requirements for "manufactured homes" in paragraph (4) of this section. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached additions.

7. Standards for subdivision proposals

- a. All subdivision proposals including the placement of manufactured home parks and subdivisions shall be consistent with the standards of this Chapter.
- b. All proposals for the development of subdivisions including the placement of manufactured home parks and subdivisions shall meet Floodplain Development Permit requirements of this Chapter..
- c. Base flood elevation data, for local and regulatory floodplains, shall be generated for subdivision proposals and other proposed development including the placement of manufactured home parks. Elevations for regulatory floodplains shall be submitted to FEMA for inclusion in the City of Boerne FIRM maps.
- d. All subdivision proposals including the placement of manufactured home parks and subdivisions shall have adequate drainage provided to reduce exposure to flood hazards.
- e. All subdivision proposals including the placement of manufactured home parks and subdivisions shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize or eliminate flood damage.
- f. Existing channels shall not be modified, except for as allowed for activities within drainageway protection zone as described in the Subdivision Ordinance, current version. Floodplain engineering and procedures requirements for subdivision within FEMA or United States Corps of Engineers official flood prone areas shall conform to the engineering criteria as set out in the Subdivision Ordinance, Article 6, current version.
- g. All proposed subdivisions shall be have unflooded access, the area is accessible to high ground by a street elevated above the one percent (1%) annual chance (100-year) flood the base flood, i.e., no "island" will be considered for platting, unless adequate connecting structures, capable of passing the base flood, are provided to high ground (not subject to the controlling flood of the same floodplain).
- h. Unflooded access shall be accessible to an arterial street that is not adjacent to the development or to a distance of one-quarter (1/4) mile, whichever is less, during a four percent (4%) annual chance (twenty-five year) flood event.
- i. All proposed Residential subdivisions shall layout the lots as follows:

- i. Lot size less than 1.0 acres

All residential lots, with an acreage of less than 1.0 acres, shall be designed such that no portion of the lot is located within the 1% annual chance (100-year) local or FEMA floodplain limits.

- ii. Lot size of 1.0 acres or greater

All residential lots, with an acreage of 1.0 acres or greater, may allow the construction of habitable structures outside the 1% annual chance (100-year) local or FEMA floodplain. Any lot traversed by an area of local or special flood hazard where the "buildable" portion of the subdivision is severed by the floodplain shall be provided with adequate access. Adequate access shall be a structure that will pass the 1% annual chance (100-year) storm without overtopping the structure. Upstream property must not be affected by backwater, and velocities in the vicinity of the structure must be controlled to prevent scour, erosion or structural damage.

8. Standards for areas of shallow flooding (ao/ah zones)

Located within the areas of special flood hazard are areas designated as shallow flooding.

These areas have special flood hazards associated with flood depths of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow; therefore, the following provisions apply:

- a. Compliance with Section 8.1.D of this Chapter.
- b. All new construction and substantial improvements of residential structures have the lowest floor (including basement) elevated as required in Section 8.1.D of this Chapter, or the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM (at least two feet if no depth number is specified).
- c. All new construction and substantial improvements of non-residential structures;
 - i. have the lowest floor (including basement) elevated as required in Section 8.1.D of this Chapter or the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM (at least 2 feet if no depth number is specified), or
 - ii. together with attendant utility and sanitary facilities be designed so that below the base specified flood depth in an AO Zone, or below the Base Flood Elevation in an AH Zone, level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads of effects of buoyancy.
- d. A registered professional engineer or architect shall submit a certification to the Floodplain Administrator that the standards of this Section are satisfied.
- e. Require within Zones AH or AO adequate drainage paths around structures on slopes, to guide flood waters around and away from proposed structures.
- f. Encroachments are prohibited, including fill, new construction, substantial improvements and other development within the adopted regulatory floodway, except for activities allowed within drainageway protection zones as described in the Subdivision Ordinance.

9. Local floodplain

Local Floodplain shall be designated as the area inundated by the one percent (1%) annual chance (100-year) flood for all watersheds draining 25 acres or more that do not have a FEMA regulatory floodplain and are defined as a drainageway per this ordinance. Local floodplains are further defined by a minimum 1-foot flow depth to exclude shallow concentrated or sheet flows from being identified as elevated risk zones per FEMA guidelines.

In all areas of local floodplain, the following provisions are required for all new construction and substantial improvements:

- a. Compliance with Section 8.1.D of this Chapter.
- b. Encroachments are prohibited, including fill, new construction, substantial improvements and other development within the local floodplain, except for activities allowed within drainageway protection zones as described in the Subdivision Ordinance.

10. Floodways

Floodways - located within areas of special flood hazard established in Section 8.1.B.2. Since the floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles and erosion potential, the following provisions shall apply:

- a. Encroachments are prohibited, including fill, new construction, substantial improvements and other development within the adopted regulatory floodway, except for

activities allowed within drainageway protection zones as described in the Subdivision Ordinance, current version.

- b. Under the provisions of 44 CFR Chapter 1, Section 65.12, of the National Flood Insurance Program Regulations, a community may permit encroachments within the adopted regulatory floodway that would result in an increase in base flood elevations, provided that the community first completes all of the provisions required by Section 65.12.
- c. Existing structures and uses within a floodway shall not be expanded or enlarged unless the effect of proposed expansion or enlargement does not cause an additional increase in floodway elevation during the occurrence of the base flood discharge, as certified by a registered professional engineer.

11. Severability

If any section, clause, sentence, or phrase of this Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this Ordinance.

12. Penalties for noncompliance

No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this court order and other applicable regulations. Violation of the provisions of this court order by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a misdemeanor. Any person who violates this court order or fails to comply with any of its requirements shall upon conviction thereof be fined not more than \$1000 for each violation, and in addition shall pay all costs and expenses involved in the case. E Nothing herein contained shall prevent the City of Boerne from taking such other lawful action as is necessary to prevent or remedy any violation.

8.2 WATERSHED PROTECTION

A. WATERSHED PROTECTION ZONES

1. Watershed protection zones established.

a. Drainageway Protection Zones

- i. The City of Boerne has a vested interest in protecting water quality conditions within the Upper Cibolo Creek Watershed. A primary tool used to maintain and improve water quality within streams and lakes is the establishment and management of riparian zones. Riparian zones are vegetated buffers that form along rivers and streams. Riparian vegetation filters contaminants from stormwater, stabilizes streambanks which decreases erosion potential and helps to reduce the energy of floodwaters. The establishment of Drainageway Protection Zones will ensure riparian vegetation is protected along stream corridors and simultaneously help improve in-stream water quality conditions. Protection Zone 1 is approximately the width of the riparian zone and is measured from the drainageway center line.
 - (a) Protection Zone 1 is intended to protect or allow restoration of the physical and ecological integrity of natural stream corridors.
 - (b) Native vegetation must remain undisturbed to the maximum practical extent in this zone to assure proper functioning of this zone. Limited access to a permanent water course is allowed in private or publicly dedicated recreational areas.
- ii. Protection Zone 2 is the outer protection zone and is measured from the outer edge of Protection Zone 1 and extend horizontally the remaining distance of the Total Protection Width. The outer zone is intended to prevent encroachment into the riparian zone, and to provide distance between development activity and the riparian zone.

| Drainage Area (Acres) | Protection Zone 1 | Protection Zone 2 | Total Protection Width (each side) |
|------------------------------------|-------------------|-------------------|------------------------------------|
| ≥25 acres and less than 128 acres | 35' | 20' | 55' |
| ≥128 acres and less than 320 acres | 55' | 30' | 85' |
| ≥320 acres and less than 640 acres | 70' | 50' | 120' |
| ≥640 acres | 100' | 50' | 150' |

b. Water Supply Protection Zones

The Water Supply Protection Zone includes the land on all sides around the shores at normal pool of any lake which is used or intended to be used by the City as a surface water reservoir. The zone shall be a minimum of 200 feet.

2. Restrictions within watershed protection zones.

- a. Drainageway Protection Zone 2 and the Water Supply Protection Zone shall remain free of all construction activity, development and alterations unless otherwise indicated in this Section.
- b. All protection zones shall maintain all native vegetation, except for removal as allowed in Sections 8.2 and 8.3, and shall remain reasonably free of all development activity.
- c. Street Crossings in watershed protection zones

- i. Neighborhood Local streets shall not cross a watershed protection zone. Perpendicular local street crossings may be authorized by the City Manager for extenuating circumstances, such as fire protection or street connectivity, if all of the following conditions are met:
 - (a) Proposed perpendicular street crossings are located a minimum of 1,000 feet from any existing or proposed perpendicular crossings.
 - (b) Street crossings that traverse any drainageway shall be designed to minimize any permanent impact to the drainageway crossing by designing street crossing such that no permanent improvements are within the ordinary high-water mark of the drainageway.
- ii. Regional thoroughfares and all types of arterial and collector streets may cross a watershed protection zone only at right angles or as near as practicable to right angles in the judgment of the City Manager.
- iii. All streets in the zone shall be designed and constructed with LID best management devices, as described in 8.2.B, to capture and treat the rainfall runoff from the roadway. In addition, all regional thoroughfares in the zone shall be designed and constructed with hazardous material traps that will capture, contain and isolate a hazardous material spill in the street right-of-way. These hazardous material traps shall have a minimum volume of 10,000 gallons and they shall contain a self-draining outlet and an emergency cut-off to contain any spilled materials.
- iv. No bridge structure shall discharge directly from the roadway surface into a watershed protection zone. All bridges shall be designed to transport stormwater off the bridge structure and into a sedimentation pond or filtration basin, or to provide equivalent water quality protection in the judgment of the City Manager.

3. Exceptions

- a. Drainageway Protection Zone 1 may allow those perpendicular trails, utilities and street crossings, as well as associated utilities within the street right-of-way. Disturbed areas within an ordinary highwater mark are subject to any USACE permitting requirements.
- b. The Water Supply Zone and Drainage Protection Zone 2 shall remain free of all construction activity, development and alterations, except for the following:
 - i. Street crossings, as provided in this Section;
 - ii. Utilities, as provided in this Section;
 - iii. Fences that do not obstruct the flow of water;
 - iv. Public and private parks and similar open spaces, in which development is limited to trails and facilities (other than stables and corrals for animals) for hiking, jogging, non-motorized biking, and nature walks; and
 - v. Water quality or flood control systems with minimum disruption to the natural surface and natural vegetation.

4. Utilities in Drainageway Protection Zones

- a. All underground utilities, other than sanitary sewer mains, shall be located outside of the Drainageway Protection Zone 1, except for necessary perpendicular crossings.
- b. Underground utilities crossing the zone shall be co-located with street crossings wherever practical in the judgment of the City Manager. Before submitting an application for plat approval, the developer shall consult with the City Manager to evaluate possible alternatives for the location and design of wastewater mains in the Zone. Overhead electric, communications and cable TV may be placed within the cleared area of a trail on the side opposite the creek.
- c. Sanitary Sewer Installations within Drainageway Protection Zones

- i. All site disturbance within DPZ 1 and DPZ 2 must be revegetated to 85% coverage with a native seed mix approved by the City Manager
- ii. Any alterations to the stream channel should be restored to pre-construction site conditions and stream banks stabilized to reduce erosion potential.
- iii. All efforts should be made to preserve Heritage trees within the construction and utility easements.
- iv. Tree removal due to parallel sanitary sewer installations within Drainage Protection Zones will require a combination of tree planting and fee mitigation as follows:

| Tree Classification | Tree Diameter Removed (DBH) | Tree Planting: Aggregate TC in inches of trees removed | Mitigation Fee per inch (TC) of tree removed |
|----------------------------|------------------------------------|---|---|
| Standard | 8.0"-11.9" | 1:1 | \$100 |
| Legacy | 12.0"- 23.9" | 2:1 | \$200 |
| Heritage | 24.0"- 47.9" | 3:1 | \$300 |
| Heritage >48" | ≥48.0" | 4:1 | \$400 |

- v. Mitigation fees as described in Table X.X for trees removed or tree mortality within 2 years of construction as a direct result of crown, trunk or root damage will be applied to the Tree Restoration Fund.
- vi. Mitigation using existing trees is not applicable for drainage protection zones
- vii. Mitigated tree replacement should occur within the construction easement or along streambank within the project limits. If no suitable locations exist for replanting within the project limits, mitigation trees will be planted within a designated drainage protection zone as identified by the City Manager.
- viii. Replacement trees should at a minimum include 5 of the following species: bald cypress, American sycamore, black willow, cedar elm, eastern cottonwood, chinquapin oak, green ash, box elder, pecan, red mulberry.
- ix. Replacement of Standard trees shall be container stock with a minimum of 2.0 caliper inches measured 6 inches from the soil line. Replacement of Legacy, Heritage and Heritage ≥ 48" shall be container stock with a minimum 4.0 caliper inches measured 6" from the soil line.

B. LOW IMPACT DEVELOPMENT FACILITIES

1. Specific Intent

It is the specific intent of this Section to:

- a. Value the design, function, appropriate application of LID features and BMPs either incorporated into areas of open space or constructed separately
- b. Design features in accordance with the LID Manual to reduce stormwater runoff volume and flow rate to pre-development conditions.
- c. For new development and redevelopment, a portion of the annual stormwater runoff volume shall be adequately treated prior to discharge from the site. This performance standard is presumed to be met if the stormwater quality management system is sized to treat the water quality treatment volume from the impervious and disturbed portions of the site. The water quality treatment volume is defined as:
 - i. For new development, the runoff volume resulting from the first 1.66" of rainfall.
 - ii. For redevelopment, the runoff volume resulting from the first 1.35" of rainfall.
- d. Adequate treatment of the water quality volume shall be defined as removal of 60% of the bacteria load and 80% of the calculated TSS particles.

- e. Consider the context and multiple functions that open spaces can serve to support development.
- f. Provide criteria for LID construction documents and engineering reports that meet the intent of the LID Manual.
- g. Manage stormwater runoff both at the source and at the surface using plants and soil to slow, filter, cleanse and infiltrate runoff.

2. Obligations of Developer.

The developer shall install at his/her own cost and expense all of the improvements required by this ordinance. It shall be the developer's responsibility to ensure that all improvements are constructed in accordance with this ordinance and the LID Manual BMPs. The developer shall comply with all other provisions of this ordinance prior to acceptance of the subdivision by the City.

3. Engineer Responsible

The developer shall retain the services of a licensed professional engineer, licensed in the State of Texas, whose seal shall be placed on each sheet of the construction plans, and who shall be responsible for the design and supervision of all LID features constructed for the subdivision.

4. Construction Plans

The construction plans for LID features shall be submitted as provided in Chapter 2. They shall conform to the requirements of the Engineering Design Manual and shall also meet the following requirements.

- a. All design professionals shall include in their plans, the statement "Construction of all facilities to be constructed shall be performed per the requirements of the City of Boerne LID Manual.
- b. Complete design of all BMPs shall be included in the construction plans with sections and profiles. These plans shall meet the BMPs and techniques as identified in the LID Manual
- c. Construction plans as necessary shall include but is not limited to design for storm drains, underdrain connections, overflows, bypasses, cistern details including foundations, permeable pavement structural design, and liner connections and details
- d. Engineering Report

The engineering reports for LID features shall be submitted as provided in Chapter 2 and shall include the following information:

- a. General information and site description
- e. Narrative and summary for requested incentives
- f. Site planning and environmentally sensitive design methods
- g. Grading plan
- h. Detailed drainage maps for proposed LID BMPs (existing and proposed)
- i. Impervious cover exhibit(s)
- j. LID volume and treatment/removal calculations
- k. Vegetation plan including establishment plan, if necessary
- l. Inspection, maintenance, repair, and retrofit plan
- m. Narrative and summary of multiuse benefits, if necessary
- n. Financial assurance

5. Deed Recordation Affidavit

A deed recordation affidavit shall be required when LID BMPs are proposed with a building permit where the BMPs are not within a separate lot or drainage easement. Once a Stormwater Management Study stormwater plan has been approved for the site, within sixty (60) days the applicant shall submit a deed recordation affidavit referencing the stormwater management

study, including a description of LID BMPs and the stormwater plan's operation and maintenance agreement. Building permit approval may be withheld until the affidavit is reviewed and approved by the City of Boerne. Certificate of occupancy may be withheld until proof of recordation of the affidavit is submitted to and accepted by the City of Boerne.

The affidavit may be drafted such that modifications or removal of LID BMPs does not require revoking or vacating the deed recordation affidavit. However, those modifications to the site Stormwater Management Study must be submitted to the City for review and approval. The property shall conform to all applicable development standards of the Unified Development Code.

6. Waiver to LID Requirements.

a. Waiver of LID requirements in certain circumstances.

The Planning and Zoning Commission, after considering a report from City staff, may waive the LID requirements after considering the engineering report for the development. The report should be able to demonstrate that incorporating LID features would cause hardship, is ineffective or provides insignificant benefit or produces a negative impact onsite or to adjacent property or right-of-way.

C. IMPERVIOUS COVER REQUIREMENTS

1. Purpose

The growth in and around the City of Boerne and the associated development and construction of buildings, paved surfaces, roads and other improvements including the construction of gutters, culverts, drains and channels increases the pollution of natural waterways from urban runoff of rainwater or other non-point specific sources. This Chapter is adopted to provide environmental protection within the City's extraterritorial jurisdiction (ETJ) and protect the natural and ecological resources that are essential elements of the City's health and community character by reducing negative impacts from the following concerns:

- a. Paved surfaces, automobiles, buildings, and other improvements produce increases in air temperatures whereas plants and vegetation have the opposite effect through transpiration and the creation of shade.
- b. Impervious surfaces created by development generate greater water runoff causing problems from contamination, erosion, and flooding. Preserving and improving the natural environment and maintaining a working ecological balance are of increasing concern.
- c. Landscape elements can contribute to the processes of air purification, oxygen regeneration, water absorption, water purification, and the abatement of both noise and heat as well as the preservation of the community's aesthetic qualities.
- d. The use of such landscape elements and minimization of impervious covers serves as a benefit to the health, welfare and general well-being of the community and, therefore, the proper use of such landscape and impervious cover elements are required.

2. Authority

The provisions of this Chapter are adopted pursuant to the Texas Local Government Code Chapters 211 and 212; §26.177 of the Texas Water Code, the Texas Health and Safety Code, the rules and regulations of the Texas Commission on Environmental Quality, the United States Environmental Protection Agency and the City of Boerne Home Rule Charter.

3. Applicability

All development in the City of Boerne ETJ shall comply with the impervious cover limitations set forth in this Article.

4. Compliance

Compliance with the requirements of this Article will be achieved in the City of Boerne ETJ through the Impervious Cover review and approval process during the subdivision plat review process.

5. Impervious cover limitation

These impervious cover standards are adopted to minimize negative flooding effects from storm water runoff and to control, minimize and abate water pollution resulting from urban runoff of rainwater or other non-point specific sources, pursuant to §26.177 of the Texas Water Code. These impervious cover limitations apply to all properties within the jurisdiction of the City of Boerne.

6. Calculating percent impervious cover

- a. The “percent impervious cover” shall be calculated as the total area of all impervious surfaces within the perimeter of a subdivision, divided by the total area within the perimeter of the subdivision.

7. Impervious Cover in Water Supply Drainage Areas

In order to reduce the potential pollutant and contaminant load which may ultimately be carried by drainage into the City water supply, the maximum percentage of the area which may be covered by impervious surfaces within any subdivision in any drainage basin above a City water supply reservoir shall be limited. The limits of a drainage basin shall be determined according to USGS maps and confirmed in the final plat by a survey of the proposed subdivision site. In a subdivision which is to be developed in more than one land use, the impervious surfaces in streets and alleys shall be counted and assigned as divided equally between the lot areas on both sides of the street or alley according to the frontage of the lot areas in each contrasting land use.

| 1. Maximum Impervious Cover in Water Supply Drainage Areas | |
|---|---|
| Context – Development Pattern | Maximum Percent Impervious Cover |
| Residential, < 1 dwelling unit/acre | 10% |
| Residential, 1-2 dwelling units/acre | 30% |
| Residential, >2 dwelling units/acre | 50% |
| Nonresidential | 65% |

8. Impervious cover outside of water supply drainage areas

- a. Site Development: Overall impervious cover for a residential subdivision shall be no more than 50%.
- b. Impervious Cover Ratios for Nonresidential Lots in the City Limits:

The following maximum percent of impervious cover shall apply in accordance with the base zoning designation of the property. to the following:

- i. Neighborhood Commercial – 75%
- ii. Transitional Commercial – 85%
- iii. Community Commercial – 70%
- iv. Regional Commercial – 75%
- v. Community Office – 75%
- vi. Office Park – 75%
- vii. Industrial Office – 75%
- viii. Storage and Transportation – 75%
- ix. Craft Industry – 85%
- x. Light Industry – 60%
- xi. General Industry – 70%
- xii. Civic and Institutional – 70%
- xiii. Interim Holding – 25%

c. Impervious Cover ratio (maximum percent) for Residential Lots in the City Limits:

The following maximum percent of impervious cover shall apply in accordance with the base zoning designation of the property. to the following

- i. Agricultural and Rural Residential (RAG)- 25%
- ii. Manor Residential (RMA) – 25%
- iii. Estate Residential (RES) – 40%
- iv. Low Density Residential (R-1L) – 40%
- v. Medium Density Residential (R-1M) – 50%
- vi. Neighborhood Residential (R-2N) – 50%
- vii. Moderate Density Residential (R-2M) – 80%
- viii. High Density Residential (R-3) – 85%
- ix. Duplex Residential (R-3D) – 50%
- x. Bungalow Courts (R-4B) – 70%
- xi. Multifamily Residential (R-4) – 85%
- xii. Manufactured Home Communities (MHC) – 40%

d. Impervious Cover Ratio (maximum percent) for Lots in the ETJ:

The maximum percent of impervious cover in the ETJ shall be based on general use category, as follows:

- i. Industrial Uses: 70%
- ii. Commercial Uses: 70%
- iii. Single Family Residential:
 - (a) Total impervious cover for a single-family residential subdivision in the extraterritorial jurisdiction of the City shall not exceed 40%.
 - (b) Impervious cover for an individual single-family residential lot in the extraterritorial jurisdiction of the City shall not exceed 25%.
- iv. Multi-family (more than 2 dwelling units per lot, including townhomes, row houses, quadplexes, condominiums and apartments): 70%

9. Impervious cover credits

- a. Credit for Parkland: Any land on the property that has been approved for parkland dedication shall be counted in its entirety as pervious land when calculating percent impervious cover.
- b. Arterials and major collectors within the subdivision required by the City of Boerne thoroughfare plan shall not be counted as impervious cover, when determining impervious cover ratios for a property.

10. Waiver of impervious cover limitations

- a. The City Manager must approve all Low Impact Development Measures if a waiver is requested.
- b. Maximum Increase to Impervious Cover Limit
 - : The City Manager may increase the amount of impervious cover permitted by up to seven percent (7%) if accepted Low Impact Development (LID) measures are used on the property, in accordance with this Section.
- c. Low Impact Development measures that may be considered for a waiver to the maximum allowed impervious cover include:
 - i. rainwater harvesting;
 - ii. bio-retention facilities placed around the perimeter of parking lots;
 - iii. wet ponds
- d. Partial credit may be granted by the City Manager for certain LID measures.
- e. No combination of waivers may allow impervious cover to exceed the maximum seven percent increase established herein.
- f. Requirements for a Waiver of Impervious Cover Limitations:
 - i. Accepted Low Impact Development designs must be utilized, following the guidelines and standards adopted by the Boerne Low Impact Development Technical Design Guidance Manual.
 - ii. The applicant is responsible for providing sufficient design information for the appropriate department to examine and verify the improvement.

8.3 TREE PRESERVATION

A. PURPOSE

The purpose of the tree preservation requirements of the City is to:

1. Minimize the negative impact of land development on environmental quality, namely native habitat, ambient temperatures, air quality and soil stability;
2. Preserve and protect the enjoyment of the hill country setting of the City, including viewshed and the incorporation of native vegetation within developed sites;
3. Promote a healthy urban forest within the City and its extraterritorial jurisdiction;
4. Provide standards for tree removal and associated mitigation;
5. Establish requirements for tree preservation;
6. to facilitate site design and construction, to contribute to the long term viability of existing trees, to control the removal of trees when necessary, specifically, preservation of the trees defined as Legacy Trees, to enhance the environmental and ecological performance and aesthetic quality of commercial and residential developments, and to prohibit the indiscriminate clear cutting of property.

B. APPLICABILITY

1. No tree shall be removed unless such removal meets all the provisions of this or any other applicable ordinance adopted by the City Council of the City of Boerne, Texas.
2. This Ordinance shall regulate all activities that result or may result in the removal of tree(s) in the City limits of Boerne Texas. Said activities include any of the following conducted on property to which the section applies:
 - a. All residentially zoned property for which a subdivision is accepted by the City after the effective date of this ordinance
 - b. Industrial, commercial, office, multi-family, institutional development and schools, including all new construction and any additions greater than 2500 square feet.
 - c. Construction of a new parking lot or expansion of an existing parking lot.
 - d. Any grading, filling or clearing of land.
 - e. Chemical or biological treatment of tree(s) that may result in the death or destruction of any tree(s) as defined.
 - f. Trenching or excavating that may damage or destroy Legacy as defined.
 - g. All governmental development shall comply with the tree preservation plan review procedure regardless of the zoning district in which they are located.
 - h. Detached and attached dwelling lots platted after the effective date of this ordinance.

C. EXCEPTIONS

The following shall be exempt from the requirements of this Section:

1. Lots on which buildings were constructed prior to the adoption of this ordinance and subsequently damaged by fire, explosion, flood, tornado, riot, act of the public enemy, or accident of any kind, provided a building Permit is issued for restoration within 12 months after the damage occurs and additional square footage is not proposed.
2. Dangerous, diseased, dead or dying Standard or Heritage trees as determined by a tree survey and a letter from an ISA certified Texas Arborist.
3. Trees causing physical damage to existing structures, drainageways, utility systems or facilities in the public right of way.
4. Standard and Heritage trees damaged or destroyed by floods, fire, wind or other natural causes;
5. The following exempted tree species; Hackberry, Sugarberry, Chinese Tallow, Eastern Red Cedar, Common Ashe Juniper, Chinaberry, Mesquite, Huisache and Ligustrum.
6. Trees or areas of tree canopy preventing the opening of reasonable and necessary vehicular traffic lanes in a street or alley.
7. Trees or areas of tree canopy located in the clear vision area, as defined in the street improvement standards, section 7.5 intersection visibility.

D. MINIMUM TREE PRESERVATION REQUIREMENTS

1. No Legacy tree shall be removed from any real property within the City of Boerne without following the provisions as stated below.
2. Preservation requirements that are set as percentage values shall be percentage of the trees, not percentage of the sum of all caliper inches.
3. The following shall apply to Legacy trees:
 - a. Commercial and Multi-family – A minimum of 40% of Standard trees, exclusive of Heritage trees, shall be preserved on a lot.
 - b. Subdivision Development of Single-family and other residentially zoned areas – A minimum of 35% of standard trees, exclusive of clearing and installation for infrastructure (roads, utilities, etc.) and lot lines is allowed.
 - c. Commercial, Industrial and Multi-family – 100% of Heritage trees shall be preserved. Heritage trees within clearing and installation for infrastructure (roads, utilities, etc.) shall not be removed without mitigation.
 - d. Single-family and other residentially zoned areas – 100% of Heritage trees on platted lots, shall be preserved. Heritage trees within clearing and installation for infrastructure (roads, utilities, etc.) shall not be removed without mitigation.
 - e. Steep slopes – Standard and Heritage trees shall not be removed from a Steep Slope area.
 - f. Tree preservation in the Drainageway Protection Zones and the Water Supply Protection Zone

No trees shall be removed without following the procedures set forth for Drainageway and Water Supply Protection Zones. The minimum percentage of trees to be preserved shall be by type, according to the zone in which the trees are located, as follows:

- i. Drainageway Protection Zone 1
 - (a) Standard Trees – 100% shall be preserved
 - (b) Legacy trees – 100% shall be preserved
 - (c) Heritage trees – 100% shall be preserved
- ii. Drainageway Protection Zone 2 and the Water Supply Protection Zone
 - (a) Standard trees – 50% shall be preserved
 - (b) Legacy trees – 80% shall be preserved
 - (c) Heritage trees – 100% shall be preserved

E. REPLACEMENT OF TREES REMOVED

1. Replacement trees are in addition to the minimum landscaping requirements as described in Section 4.6 (residential site design) and section 5.5 (non-residential site design) of this document.
2. Legacy or Heritage trees which are removed shall be mitigated using any combination of the following:
 - a. on-site relocation of the removed tree;
 - b. replacement by new Standard or Legacy trees, or alternative native trees approved by the City Manager or designee; and/or
 - c. payment of a fee in lieu of tree replacement.
3. The mitigating trees may be of any Legacy tree species with an aggregate TC in inches of the trees removed with ratio of (1:1) for Legacy trees and (3:1) for Heritage trees
4. The size and number of replacement trees

5. Replacement trees shall be a minimum of eight inches (inches TC measured 6 inches from ground level., Replacement trees are in addition to the minimum planting requirements as described in section 4.6 (residential sites) and section 5.5 (non-residential) of this document.
6. When possible, replacement trees shall be planted on the same lot according to an approved TPP. Replacement trees may be planted on another lot if approved by the City Manager or designated representative.
7. Biodiversity requirements for tree replacement
 - a. When replacing trees on site, or at a location approved by the City Manager, no single tree species may account for more than 50% of the total required caliper inches to be replaced.
 - b. When more than 300 inches (TC) of replacement trees are required, a minimum of five (5) different approved tree species shall be used to fulfill the replacement requirements.

8. Fee in lieu of replacement

If all or a portion of the required replacement trees will not be planted on-site or on a site approved by the City Manager, payment of a fee in lieu of replacement shall be made, which shall be deposited into the City's Tree Restoration Fund. The fee shall be determined as follows:

- a. Legacy Trees: \$100 per inch (TC) of Legacy Tree removed
- b. Heritage Trees: \$300 per inch (TC) of Heritage Tree removed
- c. If it is necessary to convert diameter or caliper to TC when purchasing replacement trees, the cost shall be calculated as:

$TC = \text{diameter (in)} \times 3.1415$, where

TC is total circumference (in)

9. The planting of Texas Red Oak (*Quercus buckleyi*) aka Spanish Oak, Shumard Oak (*Quercus shumardii*), and similar thin bark red oaks is prohibited. These trees are potential sources of inoculum for the Oak Wilt fungus, *Ceratocystis fagacearum*. Fungal spore mats formed on these types of trees are attractive to insect vectors, which results in long range dissemination of the fungus.

F. PRESERVATION AND PROTECTION OF LEGACY AND HERITAGE TREES

Legacy or Heritage trees shall be protected under the following conditions:

1. No clear-cutting is permitted.
2. No materials intended for the use in construction or waste materials accumulated due to excavations or demolition shall be placed within the limits of the trees' root protection zone.
3. Neither substances used to clean equipment nor other foreign materials shall be deposited or allowed to flow overland within the root protection zone of a Legacy or Heritage tree. This includes, without limitation, paint, oil, solvents, asphalt, concrete, mortar or similar materials.
4. No signs, wires or other objects, other than those of a protective nature, shall be attached to any Legacy tree. However, lighting of a decorative nature may be attached to a Legacy tree. The lighting shall be attached in a manner so as not to damage the Legacy or Heritage tree.
5. No vehicular and/or construction traffic or parking shall take place within the limits of the root protection zone of a Legacy or Heritage tree other than on an existing paved surface. This restriction does not apply to access within the root protection zone for purposes of clearing underbrush performed with rubber-tired equipment.
6. All trees to be retained as part of an approved Tree Preservation Plan shall be protected during grading and construction. A protective barrier shall be erected around the root protection zone before the beginning of grading and construction, and the barrier shall be maintained until construction is completed. During grading and construction, no excess soil, additional fill,

equipment, liquids or construction debris shall be placed inside the protective barrier, and no soil shall be removed from within the barrier. The proposed finished grade of the land within the root protection zone shall not be raised or lowered by more than six inches but welling and retaining methods may be used to protect the area outside the root protection zone. The root protection zone shall remain unpaved. If wells are used to preserve a Standard, Legacy or Heritage tree the wells shall have a drain installed or a pump shall be installed to ensure that the well does not hold water.

7. No paving with asphalt, concrete or other impervious materials shall be placed within the root protection zone of a heritage tree.
8. In those situations where a Legacy tree is within 50 feet of a construction area, a protective fence, minimum of four feet in height, shall be erected and maintained outside of the root protection zone of each Legacy or Heritage tree or tree group.

G. VIOLATIONS AND REMEDIES

1. Fees and Remedy for Tree Removal

If any Standard or Heritage trees are removed from any real property without an approved permit, or if such trees are injured because of failure to follow required tree protection measures such that the tree dies or may reasonably be expected to die, the City shall have the authority to enact either one or both of the following administrative and civil penalties on the developer and/or owner of the property.

- a. A monetary penalty of \$250.00 per inch of circumference for Standard or Heritage trees removed, payable to the City, as well as replacement with trees in accordance with the Tree Replacement Requirements of this Section;;
- b. Replacement with Legacy trees having an aggregate TC equal to five times the aggregate TC of the Legacy trees that were removed or killed.

2. Fines for Violations

Wherever by the provisions of this Article the performance of any act is required, or the performance of any act is prohibited, or wherever any regulation is imposed, a failure to comply with the provisions of this Article shall constitute a violation of this Article. The City Manager may institute any appropriate action or proceedings to prevent the unlawful removal or destruction of trees, and to restrain, correct or abate such violation. Every day on which a violation exists shall constitute a separate violation and a separate offense. The penalty for each offense shall not exceed one thousand dollars (\$1,000.00).

8.4 STEEP SLOPES

A. PURPOSE

The purpose of this ordinance is to regulate the intensity of use in areas of steeply sloping, elevated terrain while promoting future development on a scale that maintains the hill country character and identity by preserving the natural environment and scenic corridors.

B. APPLICABILITY

This ordinance shall be applicable to any subdivision or development located in city limits of the City of Boerne. Land disturbance for the purpose of this ordinance shall mean any activity involving the clearing, cutting, excavation, grading, filling, storing, transporting of land or any other activity which causes land to be exposed.

C. DOCUMENTATION OF CONDITIONS REQUIRED

If any slope of 15% or greater exists on a site, a slope map shall be provided as described in Chapter 2 Procedures.

D. RESTRICTIONS ON DISTURBANCE OF STEEP SLOPES

The maximum percentage of lot area or site area of a development which may be disturbed, graded, and cleared of vegetation during development and construction of the public and private improvements with the exception of incidental grading for structure construction is as follows:

1. Any disturbance to steep slopes, regardless of grade, shall be achieved by terracing the area.
 - a. Terraces shall be designed and constructed with no more than eight (8) vertical feet for every ten (10) horizontal feet of area per terrace.
 - b. Multiple terraces may be constructed in sequence.
 - c. The terraces must be designed by an engineer and certified after construction by the design engineer.
 - d. The terrace must be constructed using vegetated retaining walls to allow for drainage and plant growth.
 - e. The vertical terraces should allow natural growth through and the horizontal sections shall be irrigated and planted with climbing/draping vines or similar types of plants that will grow along the vertical sections. In addition, the horizontal section of the terrace shall be fully landscaped to include planted trees that typically do not achieve a height of thirty (30) feet.
 - f. The terraced area shall not count towards a setback or open space whereas the steep slope, left undisturbed, may count toward the required open space. (*Ord. No. 2010-10, §3, 5-25-2010*)
 - g. A creative alternative to Section C (1), (2) and (3) may be approved by the Planning and Zoning Commission if the intent of this section is met.
2. Nonresidential Development
 - a. If there exists on a non-residential site a slope with a grade of 20% or greater, no more than 15% of the steep slope area may be disturbed.
 - b. If disturbance is necessary for site development, it shall be achieved by terracing as outlined in item (3) below.
3. Residential Development
 - a. Any residential development which has slope of 15% or greater shall limit the steep slope disturbance as follows:
 - i. If the slope grade is 15% - 25%, then 35% of the steep slope area may be disturbed using terraces.
 - ii. If the slope grade is 25% or greater, then 15% of the steep slope area may be disturbed using terraces.

8.5 DESIGN CRITERIA FOR OPEN SPACES

A. REQUIREMENTS FOR OPEN SPACES IN THE ETJ

1. The requirements of 8.2 Watershed Protection and 8.4 Steep Slopes shall satisfy the open space requirements within the ETJ.
2. There are no additional design requirements for open spaces in the ETJ.

B. REQUIREMENTS FOR OPEN SPACES IN THE CITY LIMITS

1. In addition to requirements of 8.2 Watershed Protection, 8.3 Tree Preservation and 8.4 Steep Slopes, there are additional criteria for how open spaces are designed within the City Limits.
2. Exceptions

Compliance with the Open Space Design Criteria shall not be required if:

- a. The property is less than 5 acres in size; or
 - b. The property is designated as a conservation subdivision. Conservation subdivisions shall follow the design requirements of 6.7: Conservation Subdivisions.
 - c. The applicant pays a fee in lieu of parkland dedication.
3. Every property that is not exempt from these requirements shall incorporate at least one of the following Open Space Types into the design of the site.
 - a. Natural Areas
 - i. Natural areas shall incorporate at least one of the following preservation features within the boundary of the designated area:
 - (a) a tree stand that includes specimens from the City's Protected Tree List (Appendix B),
 - (b) a natural water body,
 - (c) prominent topography or the view thereof, or
 - (d) a steep slope area
 - ii. The use of any species on the City's invasive plant list is prohibited in a Natural Area.
 - iii. The size of a Natural Area should be based on the site characteristics and potential continuity of similar natural features in the area, along with the potential to connect to adjacent natural areas.
 - iv. Natural Areas are
 - v. The width of the conservation area shall not be less than 100 feet in any direction, except where connecting to other park land, trail easement, or open space.
 - vi. No more than 6% of the designated natural area shall be covered with an impervious surface, including all trails, parking areas and rest areas.
 - vii. The natural area shall be contiguous, based upon consistent and substantial linkages of natural systems, including links to areas on adjacent sites. While a site may preserve more than one natural area, no single, contiguous natural area shall be less than 5 acres or 15% of the site, whichever value is greater.
 - viii. The width of the conservation area shall not be less than 100 feet in any direction, except where connecting to other park land, trail easement, or open space.
 - ix. Active open spaces such as parks, landscaped areas, outdoor recreation areas or other amenities shall not count towards the minimum size requirement for a natural area.
 - b. Greenways
 - i. Greenways shall include at least one of the following features within the boundary of the designated area:
 - (a) Stream
 - (b) Riparian corridor
 - (c) Drainage protection zone
 - (d) Multi-use trail
 - (e) Designated wildlife corridor
 - ii. A Greenway shall be usable for recreation and non-motorized transportation through pedestrian multi-use trails.
 - iii. No more than 10% of the area designated as a greenway shall be covered with an impervious surface, including all trails, parking areas and rest areas.
 - iv. Greenways shall be linear in nature.
 - v. Greenways shall be at least 20 feet wide at all locations.
 - vi. Greenways shall be publicly accessible.
 - vii. Every greenway shall connect at 1 or more points to the thoroughfare and/or trail network of the City.

- viii. Invasive species shall not be used for landscape improvements within or adjacent to a Greenway.
- c. Community Parks
 - i. Community Parks shall be at least 20 acres in size.
 - ii. An on-site portion of a larger community park which extends beyond the boundary of the site can be counted as a community park, provided that:
 - (a) the park in its entirety is at least 20 acres in size and is located in conformity to the Parks Master Plan and the Future Land Use Plan, and
 - (b) the on-site portion is developed to include recreational facilities identified in the Parks Master Plan for Community Parks, such as athletic fields, trails and playgrounds.
 - iii. At least 20% of the land area for a Community Park shall be used for active recreational purposes.
 - iv. Maximum impervious cover for Community Parks is 10%.
 - v. Tree canopy for Community Parks shall cover at least 60% of the park area, as measured by specimen canopy coverage at maturity.
 - vi. Invasive species shall not be used for landscape improvements within or adjacent to a Community Park.
- d. Neighborhood Parks
 - i. Neighborhood Parks shall be 2-10 acres in size.
 - ii. An on-site portion of a larger neighborhood park which extends beyond the boundary of the site can be counted as a neighborhood park, provided that:
 - (a) The park in its entirety is 2-10 acres in size and is located in conformity to the Parks Master Plan and the Future Land Use Plan, and
 - (b) The on-site portion is developed to include recreational facilities identified in the Parks Master Plan for Neighborhood Parks, such as playgrounds, gathering areas and trails.
 - iii. At least 30 % of the land area for a Neighborhood Park shall be used for active recreational purposes.
 - iv. Maximum impervious cover for Neighborhood Parks is 20%.
 - v. Tree canopy for Neighborhood Parks shall cover at least 50% of the park area, as measured by specimen canopy coverage at maturity.
 - vi. Invasive species shall not be used for landscape improvements within or adjacent to a Neighborhood Park.
- e. Mini Parks
 - i. Mini Parks shall be less than 2 acres in size.
 - ii. Due to their size, Mini parks must be fully developed on-site.
 - iii. At least 50% of the land area of a Mini Park shall be used for active recreational purposes.
 - iv. Maximum impervious cover for Mini Parks is 50%.
 - v. Tree canopy for Mini Parks shall cover at least 40% of the land area of the park, as measured by specimen canopy coverage at maturity.
 - vi. Invasive species shall not be used for landscape improvements within or adjacent to a Mini Park.
- f. Landscaped Open Space

- i. To qualify as an open space type, a Landscaped Open Space has to cover at least 25% of the site.
- ii. Landscaped Open Spaces shall be fully developed on-site.
- iii. None of the land area shall be used for active recreational purposes.
- iv. Maximum impervious cover for Landscaped Open Space is 10%.
- v. Tree canopy for Landscaped Open Space shall cover at least 70% of the land are, as measured by specimen canopy coverage at maturity.
- vi. Invasive species shall not be used for landscape improvements within or adjacent to Landscaped Open Spaces.
- vii. If protected trees are removed from a site containing a Landscaped Open Space, on-site mitigation shall be required.

8.6 RAINWATER HARVESTING

A. PURPOSE

Rooftops can generate large volumes of runoff which, when discharged to paved surfaces and landscaped areas, can generate large pollutant loads. Rainwater harvesting systems can capture this runoff before it is discharged, thus preventing pollution while also putting the captured water to beneficial use for both potable and non-potable purposes. The amount of runoff captured will depend on the size of the collection surfaces required to meet the users estimated water demands.

A private, stand alone, rainwater harvesting system can reduce the water demand on the City's public water supply system thereby augmenting the City's water supply. To augment the City's future water supply, builders should be encouraged to install rainwater harvesting systems in all new construction which would lesson future demands on the City's water supply system.

B. DESIGN REFERENCES

- 1. City of Boerne Cross Connection Control and Backflow Prevention Program, Ordinance 2001-38, or as amended.
- 2. City of Boerne Edition – San Antonio River Basin Low Impact Development Technical Design Guidance Manual, latest version.
- 3. The Texas Manual on Rainwater Harvesting, Texas Water Development Board, latest version.

C. DESIGN REQUIREMENTS

1. General

- a. To ensure proper system installation, this code, and any applicable manufacturer's installation instructions must be followed.
- b. All materials used in installation of piping and plumbing fixtures for rainwater harvesting systems must be approved for potable water and in the plumbing code or listed by an ANSI accredited product certification program.
- c. Engineered systems shall be installed per plans and specifications of the engineer of record.
- d. A property owner is not required to be licensed to harvest, store, distribute, treat, or use harvested rainwater on property owned by the person if the rainwater system, is physically separated from the City public water system.
- e. Rainwater shall only be harvested from impervious elevated roof surfaces. Harvesting shall not occur from the following locations:
 - i. Any vehicular or pedestrian area.
 - ii. Surface water runoff.
 - iii. Bodies of standing water.

2. Tanks/Cisterns

- a. Tanks shall be located outside any required building setbacks.
- b. Minimum required storage volumes shall be determined by the users estimated water demand consistent with the estimated future water supplies based on historic local rainfall records.
- c. Design tanks and piping so stored water will not be accessible to mosquitoes, insects, sunlight, or animals.
- d. For all tanks, install a tank overflow and route it to a logical location in the landscape where it will be put to beneficial use. The overflow capacity must be equal to or greater than the inflow capacity.
- e. Filter inflow from roof to tank to remove organic debris. Filter tank outflow before it enters the potable or non-potable system to prevent clogging.
- f. Consider installing a bypass to allow direct drainage of rooftop runoff when tanks are full. Route bypass water to a beneficial use area
- g. Tanks shall be listed for use with potable water.
- h. Tanks shall be opaque or painted to prohibit algae growth.

3. Treatment

- a. Pre-tank filters such as gutter screens, first flush divertors, roof washers, basket screens or sock filters shall be used to filter water prior to entering the storage tanks.
- b. To improve water quality, treatment methods such as chemicals, ultra-violet light, ozonation, nanofiltration, reverse osmosis may be used. It is responsibility of the property owner to determine appropriate treatment method for each individual use.

4. Piping

- a. There shall be no physical interconnection between any rainwater harvesting system pipe system with that of any City water supply system piping.
- b. Where private rainwater harvesting pipe and private potable water pipe are installed in the same trench, wall cavity or other location, the potable water pipe shall be separated by a minimum distance of twenty-four inches (24") above and away from the rainwater harvesting pipe.
- c. All private rainwater harvesting pipes shall be a minimum of five feet (5') from any buried public utilities (domestic water, sanitary sewer, electric, gas, etc.).

D. SYSTEM MAINTENANCE

Rainwater harvesting systems shall be maintained in functioning order, for the life of the system. It is the property owner's responsibility to maintain the system until the system is abandoned by removing the entire system.

E. CITY WATER SYSTEM AS A BACK-UP SUPPLY

A person who intends to use the City's water supply system as a source for a back-up supply to the rainwater harvesting system, must give written notice of that intention to the City Utility department. The private system shall always be maintained by landowner and shall not be directly connected to the City system. The water from the rain water harvesting system will be considered an Auxiliary Supply to the public water system and must comply with the backflow protection requirements established in the City of Boerne "Cross Connection Control and Backflow Prevention Program for the City of Boerne Potable Water Distribution System."

To use the City public water supply as a back-up for a rainwater harvesting system, the minimum volume of rainwater storage shall be 20,000 gallons. Both an air gap and a reduced pressure backflow device must be installed, and City access to backflow preventers must be maintained.

8.7 LOWER GLENROSE AQUIFER

A. PURPOSE

The purpose of this section is to regulate activities having the potential for polluting the Middle Trinity Aquifer, to protect existing and potential uses of groundwater as well as maintain Texas Surface Water Quality Standards. The specific area of concern is the surface outcrop (or exposure) of the Lower Glen Rose Limestone, a formation which contains a karst aquifer which, by definition, is susceptible to contamination and potentially hydrologically connects surface water to that aquifer throughout much of Kendall County.

B. APPLICABILITY

This rule is applicable in the Lower Glen Rose Protection Zone (LGRPZ) where caves, sinkholes, faults, fractures, or other geologic features create a potential pathway for recharge of surface waters into the Middle Trinity Aquifer. The Engineering Design Manual shall be the reference for the Lower Glen Rose Protection Zone (LGRPZ).

C. DEFINITIONS

1. Lower Glen Rose Protection Zone (LGRPZ) is identified as that area designated where the Lower Glen Rose Limestone formation surface outcrop as defined on official USGS maps and/or City of Boerne maintained maps in addition to the area upgradient of the mapped outcrop for a distance of 1,200 feet.
2. Sensitive Feature: A geologic or manmade geologic feature where a potential for hydraulic interconnectedness between the surface and the Middle Trinity Aquifer and rapid recharge to the subsurface may occur. Identification of sensitive features shall be performed through the use of a pedestrian field survey following the protocol established in the TCEQ Instructions to Geologists for Geologic Assessments on the Edwards Aquifer Recharge/Transition Zones (TCEQ-0585, current version)

D. GEOLOGIC ASSESSMENT (GA)

If any portion of the subject property includes the mapped LGRPZ, the applicant must submit a report prepared by a PG professional geoscientist licensed by the State of Texas describing the site-specific geology and any potential recharge features. The report must identify potential pathways for contaminant movement to the Middle Trinity Aquifer. The geologic assessment report must be signed, sealed, and dated by the geoscientist preparing the report.

1. The Geologic Assessment must include a geologic map, at site-plan scale, illustrating:
 - a. the outcrop of surface geologic units; and
 - b. all geologic and manmade features, specifically identifying by field assessment:
 - i. caves;
 - ii. sinkholes;
 - iii. faults;
 - iv. permeable fractures;
 - v. solution zones;
 - vi. surface streams; and
 - vii. other potentially sensitive features.
2. The geologic assessment must contain a stratigraphic column showing, at a minimum, formations, members, and thicknesses.
3. The geologic assessment must contain a description and evaluation of all geologic and manmade features, on forms provided by, or approved by, the City Manager. The assessment must determine which of these features are sensitive features. The assessment must include:

- a. the identification of each geologic or manmade feature, with a cross-reference to the site-plan map coordinates; and
- b. the type of geologic or manmade feature including, but not limited to:
 - i. sinkholes;
 - ii. caves;
 - iii. faults;
 - iv. wells;
 - v. surface streams; or
 - vi. potentially permeable fractures and solution zones.
- 4. The geologic assessment must contain a narrative assessment of site-specific geology. The assessment must detail the potential for fluid movement to the Middle Trinity Aquifer and include a discussion of the stratigraphy, structure, and karstic characteristics of the site.
- 5. The geologic assessment must contain a narrative description of soil units and a soil profile, including thickness and hydrologic characteristics.

E. FEATURE PROTECTION AND BUFFER ZONE

Within the LGRPZ the applicant shall identify potential recharge features within the Geologic Assessment which are considered sensitive.

1. Sensitive Feature Buffer Zone

- a. A minimum 50-foot buffer area will be placed surrounding sensitive features which will be maintained in a natural condition. In addition, and unless otherwise approved by the City Manager, the width of the upgradient buffer area shall be based on measurements from the outer surface perimeter of the feature for a minimum distance of 100 feet.
- 2. Buffer zones may be required to extend beyond the property line. The City Manager may approve the buffer zone terminating at the property line if the Developer has exhausted all commercially reasonable efforts in the pursuit of the acquisition of off-site easements. Future development, or redevelopment, of the adjoining tract shall continue the buffer.
- 3. Buffers shall be recorded with the plat and only minimal disturbances (access grates, protection fences, etc.) as approved by City Manager shall occur within the buffer.
- 4. Developer shall include sensitive feature protection details in the development application.

F. SEALING A SENSITIVE FEATURE

Buffers shall be the primary means of protecting the water quality in the Middle Trinity Aquifer at an identified sensitive feature, however a developer may request to seal a sensitive feature by submitting a sealing plan to the City Manager for approval. Sealing plans shall be consistent with TCEQ guidance document RG-348.

G. PROTECTION OF FEATURES IDENTIFIED DURING CONSTRUCTION

Many sensitive features, such as solution cavities and caves, are not identified during the Geological Assessment, but are discovered by excavation during the construction phase of a project. This is especially common during utility trenching. The features encountered at this phase of a project must be protected to ensure that water quality and the stability of the construction and/or utility installation are protected.

If any sensitive feature is discovered during construction all activities near the sensitive feature must be suspended immediately. The developer must immediately notify the City Inspector of any sensitive features encountered during construction. This notice must be given before continuing construction. Construction activities near the sensitive feature may not proceed until the City

Manager has reviewed and approved the methods proposed to protect the sensitive feature and the Middle Trinity Aquifer from potentially adverse impacts to water quality.

To describe, assess, and provide a proposed method of protection for the feature, use TCEQ Form 10256, available from the TCEQ's main web page (Forms and Publications). The attachments for Form 10256 are:

- a. Protection Plan Prepared by a Professional Geoscientist licensed in the State of Texas including:
- b. Plan, profile, cross section sketches, and photos for each feature.
- c. Geologic Assessment Table (if applicable).
- d. Drawings and narrative descriptions of the proposed protection measures.
- e. If the discovery is related to a sewage collection system, a Texas Registered Professional Engineer is also required to submit the protection plan.

Depending on type of feature discovered, developer shall provide the minimum treatment required as described in Chapter 5, Complying with the Edwards Aquifer Rules, Technical Guidance on Best Management Practices (RG-348), current edition.

Small, isolated solution cavities less than or equal to six inches may be completely filled with concrete. All plans submitted to the City shall have a signed and dated seal of a Texas licensed Professional Engineer or Professional Geoscientist. All plans will be reviewed on a case-by-case basis and additional protective measures or additional information may be required.

Once a complete plan is accepted it will be reviewed and approved or denied within 14 calendar days. If after 14 calendar days no action has been taken by the City Manager, the plan shall be considered approved and work may proceed.

Chapter 9 Signage

DRAFT

9.1 GENERAL SIGN PROVISIONS

A. PURPOSE

1. The City Council finds that to protect the health, safety, property and welfare of the public it is necessary to prevent the unregulated proliferation of signs while at the same time respecting the public's right to freely engage in constitutionally protected speech.
2. The purpose of these rules and regulations is to
 - a. provide uniform sign standards and regulations in order to improve pedestrian and traffic visual safety,
 - b. to provide for safe construction, location, erection, and maintenance of signs,
 - c. to prevent proliferation of unauthorized signs, to minimize the possible adverse effect of visual clutter on nearby public and private property, and
 - d. to promote a positive City image reflecting order, harmony and pride, thereby strengthening the economic stability of Boerne's commercial, cultural, historical and residential areas.

B. APPLICABILITY

The provisions of this Chapter shall apply within the City Limits and within the extra-territorial jurisdiction (ETJ) of the City as defined by state law.

C. RELATIONSHIP TO OTHER ORDINANCES

1. This Chapter shall not be construed to require or allow any act that is prohibited by any other ordinance of the City.
2. This Chapter is specifically subordinate to any ordinance or regulations of the City pertaining to building safety, construction safety, or pedestrian and traffic safety.

D. MESSAGE NEUTRALITY

It is the policy of the City to regulate signs in a manner that does not regulate speech by message content.

E. NON-COMMERCIAL MESSAGE SUBSTITUTION

1. Any sign authorized by this ordinance displaying a commercial message which is subsequently substituted for a non-commercial message in place of the previous commercial message, or previous non-commercial message, is exempted from regulation under this ordinance.
2. Signs containing noncommercial speech are permitted anywhere that signs regulated by this chapter are permitted, subject to the same regulations applicable to the type of sign used to display the noncommercial message. No provision of this chapter prohibits an ideological, political, or other noncommercial message on a sign otherwise allowed and lawfully displayed under this chapter.
3. The owner of any sign allowed and lawfully displayed under this chapter may substitute non-commercial speech in lieu of any other commercial or non-commercial speech, with no permit or other approval required from the City solely for the substitution of copy.
4. This section does not authorize the substitution of an off-premise commercial message in place of a noncommercial or on-premise commercial message.

F. CHANGES TO THE SIGN FACE

Changing the face of a sign shall not require a sign permit, provided that such a change is made to an existing sign face, without changing the sign type or dimensions.

G. SIGN MAINTENANCE

1. The property owner is responsible for proper permitting, installation and maintenance of all signs on the property, unless a tenant is designated by the property owner, in writing, as the responsible party. The party named on the permit shall be the party responsible for the installation and maintenance of the sign.
2. Signs shall be maintained in a graffiti-free condition.
3. Temporary signs, banners and flags shall be repaired or replaced when the surface is frayed, torn or damaged.
4. The display area of all painted signs shall be kept neatly printed or posted at all times, or otherwise removed. Any paint that is fading, chipping, peeling or flaking shall be immediately repaired.
5. Re-use of existing poles

Existing poles may be reused for pole signs provided that:

- a. They are not damaged;
 - b. They have not been removed from their location; and
 - c. They conform to the standards of this Chapter
6. Maintenance condition of existing signs
 - a. All signs shall be maintained in a safe, neat and orderly condition and appearance, and shall be repainted and kept clean by the sign permit holder or property owner to prevent corrosion or deterioration caused by weather, age or any other condition.
 - b. Unused sign hardware and wiring that is visible from the public right of way shall be removed.
 - c. If a sign is maintained in an unsafe or unsecured condition, the City may serve notice and remove the sign at the property owner's expense. The City Manager shall notify, by certified mail, the responsible party for any sign not so maintained, and the responsible party shall be required to perform the necessary maintenance or repairs within 30 days of the postmark on the notice. Any sign not repaired within the allotted time may be removed by the City and the actual cost of such removal shall be charged to the responsible party for the sign. If the sign is removed by the City and the sign remains unclaimed for a period of more than thirty (30) days, the City may destroy, sell, or otherwise dispose of the sign.
 7. Removal of Hazardous Signs
 - a. All signs shall be maintained to prevent any kind of safety hazard, including faulty sign structures, fire hazards and electrical shock hazards.
 - b. Any sign which, in the judgment of the City Manager, has become an imminent hazard to public safety, either because of an incident of damage or because of neglect, shall be repaired or removed by the responsible party without delay. Notice of the existence of the hazard shall specify the maximum time which may be allowed for repairs or removal in order to ensure public safety, and the notice may be served upon the responsible party by any means available. A hazardous sign which is not repaired or removed within the time specified in the notice shall be removed by the City and the cost of such removal shall be charged to the responsible party. If a sign has been removed by the City as a hazardous sign and the sign remains unclaimed for a period of more than thirty (30) days, the City may destroy, sell, or otherwise dispose of the sign.

H. CONFORMITY REQUIRED

1. No sign shall be erected, reconstructed, repaired, maintained or used after the effective date of this Chapter unless such erection, reconstruction, repairs, maintenance or use meets all the provisions of this Chapter or any applicable ordinance adopted by the City Council of the City of Boerne, Texas.

2. Except as otherwise provided herein, the Building Official shall cause the immediate removal of any sign constructed, erected, or placed in violation of the provisions of this Chapter or expressly prohibited and any sign that represents a clear and present danger to the health or safety of the public due to its structural condition.

I. VIOLATION AND PENALTY

1. Wherever, by the provisions of this Chapter, the performance of any act is required or the performance of any act is prohibited, or wherever any regulation, dimension or limitation is imposed on the location, design or use of any sign, a failure to comply with the provisions of this ordinance shall constitute a violation of this ordinance.
2. The City Manager may institute any appropriate action or proceedings to prevent the unlawful erection, construction, reconstruction, relocation, alteration, repair or use of any sign, and to restrain, correct or abate such violation.
3. Every day on which a violation exists shall constitute a separate violation and a separate offense.
4. The penalty for each offense shall not exceed one thousand dollars (\$1,000.00).

9.2 PROHIBITED SIGNS

A. PROHIBITED SIGN TYPES

It shall be unlawful for any person to erect, install, construct, display, maintain, reconstruct, place, locate, relocate, or make use of any of the following signs:

1. Beacons
2. Billboards
3. Flashing signs
4. Moving signs
5. Unsafe signs
6. Signs interfering with required parking and maneuvering areas
7. Signs which do not comply with any applicable provision of a building code, electrical code or other applicable code or ordinance of the city
8. Signs illuminated in such a manner as to obscure or otherwise interfere with the effectiveness of an official traffic sign, signal or device or so as to obstruct or interfere with the view of a driver of approaching, emerging or intersecting traffic or so as to prevent any traveler on any street from obtaining a clear view of approaching vehicles for a distance of two hundred fifty (250) feet along the street;
9. Signs which by reason of their proximity to a public or private street, highway, alley, lane, parkway, avenue, road, sidewalk, or other right-of-way, constitute a hazard to vehicular or pedestrian traffic because their location interferes with the safe operation of a vehicle.
10. Signs whose design or content may be confused with any authorized traffic sign, signal or device.

B. PROHIBITED SIGN LOCATIONS

1. Off-premise signs are prohibited.
2. No sign or part of a sign, including mounting fixtures and supporting structures, which is mounted above or projects over any sidewalk, street, drive or parking area, whether on public or private land, shall be hung with less than seven (7) feet of vertical clearance above the sidewalk or less than twelve (12) feet of vertical clearance above the street, drive or parking area.
3. No sign or part of a sign, including mounting fixtures and supporting structures, shall be located on or above any public land to include rights of way, except as provided by this Chapter.
4. No sign shall be placed on or attached to any tree.
5. No sign shall be placed on or attached to any utility pole or pedestal, except by a utility company owning the pole or pedestal or operating facilities mounted on the pole or in the pedestal.

6. No sign shall be placed or kept in use to advertise an activity, business or service no longer conducted on the premises upon which the sign is located.
7. No sign shall be located on any sidewalk or in any unpaved walkway intended for public use so as to allow less than three feet in radius of horizontal clearance on at least one side of the sign.
8. No sign or part of a sign frame shall be located between two (2) feet and ten (10) feet above the established ground level within the area of a clear sight triangle for traffic, extending twenty-five (25) feet in each direction from the point at front of curb of a street intersection.
9. No sign shall be located closer than six feet laterally to a secondary power line or closer than fifteen (15) feet laterally to a primary power line.
10. No lighted sign, and no permanent sign shall be mounted or placed on or extend above the side wall or rear wall of any building, or be located in the side yard or rear yard of any lot or tract of land, when such sign faces upon and is visible from a contiguous residential area not separated from the building, lot or tract containing the sign by a public street or alley.
11. No sign shall obstruct the visibility of an intersection, according to the Intersection Visibility requirements of the UDC.
12. No sign shall be located on private property without the consent of the owner of the premises or the persons holding the present right of possession and control.

9.3 EXEMPTIONS

A. ITEMS EXEMPT FROM THE SIGN PERMIT REQUIREMENT

The following items are exempt from the requirement to obtain a sign permit.

1. Public purpose signs, including warning signs and informational signs, erected by a governmental entity.
2. Political campaign signs on private property.
3. Works of art, including murals, which do not include a commercial message
4. Holiday decorations
5. Flags that are a symbol of government or political subdivision
6. Building markers
7. Information signs
8. Building addresses, except as required on freestanding signs
9. Barber poles, provided they do not contain a commercial message
10. Signs on fences of properties of educational institutions for grades K-12
11. Signs on fences of outdoor sports fields on nonprofit community recreation property
12. Signs internal to a site so that they are not visible from a public right-of-way
13. Scoreboards in athletic stadiums
14. Any sign inside a building, or a window or door sign, except for a lighted window or door sign.
15. Historical markers mounted on the face of a building or erected on a site as a freestanding monument, when placed by a governmental entity, historical society or other civic organization to commemorate a person, event or other matter of historical interest.
16. Any sign erected or required to be erected by any governmental entity or public utility to give information, directions or warnings to the general public, regardless of the sign's location on public or private property.
17. Signs that advertise sales or "help wanted" not to exceed four (4) square feet, limited to one per street frontage.
- 18.
19. Signs that provide directions to the Convention and Visitors Bureau.
20. Handheld signs of a non-commercial nature which do not rest on or otherwise touch the ground.

B. ACTIONS EXEMPT FROM THE SIGN PERMIT REQUIREMENT

The following actions are also exempt from the requirement of a sign permit:

1. repainting or replacing letters or characters on an existing permanent sign, provided that the area of the sign is not enlarged, and the height of the sign is not increased
2. changing the copy on a bulletin board or changeable copy sign; and
3. replacing the fabric or other material of an awning sign when no other change is made in the sign.

9.4 NONCONFORMING SIGNS

A. CONTINUATION IN USE

1. The lawful use of signs in existence at the time of passage of this Chapter, although such use or sign does not conform to the regulations contained herein, may be continued.
2. If the use of a nonconforming sign is discontinued for a period of ninety (90) consecutive days or more, then the sign must be removed by the responsible party without compensation and any future use of the sign must be in full compliance with this ordinance.
3. Signs displaying a commercial message that substitute that message for a non-commercial message are not subject to this section.

B. LIMITATIONS ON MODIFICATION

1. No nonconforming sign shall be enlarged in area, increased in height, moved, altered, or remodeled unless and until its construction, area, height and location are all in conformity with the ordinance.
2. A lawfully existing sign may be repainted and the letters or characters on the sign may be rearranged or replaced, however the changes cannot be made to advertise a new business.

C. REMOVAL OF NONCONFORMING SIGNS

1. A nonconforming sign which is damaged by any cause to the extent of fifty (50) percent or more of its value must be removed by the responsible party without compensation and within thirty (30) days of the damage.
2. A nonconforming sign damaged to the extent of fifty (50) percent or more of its value shall not be replaced or rebuilt except by a sign that is constructed and located in full conformity with this ordinance.
3. A nonconforming sign which is deemed to be a nuisance by the City shall, without the requirement of notice, be removed.
4. The structure, pole, frame, and copy of a nonconforming sign which no longer advertises a bona fide business conducted or product sold on the premises shall be removed in its entirety or altered to meet the requirements of these regulations within 30 days.

9.5 SIGN ILLUMINATION

A. GENERALLY

1. Sign illumination shall conform to the lighting requirements of the City.
2. No illuminated sign visible from the public right of way shall be turned on prior to the earlier of sunrise or one hour before opening. All illuminated signs visible from the public right of way shall be turned off by the later of closing time or 10pm.

B. EXTERNAL ILLUMINATION OF SIGNS

1. No sign may be illuminated with fixtures that allow for the unshielded upward transmission of light, except that outdoor light fixtures with a maximum output of 250 lumens per fixture, regardless of number of bulbs, may be left unshielded, provided the fixture has a diffuse installed, and the source of light is not visible from any other property.
2. No bare bulbs shall be used.
3. An establishment shall only have one lighted window or door sign per store front,

- a. Down-lighting may be an indirect spotlight or a gooseneck down light. External downlighting fixtures shall not cast light or glare in any direction other than the elements of the sign and shall provide even illumination to the sign face.
 - b. Ground-mounted external flood lighting, also referred to as “up-lighting,” shall be shielded and properly placed, and shall be directed so as to avoid light trespass beyond the edge of the sign structure being lit.
 4. Temporary signs shall not be illuminated.
- C. INTERNALLY ILLUMINATED SIGNS
 1. Signs with Tube Lighting
 - a. Tube lighting may include either neon or LED tube lighting.
 - b. Tube lighting may be used for backlighting or for the interior lighting of a sign box or canopy, provided the lighting tube is not exposed.
 2. Internally Illuminated Sign Cabinets
 - a. Cabinet signs with internal illumination shall be constructed with an opaque background and translucent letters and symbols, or with a colored background and lighter letters and symbols.
 - b. Light backgrounds with darker letters and symbols shall only be allowed for a sign cabinet that is less than 6 square feet in size and placed so that the illuminated sign cabinet is no more than 4 feet above the point at which sign height is measured.
 - c. No internally illuminated sign cabinet may flash, blink or emit a varying intensity of light or color, or make or emit any sound, smoke or vapor.
 3. Halo Lit Signs
 - a. Halo lit signs shall be mounted on to a flat wall, or a flat panel.
 - b. Due to their brightness, halo lit signs shall only be allowed in specified overlay districts where bright night lights are appropriate.
 4. Electronic Changeable Copy Boards
 - a. Only one electronic changeable copy board is allowed per lot or development site.
 - b. Maximum sign area for electronic changeable copy boards
 - i. For marquee signs:
 - (a) electronic changeable copy boards shall not exceed 80% of the total area of the fascia of the horizontal element of the marquee sign.
 - (b) electronic changeable copy boards that are mounted onto a marquee sign shall not exceed a height of 14 feet.
 - (c) Electronic changeable copy board messages shall be static. Messages shall not change more than once in a 24-hour period.
 - ii. For monument signs:

For monument signs, the area of an electronic changeable copy board shall not exceed 8 feet.
 - iii. For all other sign types, the electronic changeable copy board shall not exceed 25% of the allowable sign area.
 5. Digital Signs

- a. Digital signs shall be located at least 250 feet from a residential property, unless the sign is completely shielded from the residential property by a building or another structure. The digital component of the sign shall not be visible from any point on the residential property.
- b. There shall be at least 250 feet of separation between digital signs and any of the following:
 - i. a sign with an electronic changeable copy board
 - ii. a video display
 - iii. another digital sign
- c. Digital signs shall be oriented away from residential uses.
- d. Digital signs shall be static. The frequency of message changes shall be no less than 10 minutes.
- e. No transitional effects shall be used between messages
- f. Digital signs shall be equipped with an automatic dimmer device to reduce nighttime wattage as required.
- g. Digital signs shall have a default design or image that will freeze in one position if a malfunction occurs. If the illumination ceases to function properly, the sign's illumination shall be turned off until the sign is repaired.
- h. Digital signs shall not flash, scroll, or incorporate full-motion video.
- i. Audio and pyrotechnic elements are prohibited.

6. Video Displays

- a. Video displays are only allowed as a component of:
 - i. A kiosk servicing pedestrians, adjoining a sidewalk, provided the digital display is no larger than 4 square feet; or
 - ii. a sign oriented toward the interior of a property; or
- b. Video displays shall be equipped with an automatic dimmer device to reduce nighttime wattage as required.
- c. Digital signs shall have a default design or image that will freeze in one position if a malfunction occurs. If the illumination ceases to function properly, the sign's illumination shall be turned off by the property owner or tenant until the sign is repaired.

9.6 SIGN MEASUREMENT

A. INDIVIDUAL SIGNS

1. Sign Measurement, Generally

- a. Illustrations of sign measurement have been included in Appendix C to aid the reader.
- b. The permitted area for all sign types shall be inclusive of the sign base and sign cabinet, where the sign cabinet is the structure or border used to differentiate a sign face from the structure against which a sign face is placed.
- c. In no case shall the overall sign structure, including the base, exceed the maximum allowed height nor the maximum allowed sign area.
- d. Where a sign consists of individual letters, words, or symbols attached to a surface, building, canopy, awning, or wall and all such elements are located in the same plane, the sign area shall be the area of the smallest rectangle which completely encompasses all such letters, words, or symbols and any accompanying background of a color different than the natural color of the wall. Where such sign includes multiple words, each word located in the same plane shall be computed separately.

2. Sign Height

- a. For signs mounted on buildings or accessory structures, sign height shall be calculated as the distance from the ground directly underneath the sign to the uppermost edge of the sign.
- b. For freestanding signs, the height of a sign shall be computed as the mean distance from the base(s) of the sign at normal grade to the top of the highest attached component of the sign.
- c. Normal grade shall be construed to be the lower of:
 - i. existing grade prior to construction, or
 - ii. the newly established grade after construction, exclusive of any filling, berming, mounding, or excavating solely for the purpose of locating the sign.

3. Sign Area

- a. The area of a sign face is calculated using the outer dimensions of the frame or cabinet surrounding the sign surface area.
- b. For channel letter signs and dimensional projecting signs, the area of the sign is determined by calculating the area of the smallest single geometric shape (square, rectangle, circle, etc.) that can be drawn around the letters or sign elements. The individual letters and/or elements shall be calculated as a single sign space.
- c. For multi-faced signs, the total sign area shall be computed by adding together the area of all sign faces visible from any one point. The sign area shall be computed by the following measurements, provided that the sign faces are part of the same sign structure.
 - i. If the sign faces have an interior angle less than 45 degrees, only one side is counted for sign area. If the sign faces have an interior angle greater than 45 degrees, both sign faces count toward maximum sign area.
 - ii. For 3-dimensional signs with 3 faces, the three sides are summed, then divided by 2.
 - iii. For 3-dimensional signs with 4 faces, all four sign sides are added and divided by 4 to determine sign area.
 - iv. Spherical and irregularly shaped 3-dimensional signs are treated as 3-dimensional signs with 4 faces, where a rectangular prism is used to calculate face area, so that the shape is completely contained within the prism.

B. TOTAL SIGN AREA

- 1. Illustrations of sign measurement have been included in Appendix C to aid the reader.
- 2. Sign Area Per Wall of a Building or Structure
 - a. The total sign area of a single wall of a building or side of a structure shall be the sum of the area of all signs that are mounted onto that wall of the building or side of that structure.
 - b. Signs mounted onto or attached to the fascia of a detached canopy structure shall be included in the calculation of the total sign area of the wall of the building that is closest to parallel with the side of the attached canopy structure to which the sign is mounted or attached.
 - c. Each window sign that covers 50% or more of a window shall be included in the calculation of total sign area for the wall where that window is located.
- 3. Total Sign Area Per Building or Structure
 - a. The total sign area per building shall be the sum of the area of all signs that are mounted onto any and all exterior walls on that building or structure.
 - b. Each window sign that covers 50% or more of a window shall be included in the calculation of total sign area per building.

C. MEASURING FRONTAGE

1. Building frontage

The building frontage is measured as the horizontal distance along a building that fronts a public right of way, which extends from one edge of the building wall to the other edge of the building wall.

2. Street frontage

Street frontage is measured as the horizontal distance along a public right of way line, which extends from one edge of the property to the other edge of the property.

3. TRANSFERRING SIGN AREA PROHIBITED

- a. Transfer of sign area from one frontage to another is prohibited.

9.7 GENERAL SIGN STANDARDS

A. SIGN TYPES ESTABLISHED

1. Sign types are hereby established for the City of Boerne, in accordance with this Chapter and with the definitions provided in this Unified Development Code.
2. Sign standards for overlay districts shall supersede the general sign standards.
3. Particular types of signs are defined by their purpose or use, by their location, and by the nature of their construction, and therefore any one actual sign may be encompassed by multiple definitions and subject to the regulations in multiple sections of this ordinance.
4. Sign types are defined in Appendix A: Definitions of the Unified Development Code.

B. OFF-PREMISE SIGNS PROHIBITED

Commercial off-premise signs, including billboards, are prohibited within the corporate limits and the extra-territorial jurisdiction of the City, unless specifically allowed by this Chapter.

C. FREESTANDING SIGNS

1. No portion of a freestanding sign shall extend beyond the property line, unless otherwise permitted by this Chapter or by a master sign agreement.
2. No sign shall occupy an area designated for parking, loading, walkways, driveways, fire lanes, easements, or other areas required to remain unobstructed.
3. Number of signs allowed
 - a. One freestanding sign is allowed per property for every 400 feet of frontage.
 - b. For properties with frontage less than 400 feet, one freestanding sign shall be allowed.
 - c. For corner properties where either of the two adjoining frontages is less than 400 feet, a freestanding sign shall only be allowed on one frontage.
 - d. One multi-tenant, freestanding sign shall be allowed per frontage.
4. Separation
 - a. There shall be at least 200 feet of separation between freestanding signs on the same site.
 - b. There shall be at least 40 feet of separation between freestanding signs on adjacent sites which are on the same side of the street.
 - c. Freestanding signs shall be set back from intersections so as to preserve intersection visibility, in accordance with the intersection visibility requirements of the UDC.
5. Sign setbacks

Sign setbacks shall be measured from the property line.

6. Landscaping

- a. Plants in a landscaped area shall be maintained in a healthy condition, and the responsible party shall keep the area free of weeds, trash and debris.
- b. Landscaping shall not encroach sign face at any time. Plants installed beneath the sign face shall have a height at maturity that is lower than the lowest edge of the sign face. Plants installed to the side of the sign shall be planted at a distance from the sign face of at least 3/4 of the width of the plant at maturity.


7. Materials for Support Structures and Decorative Elements

- a. Materials for cladding, pylons, sign enclosures, the sign base and other sign features shall match materials used for other site design elements, such as fences, walls, landscape features and/or building facades, in order to maintain continuity of design within the site.
- b. Any wood that is used on freestanding signs shall be stained and/or sealed. It shall be of a hardwood variety or shall be treated, weather-resistant lumber designated for exterior use.
- c. Caps are encouraged on monument and pylon signs.
- d. For larger projects with multiple freestanding signs, materials and design shall be consistent among all freestanding signs on the site.

8. Sign Faces

- a. Except for multi-tenant signs, the letters on the sign face shall be lighter in color than the background. White sign faces are not allowed.
- b. Sign panels shall have a non-reflective finish, and backgrounds shall be opaque.

9. Standards by Sign Type for Freestanding Signs

| GENERAL STANDARDS FOR FREESTANDING SIGNS | | | | |
|--|-------------------|--|--|--|
| For Properties not within an Overlay District | | | | |
| <i>increasing ornamentation</i> | |  | | |
| | Pole Sign | Decorative Post and Panel | Monument (8ft or less) | Pylon (>8ft) |
| Base (min. height) | n/a | n/a | 18 " | n/a |
| Base (min. width) | n/a | n/a | 60% total sign width | total ground contact at least 30% of sign width |
| Enclosure Required | no | no | at least 2 sides | no |
| Enclosure (min. width) | n/a | n/a | min. 12" per enclosure (including cap) | if present, total enclosure at least 30% of sign width |
| Cabinet Frame (color) | must match pole | n/a | n/a | n/a |
| Sign Area per Panel/Cabinet (max sf each) | 12 sf | n/a | n/a | n/a |
| Sign Panel (max number) | 2 | n/a | n/a | n/a |
| Panel (minimum height) | 8 in | 8 in | 8 in | 8 in |
| Sign Area (max sf) | 16 sf | 24 sf | 30 sf; or 4sf/tenant with max 40 sf | 30 sf; or 4sf/tenant with max 40 sf |
| Max. Sign Height | 10 ft | 10 ft | 8 ft | 12 ft |
| Min. Sign Setback | 12 ft | 8 ft | 8 ft | 12 ft |
| Vertical Clearance | Min. 8 ft | Max 4 ft | 0 ft | < 4ft or > 8 ft |
| Max Width Sign Face | 6 ft | 6 ft | 10 ft | 8 ft |
| Internal Illumination | yes | yes | yes | yes |
| External Illumination | downlighting only | yes | yes | yes |

D. BUILDING-MOUNTED SIGNS

1. Sign Area Per Building Wall

- a. At least 25 square feet, but no more than 1.5 square feet per linear foot of tenant space, of building-mounted sign area shall be allowed for each building wall facing a public street or a public space.
- b. For tenant spaces with a total frontage of 50 feet or less on a public street or public space, the maximum sign area is 25 square feet.
- c. For corner lots, store frontage is calculated separately for each building wall facing a public right of way.
- d. Businesses without freestanding signs may receive an increase in maximum square footage of allowed building-mounted signage as a provision of a master sign agreement.
- e. Allowable wall sign area shall not be transferred between tenants or between buildings.

2. Sign Area Per Building

- a. The area of all building-mounted signs, when added together, shall not exceed 500 square feet for an entire building.
- b. Businesses without freestanding signs may receive an increase in maximum square footage of allowed building-mounted signage as a provision of a master sign agreement.

3. Encroachment

- a. Building-mounted signs may encroach a public sidewalk or a publicly accessible pedestrian area, provided they maintain the required minimum vertical clearance of 8 feet.
- b. Building-mounted signs shall not encroach any vehicular travel lane, bike lane or parking area.
- c. Building-mounted signs encroaching a TxDOT right of way shall require a permit for encroachment from TxDOT prior to submitting a sign permit application to the City.

4. Placement

- a. A minimum distance of 20 feet shall be maintained between all signs that project from a building wall, including blade signs and dimensional projecting signs.
- b. A minimum distance of 20 feet shall be maintained between all hanging signs that project from a building wall. Hanging signs shall be centered at the same distance from the building wall.
- c. Signs mounted to the wall of a building shall be securely mounted to and supported by the wall throughout the length and width of the sign.
- d. Signs that project from a building shall be mounted perpendicular to the building wall on solid rods. They shall be reinforced adequately to avoid movement in wind and inclement weather.

5. Vertical Clearance

Any sign which projects from a building wall shall maintain a vertical clearance of at least 8 feet, as measured from the ground underneath the sign to the lowest edge of the sign structure.

6. Multi-Tenant Buildings

- a. Signage for individual tenants shall only be on the building walls of the first and second floor of the building.
- b. Where more than one tenant has a building wall sign.... signs for anchor tenants
- c. Signage for individual tenants shall only be located on a wall adjoining the occupied space of that tenant.

7. Standards by Sign Type for Building-Mounted Signs

| | Wall | Window Signs | Roof Sign | Dimensional Projecting Sign | Attached Canopy |
|--|---|--|---|---|---|
| Max. Sign Height | cannot extend above parapet, soffit, eave line or roof line | | 4 feet above parapet or roof line, not to exceed max building height for property zoning. | 20 feet; shall not extend beyond eave line | 20 ft or building roofline, whichever is lower |
| Max Total Sign Area per Wall | Greater of: 10% of total wall area or 1.25 sf sign area per ft of total wall width; pick which controls | | 10% of total sf of wall to which it's attached | | |
| Max Sign Area per Sign | n/a | n/a | n/a | 24 sf | n/a |
| Max Sign Area per Building | n/a | n/a | roof signs only allowed on 1 wall | 24 sf | n/a |
| Max Total Sign Area: Corner Signs | n/a | n/a | n/a | counts toward total sign area for each attached wall | total sign area can't exceed maximum sign area for shortest attached wall, and counts toward total sign area for each attached wall |
| Min. Vertical Clearance | n/a | n/a | n/a | 8 feet | 10 ft building entry clearance; 8 ft pedestrian clearance; 14 ft driveway clearance |
| Max projection from wall | 8 inches, including mounting structure | n/a | n/a | 3 feet, including mounting structure | n/a |
| Max # of Signs per Wall | 1 per tenant if multi-tenant building | n/a | n/a | 1 | n/a |
| Max # of Signs per Building | n/a | n/a | 1 | n/a | n/a |
| Max Sign Width | 60% total wall width or 60% of tenant space, whichever is less | n/a | 60% width of establishment (or building if single tenant) | 3ft | 60% canopy width or 60% width of the tenant space for multi-tenant buildings |
| Max Sign Width, Corner Signs | n/a | n/a | 60% width of shortest wall joined at corner | 3 ft | 60% of the width of the shorter of the attached walls |
| Sign Placement | centered along building wall or space between façade elements; can't cover architectural features (windows, ornamentation) or extend beyond wall edges (any direction); line up between tenants | includes signage placed within 3 feet of window and oriented so as to be read from outside of the building | Entirely above a flat roof, cantilever or false roof; cannot be visible from single family or townhouse residences | not allowed above a building entrance, unless above canopy, awning or marquee; can't encroach a window, another sign, or an architectural feature of a building | mounted to top or underside of canopy is permitted; first floor canopies only |
| Sign Elements | | message background shall be transparent | Building ID only (building names, not tenant names); sign boxes/ cabinets not permitted; minimize visibility of support structure | | sign boxes and sign cabinets not permitted |
| Max Sign Height | | | | | |
| Internal Illumination | yes | no | yes | yes | yes |

| | Wall | Window Signs | Roof Sign | Dimensional Projecting Sign | Attached Canopy |
|------------------------------|--------------------------|-------------------|-----------|-----------------------------|---|
| External Illumination | downlighting only | Downlighting only | no | no | downlighting only and only for signs mounted and fully below the canopy structure |

| | Awning | Marquee | Hanging Signs | Blade |
|--|--|---|---|---|
| Max. Sign Height | 14 ft | 4 ft above the roof line to which the sign is attached | first floor uses only | 20 feet; shall not extend beyond eave line |
| Max Total Sign Area per Wall | | | n/a | |
| Max Sign Area per Sign | n/a | n/a | n/a | 12 sf |
| Max Sign Area per Building | n/a | n/a | n/a | n/a |
| Max Total Sign Area: Corner Signs | | total sign area can't exceed maximum sign area for shortest attached wall, and counts toward total sign area for each attached wall | n/a | 12 sf |
| Min. Vertical Clearance | n/a | 10 feet | 10 feet or 2 feet below the lowest edge of the awning, whichever is the greater distance | 8 feet |
| Max projection from wall | n/a | n/a | n/a | 4 feet, including mounting structure |
| Max # of Signs per Wall | n/a | n/a | 1 per entrance | 1 |
| Max # of Signs per Building | n/a | 1 | n/a | n/a |
| Max Sign Width | 60% awning width or 60% of the width of the tenant space for multi-tenant buildings | 60% total wall width | horizontal: 60% width of the structure to which it is attached. Perpendicular: 60% depth of the structure to which it is attached | 3 ft |
| Max Sign Width, Corner Signs | 60% of the width of the shorter of the attached walls | 60% of the width of the shorter of the attached walls | 60% of the width of the framework/ structure to which the sign is attached | 3 ft |
| Sign Placement | first floor awnings only; maintain at least 2 in. between sign area and any edge of the awning | centered above primary entrance to building | min. 10 feet between contiguous hanging signs | not allowed above a building entrance, unless above canopy, awning or marquee; can't encroach a window, another sign, or an architectural feature of a building |
| Sign Elements | sign boxes and sign cabinets not permitted | manual/electronic changeable copy permitted within horizontal sign face; sign boxes/cabinets not permitted | sign boxes and sign cabinets not permitted | n/a |
| Internal Illumination | no | yes | no | yes |
| External Illumination | no | no | no | no |

E. SIGNS MOUNTED ON ACCESSORY STRUCTURES

1. Signs placed on accessory structures include the following sign types:
 - a. Fascia signs on a detached canopy
 - b. Spanner and spandrel signs on a detached canopy
 - c. Entry feature signs
 - d. Perimeter wall signs
2. Signs placed on accessory structures shall not encroach the public right of way.
3. Signs placed on accessory structures shall not obstruct intersection visibility, in accordance with the intersection visibility requirements of the UDC.
4. Standards by Sign Type for Signs Mounted on Accessory Structures

| | Fascia Signs on Detached Canopy | Spanner and Spandrel Signs on Detached Canopy | Entry Feature (Not a Wall or Canopy) | Perimeter Wall Sign |
|--|---|--|--|---|
| Max. Sign Height | above the fascia by no more than 20% of the fascia height | below fascia | 12 ft | 30% wall height, if mounted on top of wall; 70% wall height if engraved, etched or mounted onto wall face |
| Max Total Sign Area | 10 % of area of canopy fascia; counts toward total sign area of building wall that is parallel to canopy fascia | 10% of canopy area (width of canopy x height from ground) | Lesser of 20% of total area of face of wall to which sign area is attached, or 40 sf | Lesser of: 20% of the total area of the face of the wall, or 20 sf |
| Max Total Sign Area: Corner Signs | if canopy oriented toward corner of building, counts toward max sign area for each wall adjoining at the building corner | 10% of canopy area (width of canopy x height from ground) | n/a | n/a |
| Min. Vertical Clearance over pedestrian areas | 14 feet; may extend below canopy fascia by no more than 20% of the fascia height | 10 feet | n/a | n/a |
| Max projection from wall face | 4 in, letters only | 2 in | 8 in | 4 in |
| Max # of Signs | 2 | n/a | n/a | 1 |
| Max Sign Width | Greater of: 5 ft or 10% of the width of the building wall closest to a parallel alignment with the canopy fascia | 50% of fascia width | 80% of width of structural wall to which sign is attached | n/a |
| Max Sign Width, Corner Signs | if canopy oriented toward corner of building, counts toward max sign width for each wall adjoining at the building corner | 50% of fascia width | n/a | n/a |
| Sign Placement | Centered on the canopy fascia; can't extend >20% of the fascia height above and below canopy fascia; can't extend beyond edge of canopy fascia at corners | centered on a support column or centered between two support columns | n/a | may be permanently affixed to or mounted on top of wall, on face of wall, or etched or engraved into wall |
| Sign Elements | temporary sign elements are prohibited | temporary sign elements are prohibited | temporary sign elements are prohibited | temporary sign elements are prohibited |
| Internal Illumination | yes | no | no | no |
| External Illumination | yes, downlighting only | yes, downlighting only | yes | yes |

F. TEMPORARY SIGNS

1. Temporary signs that advertise “help wanted”, structures for sale or lease, space within structures for rent or lease, and retail “sales” signs shall be limited to one per sign type, per building/lease space, and must be kept in good repair throughout the time of their display.
2. If a temporary sign requires a sign permit, the permit shall be based on length of time for intended use and on compliance with the standards of this Chapter. Temporary signs requiring a permit include:
 - a. Portable signs
 - b. Aerial Sign Elements
 - c. Signs mounted on movable objects, maintained on-premise
 - d. Banner signs
3. All temporary signs shall be registered with Code Compliance, except for the following sign types, which do not require registration:
 - a. Temporary event signs on residential properties
 - b. Yard signs on residential properties
 - c. Real estate signs on residential or nonresidential properties
4. Temporary Sign Types
 - a. Sidewalk Signs
 - i. There shall be at least 20 feet of separation between sidewalk signs.
 - ii. Only one sidewalk sign is permitted per establishment. Where multiple establishments share the same entrance from the public right of way, only one sidewalk sign shall be allowed for the entrance.
 - iii. A sidewalk sign may be erected during business hours only
 - iv. Sidewalk signs shall be allowed to encroach the public right of way, provided that an unobstructed pedestrian pathway of at least 3 feet is maintained.
 - v. Sidewalk signs shall be set back from the edge of curb by at least 2 feet.
 - vi. Sidewalk signs shall be set back at least 20 feet from the cross-street of an intersection.
 - vii. Sidewalk signs are limited to a maximum width of two (2) feet and a height of 4 feet.
 - b. Banner Signs
 - i. Banners shall be securely attached to a building or other permanent structure and they must be kept in good repair throughout the time of their display.
 - ii. Banners shall not be erected for more than thirty (30) days in succession; the responsible party must remove them within no more than three (3) days after the permit has expired.
 - iii. Banners shall not be placed on any site more than eight (8) times within a calendar year, with a minimum of twenty (20) days in between permits.
 - iv. Banners whose sole purpose is to advertise a product rather than an event, or an establishment, are prohibited.
 - v. Banners may only be attached to on-site lighting or decorative poles if they are vertically oriented and attached by banner arms that are mounted onto the pole.
 - vi. No more than two banners may be attached to an on-site lighting or decorative pole at one time, and they must be placed in an opposing position, in a left-right orientation.
 - c. Temporary Flag Sign
 - i. Temporary flag signs shall not exceed a length of 2 feet or a width of 5 feet.

- ii. Temporary flag signs are not permitted to exceed a height of 14 feet.
 - iii. Temporary flag signs shall not be erected for more than thirty (30) days in succession; the responsible party must remove them within no more than three (3) days after the permit has expired.
 - iv. Temporary flag signs shall not be placed on any site more than eight (8) times within a calendar year, with a minimum of twenty (20) days in between permits.
- d. Temporary Post and Panel Signs
 - i. Temporary post and panel signs may be placed only upon the premises to which they refer, and only one such sign shall be permitted per yard space for each street fronting the lot or tract.
 - ii. The area of a temporary post and panel sign shall not exceed six square feet in a residential area and shall not exceed thirty-two (32) square feet in a nonresidential area.
 - iii. The size of a temporary post and panel sign on properties that have frontage on Interstate IH-10 or Highway 46 shall not exceed three hundred (300) square feet and fifteen (15) feet in height.
- e. Temporary Event Signs on Residential Properties
 - i. An on-site event sign shall not exceed an area of three (3) square feet at a residence.
 - ii. Temporary event signs shall not be placed more than one (1) day prior to the event with which they are associated.
 - iii. The responsible party shall remove a temporary event sign within one (1) day after the conclusion of the event.
- f. Temporary Event Signs on Nonresidential Properties
 - i. An on-site event sign shall not exceed an area of thirty-two (32) square feet at any other location.
 - ii. Temporary event signs shall not be placed more than fourteen (14) days prior to the event with which they are associated.
 - iii. The responsible party shall remove a temporary event sign within one (1) day after the conclusion of the event.
- g. Portable Signs
 - i. Portable signs shall require a sign permit.
 - ii. Portable signs shall not be used for commercial messages.
 - iii. Portable signs shall not be illuminated, either by internal or external means, and shall not exceed an area of thirty-two (32) square feet.
 - iv. Portable signs that are not owned, operated and maintained by the City or County shall not be located in the public right of way.
 - v. Portable signs shall not be erected more than fourteen (14) days prior to the event and all such signs must be removed by the responsible party not more than three (3) days after the event.
- h. Aerial Sign Elements
 - i. Aerial signs shall include flags, balloons, inflatables and blimps.
 - ii. Aerial signs elements shall require a sign permit.
 - iii. At any one time, only one aerial sign element may be used on a site.
 - iv. Aerial sign elements shall be erected for no more than 7 days in succession.
 - v. Aerial signs shall not be placed on any site more than eight (8) times in a calendar year, regardless of type of aerial sign, with a minimum of 20 days between each permit.

- vi. Aerial signs shall be fully secured to and completely located within the boundaries of the site for which the permit was obtained. They shall not in any way encroach any public right of way or any adjoining property.
- vii. Balloons, inflatables and blimps shall be removed if they are deflated.
- viii. Aerial signs shall be prohibited in all zoning categories except for C-3, C-4, I-1, I-2, I-3, and I-4

i. Signs on movable objects, maintained on-premise

- i. Signs on movable objects shall require a sign permit.
- ii. Signs on movable objects shall not be illuminated, either by internal or external means, and shall not exceed an area of thirty-two (32) square feet.
- iii. Signs on movable objects that are not owned, operated and maintained by the City or County shall not be located in the public right of way.
- iv. Signs on movable objects shall not be present on a site for more than 3 consecutive days.
- v. Signs on movable objects shall not be placed on any site more than 5 times within a calendar year, with a minimum of 20 days in between permits.

j. Political Signs

- i. Requirements for political signs are intended to conform to section 216.903 of the Local Government Code.
- ii. A political sign shall not exceed 36 square feet in area.
- iii. The maximum sign height of a political sign is 8 feet.
- iv. Political signs shall have no movable elements.
- v. A political sign shall not be illuminated.
- vi. A political sign may be placed on private real property with the consent of the property owner. Private real property does not include real property subject to an easement or other encumbrance that allows the City to use the property for a public purpose.
- vii. A political sign shall not be placed on public property, except at a polling station on election day, or during early voting.
- viii. A political sign may not be placed in a public right of way.
- ix. All political signs relating to an election or referendum shall be removed no later than 10 days after the election or referendum to which the sign applies.

G. DIRECTIONAL AND PUBLIC SERVICE SIGNS

1. Directional Signs

- a. A directional sign shall not contain any commercial message except the name, logo or other symbolic identification of the establishment to which the sign is secondary.
- b. The area of a directional sign shall not exceed six (6) square feet.

2. Public Service Signs

- a. A public service sign shall be placed only in a non-residential area and only on the same lot or tract of land as the establishment sponsoring the sign.
- b. The area of a public service sign shall not exceed thirty-two (32) square feet, regardless of whether the public service sign is a separate sign or integrated as a component of another sign.

H. MISCELLANEOUS SIGNS

1. The American Flag and the Texas Flag

- a. The flag of the United States of America and flags of other nations, states, and governments, where allowed, shall be displayed in accordance with the protocol set forth in United States Code, Title 36, Chapter 10, Patriotic Customs, the pertinent portions of which are contained in the book *Our Flag*, published by the Joint Committee on Printing, United States Congress.
- b. The Texas flag shall be displayed in accordance with Chapter 3100 of the Texas Government Code.

2. Flags, Generally

- a. Three flags are allowed per location, with a combined square footage not to exceed that which is allowed for a pole sign.
- b. Governmental flags are permitted in all zoning districts provided that they meet the following requirements.
 - i. When a flagpole is located on the top of a roof, the placement and attachment of the pole shall meet the building code for wind and structural loading requirements. The plan design criteria shall provide the proposed location, attachment method to the structure and wind load resistance. A building permit shall be required for this type of installation.
 - ii. Ground-mounted flagpoles shall not exceed 38 feet for nonresidential properties, unless otherwise indicated for an overlay district.
 - iii. Ground-mounted flagpoles for residential properties within the corporate limits of the City shall not exceed 20 feet or the roof height of the residence.

APPENDICES

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Appendix A: Definitions

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1. Abandonment: (see nonconforming structures)
2. Access Point: A place of ingress or egress to a property from a boundary street.
3. Accessory Building or Accessory Structure: A subordinate building or structure on the lot occupied by the main building having an incidental use in connection with the main building.
4. Accessory Dwelling: A separate dwelling unit that is associated with, incidental to, and subordinate to another dwelling unit as the principal use, and is located on the same lot as the principal dwelling (commonly referred to as “In-laws Quarters” or “Garage Apartment”).
5. Accessory Garden: A garden maintained by residents or tenants primarily for on-site use. An accessory garden is an accessory use to a primary use, and shall comply with the lot and building standards, according to the zoning of the property.
6. Administrative modification: a requested modification to Overlay District standards that complies with the administrative modifications provisions of Section (c) (3) - Administration.
7. Administratively Complete: A submittal that has met all of the associated submission requirements and includes the specific form and content items included in these regulations.
8. Adult Bookstore: A business which has a substantial or significant portion of its stock in trade in, or which has as its main purpose the offering for sale or rent of books, magazines, pamphlets, pictures, drawings, photographs, motion picture films, video or sound recordings, or printed, visual or audio material of any kind, which are characterized by their emphasis on the description or depiction of specified anatomical areas or specified sexual activities; or a business which offers for sale books, magazines, pamphlets, pictures, drawings, photographs, motion picture films, or sound recordings, or printed, visual or audio material of any kind, which entire business establishment, because of the depiction or descriptions of specified anatomical areas or specified sexual activities in the materials offered for sale or rent, is restricted to adults, or is advertised or promoted as being restricted to adults.
9. Adult Entertainment Establishment: A business where live entertainment is provided for patrons, or a portion of a business set aside for providing live entertainment to patrons, in which a significant portion of the entertainment is characterized by an emphasis on the exhibition, depiction, or description of specified anatomical areas or specified sexual activities; or a place where entertainment is provided to patrons wherein, because of the exhibition of specified anatomical areas or specified sexual activities, admittance is limited to adults, or admittance is advertised or promoted as being restricted to adults.
10. Adult Motion Picture Theater: A business where motion pictures are shown to paying customers when such place is used for presenting material having as its dominant theme, or distinguished or characterized by, an emphasis on the depiction or description of specified anatomical areas or specified sexual activities for observation by patrons, and where admittance to such showings is totally limited to adults.
11. Agriculture: A farm, orchard or similar use of land in horticulture, or a ranch or similar use of land to raise animals as livestock, including as an accessory use the seasonal or incidental sale of products grown or raised on the property, but excluding retail plant nurseries, kennels, stables and feedlots.
12. Agriculture: Agriculture is herein defined as the activity of raising, harvesting, and selling crops; of feeding (including grazing), breeding, managing, selling, or producing livestock, poultry, fur-bearing animals or bees; of dairying and the sale of dairy products; of any horticultural, floricultural or vinicultural use; of animal husbandry; of stabling or training equines, including, but not limited to, providing riding lessons, training clinics and schooling shows; of growing or harvesting forest tree

species or trees used for commercial or related purposes; of research and testing of agricultural products and techniques; or any combination thereof.

13. Alley: A minor public right-of-way which is used primarily for vehicular service access to the back or the side of properties otherwise abutting on a street.
14. Alluvial fan flooding: flooding occurring on the surface of an alluvial fan or similar landform which originates at the apex and is characterized by high-velocity flows; active processes of erosion, sediment transport, and deposition; and unpredictable flow paths.
15. Alteration: See "Structural Alteration".
16. Apex: a point on an alluvial fan or similar landform below which the flow path of the major stream that formed the fan becomes unpredictable and alluvial fan flooding can occur.
17. Appurtenant structure: a structure which is on the same parcel of property as the principal structure to be insured and the use of which is incidental to the use of the principal structure.
18. Area of future conditions flood hazard: the land area that would be inundated by the one (1) percent annual chance (100-year) flood based on future conditions hydrology.
19. Area of shallow flooding: a designated AO, AH, AR/AO, AR/AH, or VO zone on a community's flood insurance rate map (FIRM) with a one (1) percent or greater annual chance of flooding to an average depth of one (1) to three (3) feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.
20. Area of Special Flood Hazard: the land in the floodplain within a community subject to a one (1) percent or greater chance of flooding in any given year. The area may be designated as Zone A on the flood hazard boundary map (FHBM). After detailed rate making has been completed in preparation for publication of the FIRM, Zone A usually is refined into Zones A, AO, AH, A1-30, AE, A99, AR, AR/A1-30, AR/AE, AR/AO, AR/AH, AR/A, VO, V1-30, VE or V.
21. Area: As applied to any sign, the square foot area enclosed by the perimeter of the sign face with each face contributing to the aggregate area. The area to be measured encompasses the extreme limits of the writing, representation, emblem or other display together with any material or color forming an integral part of the background of the display or used to differentiate the sign material from the backdrop or structure against which the sign is placed, but excludes any sign supports or supporting framework, and any finials, decorations or scrollwork entirely outside the area of substantive sign content. In cases where a sign, or a portion of a sign, is composed only of letters, figures, or other characters standing against no sign face background or secured to a monolith, then the sign face area is the area of the smallest simple imaginary figure (circle, triangle, rectangle, or other) which fully contains the sign content. The area of a sign with more than one face is the sum of the areas of all sign faces visible from any one point. However, a sign structure with two (2) faces back-to-back, oriented in opposite directions, with the same copy on both sides, shall be counted only as the area of one face.
22. Assembly: An establishment that conducts organized services, assemblies, or programs on a periodic or occasional basis, primarily for the convenience, entertainment, education, and social or spiritual welfare of the community. Assemblies are limited in the districts by the seating capacities in the primary facility (this excludes any support facilities such as, education buildings, athletic buildings).
23. Attached Dwelling: A dwelling unit in a structure designed for more than two principal dwelling units, and where the units are separated by a party wall and located on separate lots if they are intended for individual ownership. Units may be located on a single lot if the structure is intended for single or

condominium ownership. Each unit has the same orientation and front façade and has its own private entrance to the exterior of the structure.

24. Attached sign: A sign that is fastened, attached, connected or supported in whole or in part by a building or building component.
25. Automobile Convenience Store: A retail use primarily engaged in the sale of a limited selection of food and personal and home care items, or a combination of such items and the sale of automotive fuels, but excluding any business selling alcoholic beverages for on-site consumption, and involving no more than 3,600 of gross leasable area which is primarily designed for convenient automobile access.
26. Automobile Gas Station: A retail business which is principally devoted to the sale of motor vehicle fuels, and which may include as accessory uses the sale of automotive lubricants, tires, batteries and accessories, automotive service, short term rental of light trucks and trailers, and the sale of a limited range of food and consumer items for the convenience of travelers, but excluding any sale of alcoholic beverages for on-site consumption.
27. Automobile Parts & Parts Sales: A business selling parts and accessories for automobiles or other motor vehicles provided that no installation of the parts and accessories and no servicing of vehicles is conducted on the premises.
28. Automobile Rental: A business renting or leasing automobiles, motorcycles or light trucks, but excluding and large vehicle and machinery rental.
29. Automobile Sales: A business selling automobiles, motorcycles, trucks, recreational vehicles.
30. Automobile Service with outside storage: A business repairing or servicing automobiles, motorcycles or light trucks, or selling, installing and servicing their parts and accessories, but excluding gas stations and large vehicle and machinery service establishments (storage of vehicles or outside storage of vehicle parts shall not exceed 30 days).
31. Automobile Service without outside storage: A business repairing or servicing automobiles, motorcycles or light trucks, or selling, installing and servicing their parts and accessories, but excluding gas stations and large vehicle and machinery service establishments.
32. Auxiliary Sign: A sign of any construction, not exceeding one square foot in area, which is not part of another sign and which is customarily secondary and incidental to the principal use, such as one indicating hours of operation, credit cards accepted, or restrictions of sale to minors, or which is customarily secondary and incidental to a residence, such as "no soliciting" or "beware of the dog."
33. Avenue: A roadway design for slow speeds and high pedestrian amenities, appropriate as a "main street" and support streets for mixed-use or commercial centers.
34. Average Day - A non-holiday Tuesday, Wednesday or Thursday during the school year for most uses. The average day may be a Saturday or Sunday for uses that have higher peak-hour traffic volumes on a Saturday or Sunday rather than mid-week.
35. Awning Sign: A sign painted on, affixed to or suspended from an awning.
36. Awning: A lightweight frame with a covering, wholly supported by the building to which it is attached, which projects from the face of a building.
37. Balloon: A non-porous, flexible inflated device used solely for the purpose of advertising including cold-air inflatable balloons, and inflatable devices of any other kind as well as devices supported by rushing air.

38. Bank Kiosk: A small unmanned structure used as a bank service location.
39. Bank or Financial Institution: A business engaged in monetary transactions and personal finance services for the general public.
40. Banner: A flexible sign intended to be hung or mounted either with or without frames, made of paper, plastic, fabric or any other flexible material, and which is used by its colors, characters, lettering, illustration or ornamentation to call attention to an establishment on the site or to a community, civic or other event either on or off the site. Flags are distinguished from banners for the purposes of this ordinance.
41. Bar: A business primarily engaged in serving alcoholic beverages for consumption on premises. Any food or entertainment services are generally secondary or accessory to the business.
42. Barber Shop or Beauty Parlor/Hair Salon: A business offering hair care and limited beauty related procedures such as nail care services and waxing.
43. Base Flood - means the flood having a one percent (1%) chance of being equaled or exceeded in any given year.
44. Base Flood Elevation (BFE) - The elevation shown on the Flood Insurance Rate Map (FIRM) and found in the accompanying Flood Insurance Study (FIS) for Zones A, AE, AH, A 1- A30, AR, V1-V30, or VE that indicates the water surface elevation resulting from the flood that has a one percent (1%) chance of equaling or exceeding that level in any given year - also called the Base Flood.
45. Basement: any area of the building having its floor subgrade (below ground level) on all sides.
46. Beacon: Any light with a beam directed into the atmosphere or directed at a point which is not on the same lot or tract of land as the light source, or a light with one or more beams that rotate or move.
47. Bed & Breakfast Identifier: A sign located on the property that includes a bed & breakfast (as defined in the City of Boerne Zoning Ordinance.)
48. Bed & Breakfast: Providing tourist lodging services within rooms of a residence or within a separate accessory structure on the same lot and served by the same water meter and electric meter as the principal structure.
49. Best Management Practices (BMPs): Low impact development design and techniques as defined and identified in the City of Boerne edition, San Antonio River Basin Low Impact Development Technical Design Guidance Manual hereby referred to as LID Manual.
50. Billboard: Any sign which is used or designed to be used to advertise or call attention to any product or service which is produced at a place other than on the premises on which the sign is located, or to advertise or call attention to any establishment which is not located on the same premises as the sign.
51. Blade Sign: A building-mounted sign with sign faces which are perpendicular to the wall of the building. A type of Projecting Sign.
52. Boarding House: A business in which three or more persons who are not members of the same family reside in a dwelling unit and are provided lodging under separate rental agreements, whether written or verbal, within a dwelling unit. This use is distinguished from a Bed & Breakfast that provides short-term lodging.

53. **Border Street** - A public street that is adjacent to and/or abutting one or more sides of a proposed site. A border street could be an existing facility or a planned/proposed street included on the Major Thoroughfare Plan.
54. **Breakaway Wall**: a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces, without causing damage to the elevated portion of the building or supporting foundation system.
55. **Brew pub**: A small establishment at which beer is made but not distributed. May also be in combination with a bar or restaurant.
56. **Building Code**: The building code as adopted and amended per city ordinance.
57. **Building Envelope**: The area that is allowed for construction within the setbacks of a lot.
58. **Building Line**: A line at which the building is actually constructed, including the horizontal extension of that line to the lot edges.
59. **Building Setback Line**: The line within a property defining the minimum horizontal distance between a building and the adjacent street line or lot line.
60. **Building**: A structure designed, built, or occupied as a shelter or roofed enclosure for persons, animals, or property, except such structures as may be otherwise specifically defined herein. See also "Accessory Building" and "Office Building".
61. **Bulletin Board**: A sign which is principally devoted to posting announcements of interest to the members or clientele of an organization concerning the activities of the organization, such as is customarily erected by a church, social club, society or charitable organization.
62. **Bus Terminal**: A central facility for the mass boarding and exiting of buses.
63. **Business Park or Campus**: A mixed-use development which includes a number of separate office, commercial, wholesaling, and compatible laboratory, industrial and other uses which primarily support the function or employees of those uses, and which is designed and developed as an integrated unit. Each of the individual establishments or uses contained within the business park must be a permitted use in the district in which the business park is located, and all on-site functions or operations of these uses must be conducted entirely inside a building.
64. **Caliper**: The diameter measurement of the stem or trunk of nursery stock. The location of the measurement depends on the plant type. For fruit trees, small fruits, understock, and seedling trees and shrubs, caliper measurement shall be taken at the root collar or at other points expressly described in the latest edition of The American Standard for Nursery Stock (ANSI Z60.1). For all other nursery stock, caliper measurement is taken six inches above the ground level for field grown stock and from the soil line for container grown stock, which should be at or near the top of the root flare, and six inches above the root flare for bare root plants, up to and including the four-inch caliper size interval (i.e., from four inches up to, but not including, 4.5 inches). If the caliper measured at six inches is 4.5 inches or more, the caliper shall be measured at 12 inches above the ground level, soil line, or root flare, as appropriate. [also see Diameter Breast Height]
65. **Candela**: A measure of luminous intensity in a certain direction. Useful in determining how much light is shining out of a fixture and in what direction. It is commonly called one (1) candlepower.
66. **Canopy Roof Sign**: A sign which is mounted above a canopy roof parallel to the facing wall and which may not project higher than the main roof of the building.

67. Canopy Sign: A sign that is part of, attached to or painted on an attached or detached canopy structure.
68. Canopy, attached: An attached canopy is partially supported by the building to which it is attached, but is also supported by suspended wires or by posts, columns or pillars.
69. Canopy, detached: A detached canopy is a canopy that is structurally independent of a building.
70. Canopy: A permanent structure of rigid construction with a covering, which provides a covering beyond the building wall. It may either be detached or attached.
71. Car Wash: A business primarily engaged in offering its facilities for full-service, automatic, or self-service cleaning of the exterior of vehicles, and other ancillary services for automobiles.
72. Central Area: The B-3 zoning district, the River Corridor zoning district, the River South Arts & Design District, and lots that front River Road from Esser Road to Main Street.
73. Central Business District: The zoning designation B-3, the limits of which are reflected in the official City of Boerne zoning map.
74. Changeable Copy Sign: A sign or part of a sign on which characters, letters or illustrations can be changed or rearranged without altering the face or surface of the sign, such as a theater marquee, a gasoline price sign, or a sign identifying the occupants of a shopping center. A sign on which the only copy that changes is a matter of general public information, such as the current time and temperature or an index of stock market averages, and which contains no other commercial message, is a public service sign. Any other sign on which the message changes more than once per day is a flashing sign.
75. Chapter 245 petition: a vested rights petition that alleges rights under Chapter 245 of the Local Government Code to develop property under ordinances, regulations, or rules other than those in effect on the date the permit application is submitted.
76. Character Zone: An area identified in the regulating plan of the SoBo Overlay that identifies placement of proposed uses and is intended to preserve and/or create a building form that is distinct from other areas within the overlay district.
77. Childcare Facility: A business or institution where organized care or instruction is imparted to children under the age of seven years during typical business hours.
78. City Manager - The City Manager and/or his/her duly authorized representative
79. City of Boerne edition, San Antonio River Basin Low Impact Development Technical Design Guidance Manual: LID Manual.
80. Civic Open Space System: Parks and outdoor recreation areas, landscaped pedestrian paths (other than required sidewalks along streets), bicycle paths (separate from a street right-of-way), natural or landscaped stream courses, natural or artificial lakes and other water features, greenbelts, and other landscaped public or common areas which are incorporated into the design of a the community and which benefit the community at large rather than being the private domain of individual lot owners.
81. Class 1 Lighting: All outdoor lighting where color rendition is required to preserve the effectiveness of the application. Class 1 Lighting includes, but is not limited to, outdoor sales, advertising displays and other signs, recreational facilities, amphitheaters and other similar applications.
82. Class 2 Lighting: All outdoor lighting where general illumination for safety and security of grounds is the primary concern and color rendition is not required to preserve the effectiveness of the application.

Class 2 Lighting includes, but is not limited to, illumination for walkways, roadways, equipment yards, parking lots, outdoor eating areas, and outdoor security lighting.

83. **Class 3 Lighting:** All outdoor lighting for primarily decorative effect where safety and security of grounds is not the primary concern and color rendition is not required to preserve the effectiveness of the application. Class 3 Lighting includes, but is not limited to, architectural illumination, flag and monument lighting, landscape illumination, signs and seasonal holiday lighting and lighting in residential areas (District 3).
84. **Clear Cutting:** The indiscriminate cutting of trees and vegetation.
85. **Club or Lodge:** A building housing an association of persons for the promotion of some non-profit common object, as literature, science, politics, good fellowship, etc., meeting periodically, limited to members, with residential occupancy accounting for not more than one-third of the gross floor area occupied by the use.
86. **Clustered parking:** Parking for each cottage unit that is adjacent to one another to create more open space. No more than five continuous parking spaces are allowed in a cottage development.
87. **Commercial Communications System:** Any installation such as a radio, microwave or cellular telephone tower, antenna or related switching equipment in which the principal use is the transmission of information as a business, as distinguished from an antenna which is incidental to the remote monitoring or operation of a utility plant, industrial site or governmental facility.
88. **Commercial Complex Identifier:** A monument sign not to exceed thirty-two (32) square feet, five (5) feet in height, located on property that may be separated from the principal development; however, the property on which it is located shall be part of the same PUD or subdivision. The Identifier shall contain the name of the commercial complex and shall not advertise for individual establishments.
89. **Commercial Complex:** Any development which consists of two or more establishments on a single platted lot such as a shopping center or an Industrial Park/ Business Park or Campus office park on two or more contiguous lots, which may be separated only by a street or drainage rights of way.
90. **Commercial Sign:** Any sign, regardless of its location or construction, whose wording or other contents, directly or indirectly, names, advertises or calls attention to any business, product, service, institution, organization, event, cause, purpose or other activity.
91. **Commercial Vehicle:** A motor vehicle, other than a motorcycle, that has a manufacturer's rated capacity in excess of one and one-half (1.5) tons including related commercial equipment designed or used primarily to transport property.
92. **Common Open Space for Cottages:** An area improved for passive recreational use or gardening. Common open spaces are required to be owned and maintained through a homeowners' association. Parking areas, yard setbacks, private open space and driveways do not qualify as common open space.
93. **Common Open Space:** Open space that has been set aside in a Master Planned Community for use by inhabitants of the community and that is accessible to each subdivision within the Master Planned Community by pedestrian pathways.
94. **Community Athletic Field:** A noncommercial facility for active outdoor recreation and organized sports, including a facility which is an accessory use to a school, but excluding any facility with lighted fields or permanent buildings for refreshment stands, locker rooms or shower facilities.
95. **Community garden:** A use in which land managed by a group of individuals is used to grow food or ornamental crops for donation or for use by those cultivating the land and their households.

Community gardens may be divided into separate plots for cultivation by one (1) or more individuals or may be farmed collectively by members of the group and may include common areas maintained and used by group members.

96. Community Home: A residential establishment that is licensed by the State of Texas, where not more than six (6) Persons in Need and/or persons with a Disability may reside at the same time and are provided food and shelter, personal care services, as well as supervised care and rehabilitation. The limitation on the number of Persons in Need or persons with a Disability applies regardless of the legal relationship of those persons to one another. Supervisors may live in the Community Home, provided that no more than a total of eight (8) persons may live within the Community Home at any time. The establishment shall not have more than two (2) persons per bedroom.
97. Community Pride Sign: Temporary sign or banner which is used to identify establishments that have been recognized by the Chamber of Commerce or local newspaper not to exceed 90 days.
98. Community Service Sign: A temporary sign which solicits support for, or participation in, a non-profit, non-political, community, public or social purpose, cause, event or activity, such as one marking a holiday or holiday season, or one supporting school activities, charitable programs, religious activities, or events of community interest.
99. Complete street: a street that not only accommodates various modes of transportation such as automobiles, bikes, and pedestrians, but also establishes a design context that is conducive for redevelopment along the street.
100. Composting: Composting is the natural degradation of organic material, such as yard and food waste, into soil.
101. Condominium: A form of ownership, typically for a dwelling unit, within which designated units or apartments are conveyed fee simple title, with an undivided interest in the building's common elements, to include, but not be limited to, halls, stairs, elevators, roof, parking space, and the land when the building is not constructed on leased land. The condominium form of ownership may apply to various lot types and building type combinations, provided all other zoning ordinance standards for the physical format of the development are met.
102. Construction Sign: A sign placed on a construction site identifying or announcing the character of the project and/or the names of the owners, developers, financiers, architects, engineers, contractors, leasing agents and others associated with the project.
103. Construction Vehicle: Means mobile construction equipment, including but not limited to, dump trucks, graders, back-hoes, front-end loaders, skid loaders, and other similar equipment.
104. Continuing use petition: a vested rights petition that alleges rights under Section 43.002 of the Local Government Code to continue or begin a land use that was begun or planned prior to annexation of the land by the City.
105. Contractor: A business which involves the outdoor storage of materials for use at another location, or the outdoor storage of equipment which is intended for use by the business at another location or for rent, as distinguished from any trade in which all activity on the site is conducted inside a building.
106. Corner Lot: A lot at the point of intersection of and abutting on two or more intersecting streets, the angle of intersection being not more than 135 degrees. It is the land occupied or to be occupied by the corner building and its accessory buildings. A corner lot, the rear of which abuts upon the side of another lot, whether or not across an alley, is a "reversed corner lot".

107. Cottage Cluster: A group of four to ten Cottages, arranged around a common open space (See common open space for cottages).
108. Cottage Food Production Operation: A cottage food production operation is defined as an individual, operating out of the individual's home, who: Produces a baked good, candy, coated and uncoated nuts, unroasted nut butters, fruit butters, a canned jam or jelly, a fruit pie, dehydrated fruit or vegetables, including dried beans, popcorn and popcorn snacks, cereal, including granola, dry mix, vinegar, pickles, mustard, roasted coffee or dry tea, or a dried herb or dried herb mix; Has an annual gross income of \$50,000 or less from the sale of the described foods; and Sells the foods produced directly to consumers at the individual's home, a farmers' market, a farm stand, or a municipal, county, or nonprofit fair, festival or event; Delivers products to the consumer at the point of sale or another location designated by the consumer.
109. Cottage Housing Development (CHD): A cluster housing development consists of one or more clusters of cottages developed under a single land development plan, or as part of another land development plan. Cottages are clustered in a group or groups to create a small community that is aligned around open space and pedestrian-oriented, where visibility of off-street parking is minimized.
110. Cottage Housing Development Plan: The site plan of a cottage housing development that is submitted for a recommendation by the Planning and Zoning Commission and approval by City Council as the basis for development of the preliminary and final plats of a Cottage Housing Development.
111. Cottage Lot: A lot within a Cottage Housing Development that has access within 60 feet to pedestrian walkways, walkable distance to driveways, vehicular parking and open green space. It does not have to front a public street but must have public access to a utility easement or fire lane access.
112. Cottage: A detached, small single-family dwelling unit containing 1000 square feet or less of gross floor area.
113. Coving: A method of subdivision development characterized by non-uniform lot shapes and home placement. When combined with winding roads, lot area is increased and road area reduced. Coving is used as an alternative to conventional "grid" subdivision layout in order to reduce road costs, such as road surfacing, while improving aesthetics, and increasing the amount of land available for construction.
114. Critical Feature: an integral and readily identifiable part of a flood protection system, without which the flood protection provided by the entire system would be compromised.
115. Day Care / Adult: A business or institution where organized care or instruction is imparted to adults over the age of 18 during typical business hours.
116. Day Care / Before or After-school program: An operation that provides care before and/or after the customary school day and during school holidays, to children who attend pre-kindergarten through grade six.
117. Days: Refers to Calendar Days unless otherwise noted.
118. DBH: Tree diameter at breast height. Tree DBH is the outside bark diameter measured at 4 1/2 feet above the ground from the uphill side of the tree. For the purposes of determining breast height, the ground includes the dirt layer that may be present but does not include unincorporated woody debris that may rise above the ground line.
119. Depth: As applied to the dimensions of a lot, the average horizontal distance between the front and rear lot lines; as applied to a front, side or rear yard, the average horizontal distance between the front,

side or rear wall of a building, other than an accessory building, and the front, side or rear lot line, as appropriate.

120. **Detached Dwelling:** A free-standing structure designed for a single principal dwelling unit as the only use (also commonly referred to as a “Single-family Residence”).
121. **Detached:** As applied to a building or structure, one having no party or common wall with another building or structure except an accessory building or structure.
122. **Developed Athletic Field or Stadium:** A facility for active outdoor recreation and organized sports which is operated as a business or which includes lighted fields, permanent grandstands, or permanent buildings for refreshment stands, locker rooms or shower facilities.
123. **Development Project:** Any residential, commercial, industrial or mixed-use subdivision plat or development plan which is submitted to the City of Boerne for approval or for permit.
124. **Development:** any man-made change to improved and unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials; Includes buildings, roads and other structures; construction; and excavation, dredging, grading, filling and clearing or removing vegetation associated with residential or nonresidential construction.
125. **Digital Sign:** (definition)
126. **Digital Wrap Sign:** A freestanding sign made out of flexible material mounted on sign board or a similar rigid product.
127. **Direct Illumination:** Illumination from artificial light sources that exceeds .5 foot candles as measured horizontally.
128. **Directional Sign, River Corridor:** An off-premise sign that gives directions to an establishment located in the River Corridor Zone.
129. **Directional Sign:** A sign which is separate from other signs, incidental and secondary to the principal use of the land on which it is located, and whose primary purpose is to give directions such as to parking lots, exits, entrances, drive-through windows, or directives such as “No Parking.”
130. **Disability:** As defined in 42 U.S.C. §12102 as may be amended or recodified from time to time.
131. **Donation bin:** An outdoor receptacle designed with a door, slot or other opening that is intended to accept and temporarily store donated items such as books, clothing or other non-perishable goods and materials.
132. **Drainageway:** A route or course along which water moves or may move to drain a region.
133. **Drainageway Protection Zone:** An area that extends horizontally landward a specified distance from the center line of a route or course along which water moves or may move to drain a region. Area that contains the Protection Zones as detailed in Section 6.03.005 of the Boerne Subdivision ordinance, current version.
134. **Duplex:** A dwelling unit in a free-standing structure designed for two principle dwelling units as the only uses, and where the units may be separated by a party wall and located on separate lots if they are intended for individual ownership. The units may be separated by different stories where the structure is intended for single or condominium ownership.

135. Easement, Non-Access: An easement dedicated to the public prohibiting vehicular traffic on, over or across said easement.
136. Easement, Overhang: An interest in land granted to the City, to the public generally, and/or to a utility corporation, for installing or maintaining overhead utilities over private land. This easement does not grant the right of entry thereon with machinery and vehicles for maintenance.
137. Easement, Sidewalk: An interest in land granted to the public for the installation of and public use of, a sidewalk across or over private land, together with the right to enter thereon with machinery and vehicles necessary for the installation and maintenance of said sidewalk.
138. Easement, Utility: An interest in land granted to the City, to the public generally, and/or to a private utility corporation, for installing or maintaining utilities across, over or under private land, together with the right to enter thereon with machinery and vehicles necessary for the maintenance of said utility.
139. Easement: An acquired right to use land owned by another for a limited purpose, or an interest or privilege short of ownership in land owned by another, such as easement of light, of building support or maintenance, or right of way.
140. Electronic Changeable Copy Sign: A sign that uses computer-generated words, numbers or symbols that can change.
141. Electronic Message Display: A sign capable of displaying words, symbols, figures or images, which can be electronically or mechanically changed by remote or automatic means.
142. Elevated Building - means, for insurance purposes, a non-basement building, which has its lowest elevated floor, raised above ground level by foundation walls, shear walls, posts, piers, pilings, or columns.
143. Elevated building: for insurance purposes, a non-basement building, which has its lowest elevated floor, raised above ground level by foundation walls, shear walls, posts, piers, pilings, or columns.
144. Entrance Corridors: The primary vehicular entrances to Boerne, either City or County roads as determined by City Council, as well as the following State Highways: Interstate 10 east and west, Highway 46 east and west, US 87 north and south, and FM 474 in which established parameters are set for properties.
145. Environmentally Sensitive Area: Areas that require protection of native landscape, plant life, wildlife of ecological values. Environmentally sensitive areas shall include steep slopes and 100-year flood plains.
146. Establishment: A use of land for any purpose which requires a building on the land, regardless of the commercial, nonprofit or public nature of the activity, but excluding a residence or active agricultural use in any form.
147. Event Sign, Off-Site: A sign giving directions to an occasional event at another location, other than a business event at a commercial establishment, such as directions to a civic or other non-commercial ceremony, to an event for the members of an organization, or to an event at a residence such as a garage sale, home for sale, real estate open house, or private party.
148. Event Sign, On-Site: A sign which is placed to advertise or mark the location of an occasional event on the same site, such as the location of a civic or other non-commercial ceremony, of an event for the members of an organization, or of an event at a residence such as a home for sale, real estate open house, or private party.

149. **Exhibition or Fairgrounds:** Exterior grounds used for periodic venues for large scale gatherings to display items, watch special events, or participate in social and recreational games and activities.
150. **Existing Construction:** means, for the purposes of determining rates, structures for which the "start of construction" commenced before the effective date of the FIRM or before January 1, 1975, for FIRMs effective before that date. "Existing construction" may also be referred to as "existing structures."
151. **Existing Manufactured Home Park or Subdivision:** a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets , and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community .
152. **Expansion to an Existing Manufactured Home Park or Subdivision:** the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).
153. **Family:** A single individual, living upon the premises as a separate housekeeping unit, or a collective body of persons living together upon the premises as a separate housekeeping unit, whether or not they are living in a domestic relationship based upon birth, marriage, or other domestic bond. A family is distinguished from a group occupying a rooming or boarding house, club or lodge, or living in a hotel or motel or other arrangement by the fact that they function together as a single housekeeping unit.
154. **Farm:** A public or private, for profit or nonprofit agricultural operation consisting of planting and harvesting crops and/or raising livestock.
155. **Farmers market:** A farmers market is a permitted, recurring event, held outdoors or in another defined place, on designated days and times, where multiple vendors are organized for the purpose of selling their products directly to the public, and where at least forty (40) percent of market vendors are selling agricultural products, such as produce, eggs, or meat.
156. **Feather Flag Sign:** A temporary sign made of fabric, whose side and top are fully attached to a mounting arm or post.
157. **Fire Protection Plan:** A set of civil plans illustrating the proposed layout of an internal vehicular circulation systems including and the number of access points, inside turning radius specifications at intersections, roadway width throughout the development, specifications of any gated entry and egress systems, cul-de-sac dimensions, proposed fire hydrant locations, and the number of proposed dwelling units.
158. **Flag Sign:** A sign that is attached to a permanent post or pole using a system of rope or wire, which enables the flag to be raised and lowered.
159. **Flag:** A flag adopted by a business, institution or other organization and containing the name, logo or other symbolic emblem of that business, institution or organization.
160. **Flashing Sign:** A sign with flashing, blinking, moving, rotating or traveling lights, or with lights that change in color or intensity, or have multiple views and objects that digitally or electronically produce color and/or black and white images whether the sign is directly or indirectly illuminated, or a sign which uses lights to form traveling messages or messages which change more than once per day, except for a public service sign.

161. Flood (or flooding): a general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of inland or tidal waters; the unusual and rapid accumulation or runoff of surface waters from any source; mudflow; or collapse or subsidence of land along the shore of a lake or similar body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels that result in a flood as defined above.
162. Flood Elevation Study: an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudslide (i.e., mudflow) and/or flood-related erosion hazards.
163. Flood Insurance Rate Map (FIRM): an official map of a community, on which the Federal Emergency Management Agency has delineated both the special flood hazard areas and the risk premium zones applicable to the community.
164. Flood Insurance Study (FIS): See flood elevation study.
165. Flood Proofing - any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.
166. Flood Protection System: those physical structural works for which funds have been authorized, appropriated, and expended and which have been constructed specifically to modify flooding in order to reduce the extent of the area within a community subject to a "special flood hazard" and the extent of the depths of associated flooding. Such a system typically includes hurricane tidal barriers, dams, reservoirs, levees or dikes. These specialized flood modifying works are those constructed in conformance with sound engineering standards.
167. Floodplain: any land area susceptible to being inundated by water from any source (see definition of flooding).
168. Floodplain Management: the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works and floodplain management regulations.
169. Floodplain Management Regulations: zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a floodplain ordinance, grading ordinance and erosion control ordinance) and other applications of police power. The term describes such state or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.
170. Floodplain Variance: a grant of relief by a community from the terms of a floodplain management regulation. (For full requirements see Section 60.6 of the National Flood Insurance Program regulations.)
171. Flood-Prone Area: any land area susceptible to being inundated by water from any source (see definition of flooding).
172. Floodproofing: any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.
173. Floodway - see Regulatory Floodway

174. **Foot Candle:** A measure of illuminance, i.e. visible light falling on a given surface. One foot candle (fc) is equal to one lumen per square foot. Illumination can be measured in foot-candles both horizontally and vertically with an illumination photometer.
175. **Free Standing Sign:** Either a monument sign or a self-supported sign.
176. **Freestanding Sign:** A sign that is not attached to a building or building component, and that is supported permanently upon the ground by poles, braces, or a structure other than a building or building component.
177. **Full Cut-Off Fixture: (FCO)** Outdoor light fixtures shielded or constructed so that no light rays are emitted above a horizontal plane through the fixture.
178. **Fully Shielded:** Light fixtures constructed such that all light rays emitted are projected below the horizontal plane passing through the lowest point on the fixture from light emitted, as evidenced by a manufacturer's photometric data or by photometric measurement.
179. **Functionally Dependent Use:** a use, which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.
180. **Fundraising activities by not-for-profits:** Fundraising or noncommercial events for nonprofit religious, educational or community service organizations where the public is invited to participate in the activities and which last longer than 72 hours, but not longer than 45 days. This description shall not preclude the use of existing religious institutions or other not-for-profit facilities for events conducted entirely within a building.
181. **Funeral Home or Mortuary:** Buildings or facilities for the preparation and treatment of deceased humans, and ceremonies prior to burial or cremation.
182. **Garden Home:** A dwelling designed to be occupied by a single family, built on a lot line but separated from any other building by open space on all sides.
183. **General Office:** A business which is not an accessory to another use devoted primarily to professional services or the management of the affairs of a business or other organization, as distinguished from the actual production of goods by that business or organization. Individual units of gross leasable area are between 3,000 and 30,000 square feet and each owner or tenant employs between 20 and 100 employees on premises. Examples include moderate scale professional services such as accountants, architects, insurance, law, real estate, or other similar businesses which cannot operate within the unit square footage and employee limits of the neighborhood category, or other moderate size business or corporate employment operations.
184. **Glare:** Light emitting from a luminaire of sufficient intensity such that it reduces a viewer's ability to see or causes temporary blindness.
185. **Golf Course:** An outdoor recreation area offering the use of its grounds to play golf for a daily or other periodic fee.
186. **Government Facility:** A facility or area of land controlled and/or operated by a government entity to aid in providing a service to the citizens under the jurisdiction of that entity.
187. **Governmental Flag:** Flags of the United States, the state, the city, foreign nations having diplomatic relations with the United States, and any other flag adopted or sanctioned by an elected legislative body of competent jurisdiction.

188. Governmental Sign: A sign owned or sponsored by the City of Boerne, Cow Creek Ground Water Control District, Kendall County or the Boerne Independent School District that is used to provide general information to the community.
189. Grandfathered Nonconforming Luminaires: Luminaires not conforming to this ordinance that were in place on the effective date of this ordinance.
190. Greenway: An undeveloped area of continuous linear natural features, often following a stream, floodplain, or road corridor.
191. Grocery Store: A business engaged in the retail sale of a broad range of food products and limited household products for consumption off premises, although some limited areas may be dedicated to the on-premise sale and consumption of food. A grocery store typically involves less than 40,000 square feet of gross leasable area and is characterized by a target market of approximately 1-mile radius.
192. Gross Density: The total area of the subdivision (including public improvements), divided by the total number of residential dwelling units contained on the plat being submitted for approval.
193. Gross Floor Area: The sum of the gross horizontal area of the several floors of a building, including interior balconies and mezzanines. All horizontal dimensions are to be measured between the exterior faces of walls, including the walls of roofed porches having more than one wall. The floor area of a building shall include the floor area of accessory buildings, on the same lot, measured in the same manner.
194. Ground Sign: See Monument Sign.
195. Group Home: A residential establishment that is licensed by the State of Texas where seven (7), but no more than sixteen (16), Persons in Need or persons with a Disability may reside at the same time and are provided food, shelter and personal care services as well as supervised care and rehabilitation. Supervisors may live in the Group Home, provided that no more than a total of nineteen (18) persons, inclusive of supervisors, may live therein, regardless of the legal relationship of those persons to one another. The establishment shall not have more than two (2) persons per bedroom.
196. Gym (Fitness facility): A person, firm, corporation, organization, club or association engaged in the sale of instruction, training, or assistance in a program of physical exercise or weight reduction. The zoning, lighting, parking and design regulations fall under the category of Retail (Neighborhood, General or Major).
197. Habitat Corridor: A strip of land that aids in the movement of species between disconnected areas of their natural habitat.
198. Half-Street: Any portion of a street which does not meet the minimum right-of-way widths required by this ordinance or which is to be widened to full width at some later date.
199. Handheld Sign: A sign which is not permanently or temporarily attached to the ground or to a permanent structure, and which is designed to be transported or carried by an individual.
200. Hanging Sign: A sign that is attached to the underside of an awning or canopy.
201. Hazardous Areas: Areas shown in the Contract Documents as having Class I or Class II area classifications.
202. Health Clinic: An establishment in which one or more physicians, dentists, or other health care professionals and their allied professional assistants are associated for the purpose of carrying on their

professions. A health clinic may include a dental or medical laboratory, after hours emergency care, but it may not include in-patient care or operating rooms for major surgery.

203. Height - As applied to a building: The vertical dimension measured from the average elevation of the finished lot grade at the front of the building to the highest point of the ceiling of the top story in the case of a flat roof, to the deck line of a mansard roof, and to the average height between the plate and ridge of a gable, hip or gambrel roof.
204. Height - As applied to any sign: the vertical distance between the highest attached component of the sign or of its supporting structure, whichever is higher, and the average established ground level beneath the sign. The established ground level beneath the sign is the lower of (1) the existing grade prior to construction of the sign or (2) the newly established grade after construction, exclusive of any filling, berming, mounding or excavating solely for the purpose of locating the sign, unless the curb elevation at the street in front of the sign is higher than the established ground level, in which case the height shall be measured from curb level.
205. Heritage Tree: A Legacy tree species that has a trunk diameter (DBH) larger than 24 inches.
206. Highest Adjacent Grade: means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.
207. Historic District: A district designated by City Council under this ordinance as an area containing significant concentrations, linkage or continuity of buildings, structures, sites, areas or lands which are united by architectural, historical, archaeological or cultural importance or significance such that the area requires protection and preservation.
208. Historic Landmark: Any building, structure, site, area or land of architectural, historical, archeological or cultural importance or value, which the City Council has determined to have sufficient significance, balancing public and private interests, to require that it be protected and preserved.
209. Historic structure: any structure that is: Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register; Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district; Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either: By an approved state program as determined by the Secretary of the Interior or; Directly by the Secretary of the Interior in states without approved programs.
210. Home Occupation: A business which is carried on entirely within a dwelling as an accessory use to the resident's principal use of the dwelling as a home.
211. Hospital: An institution providing health services, primarily for inpatients, and medical or surgical care of the sick or injured, including as an integral part of the institution, such related facilities as laboratories, outpatient departments, training facilities, central service facilities and staff offices.
212. Hotel – Boutique: A small, intimate hotel of historic design and elegance that is reflective of the local community. Boutique hotels are 30 units or less and typically not part of a franchise.
213. Hotel or Motel: A business other than a bed & breakfast or a rooming or boarding house in which rooms are rented, generally for short-term occupancy by transient guests, together with incidental meeting rooms, restaurants and recreation facilities for the primary benefit of the guests.

214. IESNA: Illumination Engineering Society of North America, an association of professionals in the field of lighting and related professions.
215. Illuminance: Luminous flux incident on a surface per unit area. Illuminance is normally expressed in foot-candles (lumens per square foot) or lux (lumens per square meter).
216. Impact Area: the limits of the area for which the Traffic Impact analysis is to be conducted. This area shall be determined by the Engineering Firm conducting the Traffic study and City Manager prior to the start of the study.
217. Impervious Cover: The paved surface of any street, alley, sidewalk, driveway or parking area, the roof of any building or structure, and the top surface of any deck or other construction of any character which is so designed or built that rain falling on the surface is carried off that surface without directly penetrating the ground beneath it or designed to infiltrate to other immediately adjacent areas on the site.
218. Impervious Surface: Includes all streets and pavement within a development, to include parking areas, buildings, pools, patios, sheds, driveways, sidewalks and other impermeable construction covering the natural land surface.
219. Incidental Sign: A small sign, emblem or decal informing the public of goods, facilities or services available on the premises, including hours of operation and whether the establishment is open or closed.
220. Included Structure: Any building or structure which is located in whole or in part in any historic district, whether or not the building or structure itself is designated as an historic landmark.
221. Industrial Park: A development which is intended to be the site for a number of manufacturing, industrial, warehousing and related uses, and which is designed and developed as an integrated unit. Each of the individual establishments or uses contained within the industrial park must be a permitted use in the district in which the industrial park is located.
222. Industry, or Industrial: A land use involving processing, manufacturing, or warehousing, or the outdoor storage of goods or materials intended for processing or manufacturing, or the outdoor storage of machinery or equipment to be used by the business at another location rather than being offered for sale or rent, all as distinguished from wholesale or retail trade and services. A laboratory which is not incidental or accessory to another use, such as a health clinic or a hospital, is also an industrial use.
223. Integral Sign: A sign indicating the name of a building, as distinct and clearly distinguished from the name of a business, institution or other entity occupying the building, or indicating the date or other information of historical interest about the building's construction, when such sign is cut or molded into a masonry surface which forms part of a wall of the building or when it is constructed as a plaque or tablet of bronze or other incombustible material and permanently mounted on the face of the building.
224. Internal Street: A private street within or connecting parking lots.
225. ITE – Institute of Transportation Engineers. An international educational and scientific association of transportation professionals that conducts research on trip generation characteristics of various development types and establishes industry best practices for the preparation of traffic studies.
226. Junk Yard: The use of any lot for the storage, keeping or abandonment of junk, whether inside or outside a building.

227. **Junk:** Any worn out, cast off, or discarded article or material which is ready for destruction or has been collected or stored for salvage, recycling or conversion to some use. Any article or material which, unaltered or unchanged and without further reconditioning, can be used for its original purpose as readily as when new shall not be considered junk.
228. **Kelvin:** a measurement used to describe the color temperature of a light source. This is the specification that gives a description of the warmth or coolness of a light source.
229. **Kennel:** Any lot or premises, other than a veterinary clinic, on which four or more domestic animals more than four months of age are housed, groomed, bred, boarded, trained or sold.
230. **Laboratory:** Any business or free-standing establishment in which the principal activity involves testing or analysis of any material, and which is not an accessory to another use, such as an accessory to a manufacturing or processing plant or a hospital or health clinic. No manufacturing is conducted on the premises except for experimental or testing purposes.
231. **Land Use Determination:** The classification of land uses when such use is not explicitly named or described in this ordinance.
232. **Landmark:** See "Historic Landmark".
233. **Landscape Plan:** A map or site plan which illustrates the general layout of proposed buildings, structures, driveways and on-site areas on a lot or tract of land, along with the design of landscaped areas, including detail of the location, species and diameter (DBH) of all protected trees, other existing trees which are to be retained or removed, and caliper of trees which are to be planted as replacement or additional trees.
234. **Landscaped Area:** The area of a lot which is devoted to and consists of plant material adaptable to this region, including but not limited to grass, trees, shrubs, flowers, vines, ground cover, and other native plant materials, along with planters, brick or stone walkways, natural forms, water forms, aggregate or mulch beds, and other landscape features, but not including any paved area of smooth concrete or asphalt.
235. **Large Vehicle and Machinery Rental, Sales and Service:** A business renting, leasing, repairing, servicing or selling buses, motor homes, trucks larger than standard pickup trucks, or off-road machinery or equipment of any character, or selling, installing or servicing parts and accessories for such vehicles, machinery or equipment.
236. **Laundry (self-service):** A business engaged in renting the use of coin operated machines for cleaning cloths and other personal goods.
237. **LED Sign:** A sign composed of light emitting diodes.
238. **LED:** Light emitting diode
239. **Legacy Tree:** The following species of trees with a diameter (DBH) between 12.0 and 23.9 inches: Cottonwood, Sycamore, and all species of Cypress, Elm, Maple and Oak (with the exception of all varieties of red oaks), Pecan and Texas Ash.
240. **Levee:** a man-made structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control, or divert the flow of water so as to provide protection from temporary flooding.

241. Levee System: a flood protection system which consists of a levee, or levees, and associated structures, such as closure and drainage devices, which are constructed and operated in accordance with sound engineering practices.
242. Level of Service (LOS) - A measure of the level of congestion experienced on roadways. LOS shall be calculated using methodologies consistent with the latest edition of the Highway Capacity Manual published by the Transportation Research Board. In addition, the following characteristics shall be addressed when evaluating levels of service:
 - (1) Capacity- as determined in the latest edition of the Highway Capacity Manual.
 - (2) Environmental Condition- topography, sight distance and other safety hazards
 - (3) Physical Configuration- Intersection and roadway geometry
 - (4) Traffic Characteristics- peak hour factor
 - (5) Traffic Control- signalized and unsignalized control
243. Light Pollution: Artificial light that causes a detrimental effect on the environment, or astronomical enjoyment of the night sky, or causes undesirable glare or unnecessary illumination of adjacent properties.
244. Lighted Sign: A sign that is backlighted or lighted from within, a neon sign, or a LED sign but not a sign that is only illuminated by external lights that shine upon it.
245. Lighting Districts: All lighting areas discussed below shall be as defined on the City of Boerne Lighting Area Map. Lighting District 1 is an urban area with primary land uses for commercial, business, and apartments surrounded by suburban residential areas. Lighting District 2 is a business area along US 87, and River Road, and the Historical District surrounded by residential areas. Lighting District 3 is composed of primarily residential uses.
246. Lighting Plan: A plan used for an approval process or construction indicating all site improvements and the number, location, type of fixture, and manufacturer's data on all the proposed lighting, both pole and building mounted.
247. Limited Access Streets: A street along which direct vehicular ingress and egress to and from adjacent residential property is prohibited (except as provided for in Section 3.04.005 B Lot Access), regional thoroughfares, arterial streets, primary and secondary collectors and avenues are limited access streets.
248. Limited Outdoor Retail Display: The limited orderly display of merchandise on a sidewalk or an exterior private area of a site for the sale associated with an otherwise permitted Retail use.
249. Local Floodplains - shall be designated as the area inundated by the 100-year flood for all watersheds draining 25 acres or more that do not have a FEMA regulatory floodplain and are defined as a drainageway per this Code. Local floodplains are further defined by a minimum 1-foot flow depth to exclude shallow concentrated or sheet flows from being identified as elevated risk zones per FEMA guidelines.
250. Long Term Care Facility: An establishment such as a hospice, nursing home, sanitarium or rehabilitation center where seventeen (17) or more Persons in Need and/or persons with a Disability are attended for a relatively extended period of time, as distinguished from a hospital or other institution for acute care and short term therapy.
251. Lot Line: A property boundary line separating one lot from another or from a street or alley. Any lot line which is not a street line, or a rear lot line is a side lot line.

252. Lot, Corner: A lot at the point of intersection of and abutting on two or more intersecting streets, the angle of intersection being not more than 135 degrees.
253. Lot, Double Front: Any lot, not a corner lot, with frontage on two streets which are parallel to each other or within 45 degrees of being parallel to each other.
254. Lot: An undivided tract or parcel of land having frontage on a public street and which is, or in the future may be, offered for sale, conveyance, transfer or improvement, which is designated as a distinct and separate tract, and/or which is identified by a tract, lot number or symbol in a duly approved subdivision plat which has been properly filed on record.
255. Low Impact Development (LID): A stormwater management and land development strategy applied at the parcel and subdivision scale, emphasizing conservation and use of on-site natural features integrated with engineered, small-scale hydrologic controls to more closely mimic pre-development hydrologic functions, where stormwater runoff is managed as close as possible to the source.
256. Low Impact Development Strategies: Structural stormwater BMPs and planning techniques that are intended to closely model predevelopment hydrologic conditions by reducing impervious surfaces and infiltrating, evaporating, and storing stormwater runoff using native or improved soils, vegetation, and bioengineering.
257. Lowest Floor: the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking or vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirement of Section 60.3 of the National Flood Insurance Program regulations.
258. Lumen: A measure of visible light power or luminous flux intercepted by a surface of one (1) square foot, all points of which are one (1) foot from a uniform source of one (1) candela. A one candela source provides 12.57 lumens.
259. Luminaire: A complete lighting unit, consisting of a lamp(s), reflector, refractor, lens, wiring, and sockets. Often referred to as a "fixture".
260. Luminance: Luminance flux per unit solid angle. Luminance is normally expressed in candelas per square meter (lumens per square meter per steradian) or foot-lamberts (1/pi lumens per square foot per steradian). Luminance is composed of the light impinging on a scene and the light reflected back from all of the objects and surfaces in the scene.
261. Major Office or Office Complex: A business which is not an accessory to another use devoted primarily to professional services or the management of the affairs of a business or other organization, as distinguished from the actual production of goods by that business or organization. Individual units of gross leasable area may be more than 30,000 square feet in a single building or group of buildings, and each owner or tenant may employ more than 100 employees on premises. Examples include large scale professional services or major corporate offices or headquarters.
262. Manual Changeable Copy Sign: A sign where individual letters or numbers are mounted on or in a track system.
263. Manufactured Home Park or Subdivision: a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.
264. Manufactured Home: A structure that is transportable in one or more sections. In traveling mode, the home is eight feet or more in width and forty feet or more in length. A Manufactured Home is designed and constructed to the Federal Manufactured Construction and Safety Standards and is so labeled.

When erected on site, the home is: at least 400 square feet, built and remains on a permanent chassis and designed to be used as a dwelling with a permanent foundation built to FHA criteria. The structure must be designed for occupancy as a principal residence by a single family. The term “manufactured home” does not include a “recreational vehicle.”

265. Manufacturing: All operations of fabrication, such as assembling, stamping, cutting or otherwise shaping processed materials into useful objects, as opposed to the refining or other initial processing of basic raw materials such as metal ores, lumber or rubber. Excludes products used for onsite sales or consumption.
266. Marquee Sign: A sign that is fully integrated with the building to which it is attached, with no added support elements.
267. Marquee: A permanent, roofed structure that is fully supported by a building.
268. Boerne Master Plan - The plan adopted by the City of Boerne which illustrates the intended future land use patterns.
269. Master Planned Communities: Tracts of land 25 acres and larger which are anticipated to be developed sequentially in contiguous units.
270. Mean Sea Level: for purposes of the National Flood Insurance Program, the North American Vertical Datum (NAVD) of 1988 or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.
271. Medical Office: An establishment in which one or more physicians, dentists, or other health care professionals and their allied professional assistants are associated for the purpose of carrying on their professions. A medical office may include a dental or medical laboratory but may not include in-patient care or operating rooms for major surgery and may not be open for after-hours emergency care.
272. Mini-Warehouse: A business in which separate storage units are rented to individuals who are entitled to exclusive and independent access to their respective units.
273. Mixed-Use Dwelling: A structure containing one or more dwelling units but is designed for one or more non- residential use as principal uses, and where the dwelling units are not accessory to those uses. (commonly seen as ground level retail or office with upper level residential “condominiums” or “apartments”)
274. Mobile Food Vendors: A readily movable, motorized-wheeled vehicle or a towed vehicle designed and equipped to prepare, or serve, and sell food.
275. Mobile Home: A detached residential dwelling unit, built prior to 1976 HUD regulations, designed for transportation after fabrication on streets or highways on its own wheels or a flatbed or other trailer, and arriving at the site where it is to be occupied as a dwelling complete and ready for occupancy except for minor and incidental unpacking and assembly operations, location on jacks or other temporary or permanent foundations, connections to utilities, and the like. A travel trailer is not to be considered a mobile home.
276. Model Home Sign: A sign which is located on the same lot as a model home in a residential subdivision and which calls the attention of prospective buyers to the model home.
277. Modular Home: A dwelling that: Is manufactured in a production facility and are built in two or more sections in a controlled factory setting that are then transported and assembled on location. The assemble process typically uses a traditional concrete foundation (permanent). Unlike a manufactured

home (mobile home), a modular home cannot be moved once built. Is designed to be used as a residence when the modules are transported to the home site, joined together and installed on a permanent foundation in accordance with the Building Code Requirements of the City of Boerne; Meets all the requirements of the Texas Manufactured Housing Standards Act, and has the Texas Industrial Standard Seal and; Contains the plumbing, heating/air conditioning and electrical systems within the structure. The term "modular home" does not apply to a manufactured home (formally known as mobile home) as defined in this ordinance and the Texas Manufactured Housing Standards Act, nor does it include building modules incorporating concrete or masonry as a primary component.

278. Monument Sign, Changeable Copy: A monument sign which incorporates a changeable copy feature into the sign.
279. Monument Sign: A monument sign is a freestanding sign that is supported by a base structure, with structural enclosure on at least one other side. Also known as Ground Signs.
280. Mounting Height: The vertical distance between the ground and the bottom of a light source.
281. Moving Picture Sign: A sign capable of displaying words, symbols, figures, images, animated graphics and video, which can be electronically or mechanically changed by remote or automatic means.
282. Moving Sign: A sign or any part of a sign which rotates, moves, or uses lighting to simulate motion.
283. Multi-family Dwelling: A building or portion thereof, arranged, intended, or designed for occupancy by three or more families, being separate quarters and living independently of each other. Multi-family dwelling also means more than three dwelling units on a single lot or parcel, whether attached or detached (commonly referred to as Apartments or Plexes with more than two units).
284. Multi-tenant Sign: A sign with sign cabinets or faces representing more than one tenant.
285. Multi-unit home: a multi-unit residential building (2 to 4 units) that is designed to appear as a large, single-family home from the exterior, but functions as a multi-unit building on the interior. Multi-unit homes have one main front door for the building but may also have side and rear entries. Parking is accessed from an alley or a driveway leading to the rear of the lot.
286. Museum: A nonprofit, noncommercial establishment operated as a repository for a collection of natural, scientific or literary curiosities or objects of interest or works of art, not including the regular sale or distribution of the objects collected.
287. Name Plate: A sign, mounted flat against the wall of a building and not projecting more than one inch from the face of the wall, indicating the name and/or address of the building, and/or the name of an occupant thereof, and/or the practice of a permitted home occupation therein.
288. Neighborhood Office: A business which is not an accessory to another use devoted primarily to professional services or the management of the affairs of a business or other organization, as distinguished from the actual production of goods by that business or organization. Individual units of gross leasable area are less than 3,000 square feet and each owner or tenant employs less than 20 employees on premises. Examples include small-scale professional service offices such as accountants, architects, insurance, law, real estate, or other similar businesses which can operate within the unit square footage and employee limits of this category.
289. Neighborhood: A roadway design for moderate or slow speeds and moderate pedestrian and landscape amenities to create a formal transition abutting lot frontages, appropriate for connections in and between all residential areas.
290. Neon Sign: Gas filled glass tubing sign.

291. Net Acreage: The remaining ground area after deleting all portions for proposed and existing public streets within a development, parcel, or subdivision.
292. Network Nodes: equipment at fixed locations that enable wireless communications between user equipment and a communications network (see City of Boerne Design Manual).
293. New Business Sign: A temporary sign advertising the opening of a new business in an existing structure.
294. New Construction: means, for the purpose of determining insurance rates, structures for which the "start of construction" commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, "new construction" means structures for which the "start of construction" commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.
295. New Manufactured Home Park or Subdivision: a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by a community .
296. Nightclub: A business primarily engaged in offering live entertainment or stage shows. Any food or alcoholic beverage services are generally secondary or accessory to the business.
297. Node Support pole: a pole installed by a network provider for the primary purpose of supporting a network node (see City of Boerne Design Manual).
298. Nonconforming Lot: A lot in lawful existence at the time this Code became effective, which does not conform to all standards and regulations prescribed herein.
299. Nonconforming Sign: A sign in lawful existence at the time this Code became effective, which does not conform to all standards and regulations prescribed herein.
300. Nonconforming Site: A site in lawful existence at the time this Code became effective, which does not conform to all the standards and regulations prescribed herein.
301. Nonconforming Structure: A structure or part thereof, lawfully existing on the effective date of this Code that does not conform to all the standards and regulations prescribed herein.
302. Nonconforming Use: A use of a building, structure or land, lawfully existing on the effective date of this ordinance, which does not conform all the standards and regulations prescribed herein.
303. Non-residential Area: Inside the city limits, the area within any non-residential zoning district; in the City's extra-territorial jurisdiction, any lot or tract of land which is the site of an establishment or commercial complex.
304. Numerical standard: any standard that has a numerical limit (minimums and maximums) or value as established within both the text and graphic standards of the SoBo Overlay District.
305. Open Space: Any open piece of land with no buildings or other built structures, where paving is limited to trails. "Open space" does not include streets, alleys, utility easements, public parks or required building setbacks.

306. Ornamental Lighting: Decorative lighting that is unshielded low-wattage in which individual lamps do not exceed twenty (20) watts.
307. Ornamental Tree: A tree which is indigenous or adapted to this region of Texas, and which normally reaches a height at maturity or is trimmed to maintain a maximum height of 20 feet or less.
308. Outdoor Entertainment: A restaurant, nightclub or bar that offers entertainment in an outdoor setting. A venue allowing outdoor entertainment shall provide a sound barrier, with sound being directed away from the residentially zoned district nearest their location.
309. Outdoor Lighting Fixture (Luminaire): The night-time illumination of an outside area or object by any man-made device located outdoors that produces light by any means. This definition does not include outdoor lighting governed exclusively by state or federal law, traffic control devices, as that term is defined by the Texas Transportation Code, or lighting equipment that is required by law to be installed on motor vehicles, or for the safe operation of aircraft. The total light output of each outdoor light fixture shall be based on the largest lamp that the outdoor light fixture is rated to accommodate. For the purpose of compliance with this section, the largest lamp rating for fluorescent and high intensity discharge fixtures shall be based on the installed ballast rating.
310. Outdoor Retail Sales Area: The orderly display and sale of merchandise where the primary business is generated by merchandise displayed permanently and year-round on an exterior portion of the site. Examples of uses which are intended to be encompassed by this definition are boat and marine sales, lawn and garden supply stores, residential accessory portable building sales, and retail building material supply and lumber yards.
311. Outparcel: An individual tract of land designated as part of a nonresidential group development, such as a retail mall or shopping center, not physically connected and secondary in nature to the primary development.
312. Owner occupancy: a property owner, as reflected in title records, makes his or her legal residence at the site, as evidenced by voter registration, vehicle registration, or similar means. (permitted use...accessory dwelling)
313. Owner: The person or entity who has legal title to property, or who has effective custody and control of property.
314. Parapet Sign: A sign that is mounted to a building's parapet, which is a wall or railing that runs along the edge of the roof.
315. Park: Land dedicated for the purpose of providing recreational and/or open areas whether the land is public or privately held.
316. Parking Lot or Parking Garage: A facility, whether outdoors or in a building or structure, in which the parking of motor vehicles is the principal use rather than an accessory to another use.
317. Partially Shielded: Light fixtures constructed such that the lower edge of the shield is at or below the centerline of the light source or lamp so as to minimize light transmission above the horizontal plane, or at least ninety percent (90%) of the emitted light projects below the horizontal plane as evidence by the manufacturer's photometric data, or by photometric measurement.
318. Pawn Shop: A business engaged in offering credit for pledged goods or personal property, or the purchase of tangible personal property on the condition that it may be re-sold, or may be re-deemed or repurchased at a new price at a later time.

319. **Peak Hour** - A one hour period representing the highest hourly volume of traffic on the adjacent street system during the morning (AM peak hour); during the afternoon or evening (PM peak hour); or representing the hour of highest volume of traffic entering or exiting a site (peak hour of generator).
320. **Peak Hour Trips Generated (PHTG)** -The number of vehicle trips generated by the proposed land use(s) in the development during the peak hour of adjacent street traffic (defined as one hour during the AM or PM peak hour, whichever is higher).
321. **Perimeter Wall Sign:** A perimeter wall sign is a sign that is mounted on, embedded in or permanently affixed to a structural wall that is not a building wall.
322. **Person in Need:** A person in need of personal care services. This does not include individuals with current alcohol or drug addiction or an individual that has been convicted under federal or state law of illegal manufacture or distribution of a controlled substance.
323. **Personal Care Home:** A residential establishment that provides food, shelter and personal care services to three (3) or fewer Persons in Need or persons with a Disability unrelated to the proprietor of the establishment. The establishment shall not have more than two (2) persons per bedroom.
324. **Personal Care Services:** Assistance with feeding, dressing, moving, bathing, or other personal needs or maintenance; administration of medication by a person licensed or otherwise authorized in this State to administer the medication or provide assistance with or supervision of the administration of medication; or general supervision or oversight of the physical and mental well-being of a person who needs assistance to maintain a private and independent residence or who needs assistance to manage the person's personal life, regardless of whether a guardian has been appointed for the person.
325. **Planned Unit Development or PUD:** A development which includes a mixture of housing types and/or land uses, along common area facilities.
326. **Plant Nursery:** A use of land to grow plants of any kind for transplanting to another location or for sale as live plants rather than as crops, including the sale of related gardening equipment and supplies.
327. **Plat, Final:** The map or plan of a subdivision that is submitted to the City staff and the Planning and Zoning Commission for final approval. After approval, the plat is recorded under provisions of Chapter 192 of the Local Government Code.
328. **Plat, Preliminary:** The first or introductory map or plan of a proposed subdivision that is submitted to the City staff and the Planning and Zoning Commission for initial approval as the basis for development of a final plat.
329. **Pole Height:** An outdoor light mounted on a wooden or metal pole twelve (12) or more feet in height, for the purpose of illuminating a yard or other open area.
330. **Pole Sign:** A freestanding sign that is permanently supported by poles, pillars or beams that are not clad or enclosed.
331. **Political Sign:** A sign which is primarily political in nature or which supports or opposes any candidate for public office or any proposition to be voted upon at an election, or which makes a political statement in the nature of constitutionally protected non-commercial free speech.
332. **Portable Building Sales:** A business selling either mobile homes or other portable buildings or structures larger than residential accessory storage sheds, whether in finished or kit form.
333. **Portable Changeable Message Board Sign:** Any sign which is not permanently attached to the ground or to a permanent structure, which is designed to be transported, whether on attached wheels or

otherwise, whose sign panels, on either one or both sides, are designed to accommodate variable messages that may be changed either manually or electronically.

334. **Post and Panel Sign:** A post and panel sign is a freestanding sign that is supported by decorative posts, with no structural enclosure of the sign face or sign panels.
335. **Private Parkland:** any tract of land owned, operated and maintained by a homeowner's association, property owner's association, developer or other private entity that provides active or passive recreation to a specific area, neighborhood or group of individuals and is not available to the general public for recreational use.
336. **Private Street:** A street that is not dedicated to the public on a plat and which is not maintained by the City. A private street shall be maintained by an Association such as a Homeowners Association. Private streets shall provide signage that identifies them as private, i.e. different color, labeled as private. Private street ROW's shall be dedicated as utility easements so that the utilities can be installed in their usual locations and configurations.
337. **Processing:** Any operation changing the nature of material or materials, such as their chemical composition or physical qualities, as distinguished from the fabrication operations defined as manufacturing.
338. **Produce stand:** A produce stand is a permitted, temporary structure used for the display and sale of produce grown at a garden or a farm, operated by a sole vendor.
339. **Project:** an endeavor over which a regulatory agency exerts its jurisdiction and for which one or more permits are required to initiate, continue, or complete the endeavor.
340. **Projecting Sign:** A sign whose outside edge extends more than four (4) inches from the face of a wall to which it is attached, or which extends at any point above or beyond a wall to which it is attached.
341. **Protected Tree:** Either a standard, signature or heritage tree.
342. **Public Parkland:** any noncommercial, not for profit area that predominately consists of open space areas designed to meet the active or passive recreational needs of the public and is owned, operated and maintained by the City.
343. **Public Service Sign:** A sign or part of a sign which is devoted to changeable messages of general public information without other commercial content, such as the current time and temperature or an index of stock market averages.
344. **PUD plan:** The general plan or map of a planned unit development that is submitted for a recommendation by the Planning and Zoning Commission and approval by City Council as the basis for development of the preliminary and final plats of a PUD development.
345. **Real Estate Sign: (definition)**
346. **Realty Sign:** A sign which advertises the property on which it is located for sale, lease, or rent.
347. **Rear Yard:** A yard, unoccupied except by an accessory building, extending for the full width of the lot between the main building and the rear lot line.
348. **Recreational and Entertainment Facility:** Any business or establishment (1) which is not defined separately in this ordinance or enumerated as a distinct use in a Table of Permitted Uses, and (2) in which the primary use is the provision of recreational opportunities or the production of entertainment for paying customers.

349. Recreational space: That area in a public or private park that is set aside for recreational and social activities.
350. Recreational Vehicle: A vehicle which is (i) built on a single chassis; (ii) 400 square feet or less when measured at the largest horizontal projections; (iii) designed to be self-propelled or permanently towable by a light duty truck; and (iv) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.
351. Redevelopment: any development on previously developed land, other than rebuilding activity.
352. Regulatory floodway: the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.
353. Remove, Removal: As applied to a protected tree, the uprooting of the tree, severing of the main trunk of the tree, or any other act which causes, or may reasonably be expected to cause the tree to die.
354. Required Building Line: A line at which, or range within which a building line must be established, most often associated with a front building line abutting particular Street Design Types. Where a setback line is expressed as a range, it shall be interpreted as a required building line range.
355. Residential Area: Inside the city limits, the area within any residential zoning district; in the City's extra-territorial jurisdiction, any lot or tract of land which is vacant or in any form of agricultural use, or in which the principal use of the land is as a residence.
356. Residential Development Sign: A sign at the entrance to a residential development, such as a series of townhouses, an apartment complex or a residential subdivision, which identifies the name and/or the address of the residential development.
357. Residential use building: a building that is built to accommodate only residential uses on all floors of the building such as a detached single-family home, attached single-family home (i.e. townhome), two- or three-family home (i.e. duplex, triplex), multiple family (4 or more), apartment building (under single ownership or under multiple owners within a condominium regime).
358. Responsible Party: The person, firm, organization or other entity whose product, service, activity or enterprise of any character is announced or advertised by the sign, or whose message is carried by the sign, and/or the owner of the land upon which the sign is located.
359. Restaurant (Convenience drive-thru): Any business engaged in the preparation and retail sale of food and beverages, such as a soda fountain, ice cream parlor, sandwich shop, cafe, or coffee shop offering drive-thru service, excluding any restaurant offering live entertainment or alcoholic beverages for on premise consumption.
360. Restaurant (Convenience non drive-thru): Any business engaged in the preparation and retail sale of food and beverages, such as a soda fountain, ice cream parlor, sandwich shop, cafe, or coffee shop, excluding any restaurant offering drive-thru service, live entertainment or alcoholic beverages for on premise consumption.
361. Restaurant (General): Any business engaged in the preparation and retail sale of food and beverages which offers live entertainment with amplified sound or sells alcoholic beverages as an accompaniment to meals, provided that such beverages produce less than 50 percent of the gross revenue of the business. A business in which the sale of alcoholic beverages produces 50 percent or more of gross revenue is a bar or nightclub.

362. Restaurant (Limited): Any business engaged in the preparation and retail sale of food and beverages, which offers live entertainment without amplified sound or which sells alcoholic beverages as an accompaniment to meals, provided that at least 75% of the gross floor area of the business including preparation and serving area is dedicated to the retail sale of food.
363. Re-subdivision: The division of an existing subdivision, together with any change of lot size therein, or with the relocation of any street lines.
364. Retail (General): A retail use primarily engaged in the sale of merchandise for general household and consumer products and involving between 3,000 and 10,000 square feet of gross leasable area.
365. Retail (Major): A retail use primarily engaged in the sale of merchandise for general household and consumer products and involving between 10,000 and 50,000 square feet of gross leasable area.
366. Retail (Neighborhood): A retail use primarily engaged in the small-scale sale of merchandise for general household and consumer products and involving less than 3,000 square feet of gross leasable area.
367. Retail (Warehouse): A retail use primarily engaged in the small-scale sale of merchandise for general household products, consumer products, or wholesale products to businesses and industry, and involving greater than 50,000 square feet of gross leasable area.
368. Retirement Community: A residential development which includes separate dwelling units specifically designed to meet the needs of the elderly, together with incidental recreation and support facilities for the benefit of the residents.
369. Reversed Corner Lot: (See Corner Lot)
370. River Corridor District Directional Sign: An off-premise sign that provides directions to an establishment located within one block of Main Street or located in the River Corridor District.
371. Riparian: of, on or relating to the banks of a natural course of water.
372. Riverine: relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.
373. Roof Sign: Any sign that is mounted on or above the roof of a building, excluding projecting signs and wall signs.
374. Roof, butterfly: A butterfly roof is a V-shaped roof constructed of two tandem pieces which are angled up on the outside. The midsection is angled downward where the two pieces meet into a valley.
375. Roof, flat: Flat roofs appear to be completely flat with no pitch. However, they do have a slight pitch to allow for water run-off and drainage.
376. Roof, gambrel: A gambrel roof has two different slopes on two sides opposite sides, with the lower sloped side steeper than the upper sloped side.
377. Roof, hip: A hip roof has slopes on all four sides. The sides are all equal length and come together at the top to form a ridge.
378. Roof, mansard: A mansard roof, also known as a French roof, is a four-sided roof with a double slope on each side that meet forming a low-pitched roof. The lower slope is much steeper than the upper. The sides can either be flat or curved, depending on the style.

379. **Roof, salt box:** A salt box roof is a gable-style roof with a central ridge line and asymmetrical sloping sides. One side slopes to the first floor and one to the second floor.
380. **Roof, sawtooth:** A sawtooth roof is two or more parallel pitched roofs in which the sloped and vertical surfaces alternate. As the name suggests, the roof resembles the side view of a saw blade.
381. **Roof, skillion:** Skillion roofs, also called shed roofs or lean-to roofs, consist of a single, sloping roof, usually attached to a taller wall.
382. **Root Protection Zone:** An area surrounding the base of the trunk of a tree which is to be protected from disturbance during grading and construction. This area shall have an average radius of one foot for each inch of tree diameter, provided that it need not exceed 2,000 square feet for any tree. The area need not be exactly centered around the tree or circular in shape, but it shall be positioned so that no disturbance may occur closer to the tree than one-half the radius of the zone or within five feet of the tree, whichever is less.
383. **Row crops:** Row crops shall be defined as grain, fruit or vegetable plants, grown in rows, which are 24 inches or more in height. "Row crops" shall not mean cultivated or attended trees or shrubbery and shall not include grain, fruit or vegetable plants that are part of the front yard's borders, that extend no more than 8 feet from the side property lines or from the front of the principal building.
384. **Rural:** A roadway design for moderate speeds aligned with rough, informal and natural vegetation, appropriate for all rural areas.
385. **Sandwich Board Sign:** A sign consisting of two faces connected and hinged at the top. Also known as A-frame signs.
386. **School:** An institution of learning which offers and maintains a course of instruction leading to degrees or certificates of graduation recognized by the Texas Education Agency, including a community athletic field as an accessory use, but excluding a developed athletic field or stadium, which is considered a distinct use. See also "Trade School".
387. **Secondary/Support Street:** A local and/or access street as defined in the City of Boerne Subdivision Ordinance.
388. **Self-Supported Sign:** A permanent sign which is erected on supports placed on or anchored in the ground. The supports may be enclosed by a non-supporting veneer approved by the City Manager.
389. **Setback Line:** A line, established by law, beyond which a building shall not extend, except as specifically provided by law.
390. **Setback:** The amount of open space required between the lot line and the building line or the amount of land required surrounding improvements.
391. **Shielded:** The light source is equipped with a fixture that provides a shielding of the emitted light.
392. **Shopping Center:** A development containing a combination of retail business establishments, restaurants, recreational and entertainment facilities, offices and related uses, which is designed and operated as a single unit. Each of the individual establishments or uses contained within the shopping center must be a permitted use in the district in which the shopping center is located.
393. **Side Yard:** A yard between a building and a side lot line, extending through from the street line to the rear lot line of the lot, including overlapping portions of the front yard and rear yard.

394. Sidewalk Sign: A sign, regardless of its construction, which is designed to be placed on the ground or sidewalk adjacent to an establishment in order to advertise or call attention to the goods or services offered at that establishment.
395. Sign Area: The area of a sign that is used for display purposes, excluding the minimum frame and supports.
396. Sign Cabinet: A three-dimensional sign structure comprised of a frame and face or faces. A sign cabinet may or may not be internally illuminated.
397. Sign Face: The surface of the sign that contains sign copy, excluding decorative borders, supports or trim.
398. Sign: every advertising message, announcement, declaration, demonstration, display, illustration, insignia, surface or space erected or maintained in view of the observer for identification, advertisement or promotion of the interests of any person, entity, product or service. The definition of sign shall also include the sign structure, supports, lighting system and any attachments, ornaments or other features used to draw the attention of observers. This definition does not include any flag, badge or ensign of any government or governmental agency erected for and used to identify said government or governmental agency.
399. Single Family Address Sign: A sign, other than a name plate, which identifies the name of the occupants and/or the address of a single family or duplex residence but excluding any commercial sign.
400. Slope Map: A map depicting native slopes of 15–25%, 25–35%, and over 35%. Slopes shall be calculated for each two-foot contour interval over 50 horizontal feet and shall be established.
401. SoBo: An area located between IH-10 and Old San Antonio south of Herff Road as identified in Article 5, Section 32.
402. Spa: A business establishment which people visit for professionally administered personal care treatments such as massages and facials which may include services offered by a beauty parlor and cosmetic medical treatments that do not require an overnight stay.
403. Special Event Sign: Signs or banners which announce or advertise a community event.
404. Special flood hazard area: See area of special flood hazard.
405. Spot Zoning: The re-zoning of a small parcel of land for a use classification incompatible with that of the surrounding area, for the benefit of the owner of such property and to the detriment of other owners or the community, or without any substantial public purpose.
406. Stable: Any business or institution in which horses or other livestock are housed, groomed, bred, boarded, trained or sold.
407. Standard or Heritage Tree Removal Permit: A Permit required prior to the removal of Standard or Heritage trees from any real property as described in Article 4.05.003.
408. Standard Tree: Any tree species with a diameter (DBH) between 8.0 and 11.9 inches.
409. Start of Construction: (for other than new construction or substantial improvements under the Coastal Barrier Resources Act (Pub. L. 97-348)), includes substantial improvement and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement was within 180 days of the permit date. The

actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

410. Steep Slope Area: That part of the lot that encompasses the steep slope.
411. Steep Slope: Land area where the inclination of the land's surface from the horizontal plane is fifteen percent (15%) or greater. Slope is determined from on-site topographic surveys prepared with two-foot contour interval or topography taken from controlled aerial photography at two-foot contour intervals. The percent of slope shall be calculated for each two-foot contour interval and shall be established by measurement of distance perpendicular to the contour of the slope (rise in feet per horizontal distance in feet). Man-made slopes (such as a quarry or retaining wall) constructed prior to 2013 shall not be considered steep slopes.
412. Step-back: Floors above the first floor stepped back a minimum distance as identified in this ordinance. Step-back requirements help assure a comfortable street environment by preventing fortress-like facades, providing light and air at the street level, and providing features of interest to pedestrians along streets in commercial districts.
413. Story: That portion of a building included between the surface of any floor and the ceiling above.
414. Stream/natural water course: a natural, intermittent or perennial stream flowing in a well-defined bed or channel; one formed by the natural flow of the water, as determined by the general surfaces or conformation of the surrounding country, as distinguished from an "artificial" water course, formed by the work of man, such as a ditch or canal.
415. Stream Bank: The portion of the channel which tends to restrict lateral movement of water. It often has a slope less than 90° and exhibits a distinct break in slope from the stream bottom. Also, a distinct change in the substrate materials or vegetation may delineate the bank.
416. Stream Setback: An area that extends horizontally landward a specified distance from each side of a stream bank. Stream Setback Zone 1 is the streamside zone and is measured from the stream center line. The streamside zone is intended to protect the physical and ecological integrity of the stream. Vegetation must remain undisturbed to the maximum practical extent in this zone to assure proper functioning of this zone. Stream Setback Zone 2 is the outer setback zone and is measured from the outer edge of Stream Setback Zone 1 and extend horizontally the remaining distance of the setback. The outer zone is intended to prevent encroachment into the streamside zone, and to provide distance between development activity and the streamside zone.
417. Street Line: A lot line dividing a lot from a street.
418. Street, Access: A street of little continuity designed solely for access to lots or the interior of blocks, and not permitting any through traffic. Access Streets are further classified as "Residential" or "Non-residential" based upon the function and characteristics in the overall transportation network according to the technical standards of this ordinance.
419. Street, Arterial: A limited access street of considerable continuity that provides direct connections to different areas within the City and surrounding areas for large volumes of vehicles. Arterial Streets in

a residential district shall be limited access streets. Specific Arterial Streets are further classified into “Major” or “Minor” based upon the City’s Official Thoroughfare Plan or based upon the function and characteristics in the overall transportation network according to the technical standards of this ordinance.

420. Street, Collector: A street of moderate continuity that provides direct access between adjacent neighborhoods or districts for medium volumes of traffic. Collector Streets in a residential district shall be limited access streets. Specific Collector Streets are further classified into “Primary” or “Secondary” based upon the City’s Official Thoroughfare Plan or based upon the function and characteristics in the overall transportation network according to the technical standards of this ordinance. Primary and secondary collectors are considered limited access streets.
421. Street, Curvilinear: A street in which the centerline has a total curve length that is 50% or greater than any straight section of the street. On a curvilinear street, minimum lot width as defined in Table 5-2 shall be measured at any point on the lot.
422. Street, Local: A street of limited continuity that provides connections within neighborhoods and districts for low volumes of traffic. Certain Local Streets are further classified as “Minor” based upon the function and characteristics in the overall transportation network according to the technical standards of this ordinance.
423. Street: A public right-of-way, however designated, other than an alley, which carries vehicular traffic or provides vehicular access to adjacent land, and includes all other adjacent pedestrian amenities, landscape areas or other urban design features. All streets are classified by both Functional Classifications and Design Types as specified in the Subdivision Ordinance.
424. Street: A public right-of-way, however designated, other than an alley, which carries vehicular traffic or provides vehicular access to adjacent land, and includes all other adjacent pedestrian amenities, landscape areas or other urban design features. All streets are classified by both a Functional Classification and a Street Design Type.
425. Street-facing yard: (front yard, side yard, rear yard)
426. Structural Alteration: Any change or rearrangement in the structural parts or supporting members of a building or structure, such as bearing walls, columns, beams or girders, or any enlargement of a building or structure, whether by extending on a side or by increasing in height, or the moving of a building or structure from one location or position to another.
427. Structure - means, for floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.
428. Structure: (1) anything which is built or constructed, and which requires permanent location on the ground, or which is permanently attached to something having a location on the ground; (2) a building of any kind; (3) For floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home. *See also "Accessory Building or Structure," "Included Structure" and "Nonconforming Structure".*
429. Subdivider: Any person or any agent thereof, dividing or proposing to divide land so as to constitute a subdivision as that term is defined herein. In any event, the term "subdivider" shall be restricted to include only the owner, developer, equitable owner or authorized agent of such owner or equitable owner, of land sought to be subdivided.
430. Subdivision: A division of a tract of land into two or more parts for the purpose of laying out a subdivision of the tract or an addition to the City, or to lay out suburban, building or other lots, or to

lay out streets, alleys, squares, parks or other parts of the tract intended to be dedicated to public use or for the use of purchasers or owners of lots fronting thereon or adjacent thereto.

431. Substantial Damage: damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.
432. Substantial improvement: any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before "start of construction" of the improvement. This term includes structures which have incurred "substantial damage", regardless of the actual repair work performed. The term does not, however, include either: (1) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions or (2) Any alteration of a "historic structure", provided that the alteration will not preclude the structure's continued designation as a "historic structure."
433. Supermarket Store: A business engaged in the retail sale of a broad range of food and household products for consumption off premises, although some limited areas may be dedicated to the on-premise sale and consumption of food. A supermarket typically involves more than 40,000 square feet of gross leasable area and is characterized by a target market of greater than 1-mile radius.
434. Temporary Sign: An on-site, detached sign, with or without frames, which is not permanently mounted, which is to be displayed out of doors for a short period of time.
435. Terrace: a raised level with a vertical or sloping front or sides faced with masonry, turf, or the like, especially one of a series of levels rising one above another.
436. Theater: An entertainment venue where live stage or motion picture performances are offered to audiences as a business.
437. Thoroughfare Plan – The plan adopted by the City of Boerne which describes roadway functional classifications and alignments for the existing and future planned roadway network.
438. Thoroughfare, Regional: A limited access arterial street designed to carry a large volume of traffic from one part of the city to another, along a route generally indicated in the city's comprehensive plan.
439. Thrift Store: A retail establishment that offers for sale used goods (resale shop) or goods for sale by consignment. Also a retail establishment operated by a charitable organization for the purpose of fundraising.
440. Throat length: The length of driveway as measured from the street curb line to the curb line of the first on-site intersection, driveway, or parking stall.
441. Total Outdoor Light Output: The total amount of light, measured in lumens, from all outdoor light fixture lamps, is calculated as follows: For lamp types that vary in light output as the age (such as fluorescent and high intensity discharge lamps), the mean lumen output, as defined by the lamp manufacturer, shall be the lumen value used.
442. Trade School: A business or institution which offers instruction in any occupation, skill or trade, as distinguished from an institution of academic learning.
443. Traffic Impact Analysis (TIA) – Study prepared to project the anticipated impact of a proposed development and determine the need for any improvements to the roadway network to maintain acceptable operational conditions.

444. Traffic Improvements: any transportation improvement required to support the proposed development. Improvements will be identified during the TIA process and may include, but are not limited to, improvements such as construction of thoroughfare facilities, improvement of substandard streets, installation of traffic signals or construction of turn lanes.
445. Trailer Court: Any premises designated for the purpose of parking travel trailers and recreational vehicles overnight or on a short-term basis (6 months or less) and providing public restrooms, temporary water and electrical hookups, and similar services.
446. Transitional Use: The transitional use (T in the Table of Uses) designation may be utilized when a use is to be removed from a zoning district and the City Council, following recommendation of the Planning and Zoning Commission, deems it appropriate to allow property owners, their heirs or assigns, a designated period of time in which the use may be implemented before the use is removed from the Table of Permitted Uses.
447. Transportation Criteria Manual (TCM) – City transportation guidelines addressing access management, TIA preparation process and documentation requirements, and roadway operational capacity guidelines.
448. Travel Trailer: (Known as a RV) a recreational vehicle either motorized or pulled by a vehicle designed for travel and short term living and sleeping of a recreational nature.
449. Tree Preservation Plan (TPP): A map or site plan which illustrates the general layout of proposed buildings, structures, driveways and on-site areas on a lot or tract of land, along with the design of landscaped areas, including detail of the location, species and trunk circumference (TC) of all Legacy trees which are to be retained or removed, and trees which are to be planted as replacement trees and trees which are to be retained for mitigation purposes.
450. Tree Removal Permit (TRP): A Permit required prior to the selective removal of Legacy trees that are not Standard or Heritage trees from any real property that does not require a Building Permit as described in Article 4, Section 6.
451. Tree Restoration Fund: Dedicated account which receives funds from developers/property owners who wish to remove protected, signature, or heritage trees and do not have space for the required number of replacement trees on their property. These funds are used at the discretion of City Council to purchase, plant, and provide irrigation for trees on City property, in parks, rights-of-way or other suitable municipal property.
452. Trunk Circumference (TC): The perimeter measurement, in inches, of a tree trunk taken at 4 ½ feet from ground level as demonstrated in the definition of DBH.
453. Trunk Main: A water main whose primary purpose is to transport water to the distribution system within a subdivision or a sewer main whose primary purpose is to transport wastewater from the collection system within a subdivision. Trunk mains are not directly connected to individual lots.
454. Unshielded: A luminaire that may emit its luminous flux in any direction.
455. Urban agriculture: Urban agriculture is agricultural activity in or around urban areas, which are defined by the US Census Bureau as areas having a population density greater than 1,000 people per square mile.
456. Urban Farm, Large: A large urban farm is a farm with a farming area, excluding any permitted homestead or residential use, which is at least one (1) acre in size, which is used for commercial agricultural purposes, whether for profit or non-profit.

457. Urban Farm, Small: A medium urban farm is a farm with a farming area, excluding any permitted homestead or residential use, which is less than 1 acre, which is used for commercial agricultural purposes, whether for profit or non-profit.
458. Urban Farm: An urban farm is a farm in or around urban areas, which are defined by the US Census Bureau as areas having a population density greater than 1,000 people per square mile. Urban farms shall be permitted according to the size of the farm area.
459. Use: As a noun, the purpose for which land, and/or the buildings or structures thereon, is designed, arranged, or intended to be occupied or used, or for which it is occupied, maintained, rented or leased. See also "Nonconforming Use," and the Categories and Description of Uses Section in Article I, Section 7.
460. Utility Station, Substation or Service Center: A facility used for the exterior placement of large-scale equipment used in providing electric or other public utility services to the general public, and any internal facilities or administrative areas associate with the equipment operation.
461. Valet parking: The provision of parking for vehicles whereby vehicles are parked and unparked in a parking area, parking lot or any parking structure by a person other than the owner or operator of the vehicle.
462. Vehicle: Any means by which someone travels, or something is carried or conveyed; a conveyance that is propelled or drawn by mechanical power. The term includes, but is not limited to, cars, trucks, motorcycles, travel trailers, commercial trucks and/or boats.
463. Vehicular Sign: A vehicle, whether motorized or a trailer, which is mounted above the ground as a sign or part of a sign, or any sign attached to or painted on such a vehicle which is mounted above the ground or which is parked so as to be visible from a street when such vehicle is not actually used for transportation in the day-to-day affairs of its owner. However, this term does not include a customary sign in a vehicle window advertising the vehicle itself for sale or containing an incidental non-commercial statement by the vehicle owner.
464. Vested rights petition: a petition requesting a determination of development rights under Chapter 245 or use rights under Section 43.002 of the Local Government Code.
465. Vested rights: a right conferred by state law to develop property under ordinances, regulations, or rules other than those in effect on the date a permit application is submitted. The term includes development rights under Chapter 245 and use rights under Section 43.002 of the Local Government Code but does not include a right existing under common law.
466. Vesting date: the date on which a project accrued development rights under Chapter 245 or use rights under Section 43.002 of the Local Government Code.
467. Veterinary Clinic: A business or institution devoted to the health care of animals, as distinguished from the boarding, breeding, or raising of animals. A veterinary clinic is distinguished from a kennel or stable by having no outdoor pens or enclosures in which animals are kept, except for short periods as incidentally necessary to their medical care.
468. Video or Pinball Arcade: A business primarily engaged in entertaining patrons primarily through games, devises, or machines which directly collect fees to participate, such as coin operated pinball or video games.
469. Violation (for floodplain management): means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations.

470. Vision Clearance: A corner formed by either two streets or a street and a driveway shall provide vision clearance of 25' and no sign shall be placed in this area. The vision clearance area shall form a triangle measured 25' from the corner.
471. Wall Sign: A sign that is attached to or painted on the exterior wall or fascia of a building, or installed on a false or mansard roof, so that the sign face is parallel to the building wall. Signs that are mounted or painted upon a sloped roof, which are parallel to or the same as the roof plane, which do not extend above the roof line shall also be considered wall signs.
472. Warehousing: The depositing or securing of goods, wares and merchandise in a warehouse.
473. Washdown Areas: Areas having floor drains or hose bibs.
474. Water Supply Protection Zone: the Water Supply Protection Zone is the area draining into a lake which is used or intended to be used by the City as a surface reservoir for drinking water. It shall include the land on all sides around the shores at normal pool of any lake which is used or intended to be used by the City as a surface water reservoir.
475. Water Surface Elevation: means the height, in relation to the North American Vertical Datum (NAVO) of 1988 (or other datum, where specified), of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.
476. Water surface elevation: the height, in relation to the North American Vertical Datum (NAVD) of 1988 (or other datum, where specified), of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.
477. Wholesale: Sale for resale, not for direct consumption.
478. Width: As applied to a lot, the horizontal dimension of the street line along the frontage street. For a pie shaped lot or a lot on a cul-de-sac, the width of the lot means that dimension measured at the building setback line.
479. Window or Door Sign: Any sign which is painted or placed inside or upon a window or door or mounted against a window or door and oriented so as to be read from outside the building.
480. Window sign: A sign that is applied, painted or affixed to a window or glass panel of a door, or located within three feet of a window inside of a building, and oriented to be read from outside the building.
481. Winery: An establishment at which wine is made. May also be in combination with a bar or restaurant.
482. Yard: An open space on the same lot with a building, unoccupied and unobstructed from the ground upward except as otherwise provided in this ordinance, between the building and a lot line. See "Front Yard," "Rear Yard" and "Side Yard".
483. Zoning Category: A section of the City for which regulations governing the area, height, design or use of buildings and structures and the uses of land are established by this ordinance.
484. Zoning Change Sign: A sign placed on a property that is under consideration for a zoning change.
485. Zoning District: See Zoning Category.
486. Zoning Ordinance: City of Boerne Ordinance No. 2007-64, adopted December 18, 2007, or other zoning ordinance currently in effect, and all amendments thereafter adopted.

Appendix B: Plant Lists

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Prohibited Invasive Plants

| <u>NOTES</u> | <u>COMMON NAME</u> | <u>GENUS</u> | <u>SPECIES</u> |
|--|----------------------|------------------------|---------------------------------|
| Prohibited city-wide | Bigleaf Periwinkle | <i>Vinca</i> | <i>major</i> |
| Prohibited city-wide | Black Locust | <i>Robinia</i> | <i>pseudoacacia</i> |
| Prohibited city-wide | Catclaw Vine | <i>Macfadyena</i> | <i>unguiscati</i> |
| Prohibited city-wide | Chinaberry tree | <i>Melia</i> | <i>azedarach</i> |
| Prohibited city-wide | Chinese tallow tree | <i>Triadica</i> | <i>sebifera</i> |
| Prohibited city-wide | Elephant ears | <i>Colocasia</i> | <i>esculenta</i> |
| Prohibited city-wide | Giant reed | <i>Arundo</i> | <i>donax</i> |
| Prohibited city-wide | Glossy privet | <i>Ligustrum</i> | <i>lucidum</i> |
| Prohibited city-wide | Golden Bamboo | <i>Phyllostachys</i> | <i>aurea</i> |
| Prohibited city-wide | Golden rain tree | <i>Koelreuteria</i> | <i>paniculata</i> |
| Prohibited city-wide | Heavenly bamboo | <i>Nandina</i> | <i>domestica</i> |
| Prohibited city-wide | Indian Lantana | <i>Lantana</i> | <i>camara</i> |
| Prohibited city-wide | Japanese honeysuckle | <i>Lonicera</i> | <i>japonica</i> |
| Prohibited city-wide | Japanese privet | <i>Ligustrum</i> | <i>japonicum</i> |
| Prohibited city-wide | Johnson grass | <i>Sorghum</i> | <i>halepense</i> |
| Prohibited city-wide | King Ranch bluestem | <i>Bothriochloa</i> | <i>ischaemum var. songarica</i> |
| Prohibited city-wide | Lilac chastetree | <i>Vitex</i> | <i>agnes-castus</i> |
| Prohibited city-wide | Paper mulberry | <i>Broussonetia</i> | <i>papyrifera</i> |
| Prohibited city-wide | Pyracantha | <i>Pyracantha</i> spp. | |
| Prohibited city-wide | Tree of heaven | <i>Ailanthus</i> | <i>altissima</i> |
| Prohibited city-wide | Arizona ash | <i>Fraxinus</i> | <i>velutina</i> |
| Prohibited city-wide | Chinese privet | <i>Ligustrum</i> | <i>sinense</i> |
| Prohibited city-wide | Red-tipped photinia | <i>Photinia</i> | <i>x fraseri</i> |
| Prohibited city-wide | Chinese photinia | <i>Photinia</i> | <i>serratifolia</i> |
| Prohibited city-wide | Japanese brome | <i>Bromus</i> | <i>japonicus</i> |
| Should not be planted in stream zone 1, 2, local floodplain, or any waterway | Bermudagrass | <i>Cynodon</i> | <i>dactylon</i> |
| Prohibited city-wide | Silky bluestem | <i>Dichanthium</i> | <i>sericeum</i> |
| Prohibited city-wide | Barnyard grass | <i>Echinochloa</i> | <i>crus-galli</i> |
| Prohibited city-wide | Jungle grass | <i>Echinochloa</i> | <i>colona</i> |
| Should not be planted in stream zone 1, 2, local floodplain, or any waterway | Kleingrass | <i>Panicum</i> | <i>coloratum</i> |
| Prohibited city-wide | Vaseygrass | <i>Paspalum</i> | <i>urvillei</i> |
| Prohibited city-wide | Maltese star-thistle | <i>Centaurea</i> | <i>melitensis</i> |
| Prohibited city-wide | Poison hemlock | <i>Conium</i> | <i>maculatum</i> |
| Prohibited city-wide | Watercress | <i>Rorippa</i> | <i>nasturtium-aquaticum</i> |
| Prohibited city-wide | Woolly mullein | <i>Verbascum</i> | <i>thapsus</i> |
| Prohibited city-wide | Brazilian vervain | <i>Verbena</i> | <i>brasiliensis</i> |

Plant Palette for Public Easements and Rights of Way

| <u>COMMON NAME</u> | <u>TYPE</u> | <u>ROOT HABIT</u> | <u>WATERING</u> | <u>CONTRIBUTION</u> |
|------------------------------|--------------------|-------------------|------------------|---|
| Texas Mountain Laurel | <i>Shrub</i> | | Drought tolerant | Flowering – Spring, Deer resistant, butterfly |
| Mexican Plum | <i>Small Tree</i> | | Medium | Flowering – Spring, Birds/butterflies |
| Texas Redbud | <i>Small Tree</i> | | Medium | Flowering – Spring, Birds/butterflies |
| Anacacho Orchid tree | <i>Small Tree</i> | | Drought tolerant | Flowering – Spring, butterfly |
| Desert Willow | <i>Medium Tree</i> | | Drought tolerant | Flowering – Summer, butterfly |
| Western Soapberry | <i>Medium Tree</i> | | Medium | Fall Color, Birds |
| Goldenball Lead Tree | <i>Medium Tree</i> | | Medium | Flowering – Spring/Summer, butterfly |
| Eve's Necklace | <i>Medium Tree</i> | | Drought tolerant | Flowering – Spring, butterfly |
| Chinquapin Oak | <i>Tall Tree</i> | | Medium | Shade |
| Bur Oak | <i>Tall Tree</i> | | Medium | Shade |
| Big Tooth Maple | <i>Tall Tree</i> | | Medium | Fall Color |
| Bald Cypress | <i>Tall Tree</i> | | Medium | Shade |
| Texas Ash | <i>Tall Tree</i> | | Medium | Shade |
| Cedar Elm | <i>Tall Tree</i> | | Medium | Fall Color |

Recommended Trees

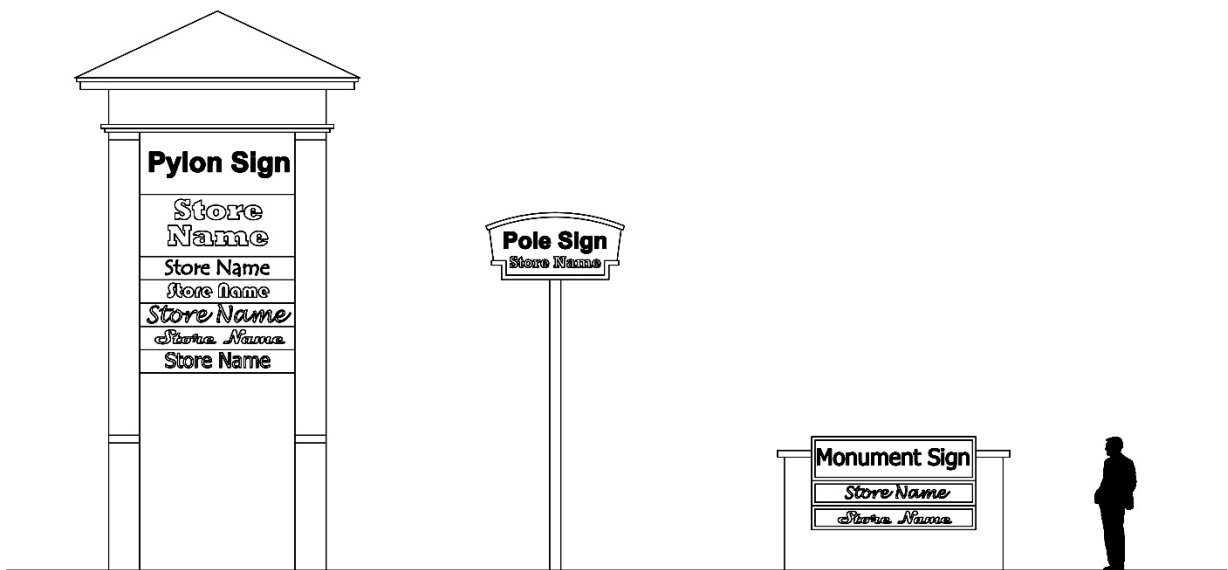
| <u>COMMON NAME</u> | <u>GENUS</u> | <u>SPECIES</u> | <u>TYPE</u> | <u>HEIGHT AT MATURITY</u> | <u>WHERE FOUND</u> | <u>DBH</u> |
|-------------------------------------|----------------------|--|-------------------|---------------------------|-------------------------|------------|
| American smoke tree | <i>Cotinus</i> | <i>obovatus</i> | shrub/small tree | < 10 to 20 feet | upland | 3 |
| American sycamore | <i>Platanus</i> | <i>occidentalis</i> | large tree | > 50 feet | riparian | 6 |
| American witchhazel | <i>Hamamelis</i> | <i>virginiana</i> | shrub/small tree | < 10 to 20 feet | lowland | |
| Anaqua/knockaway | <i>Ehretia</i> | <i>anacua</i> | medium tree | 20-50 feet | lowland | 6 |
| Arizona walnut | <i>Juglans</i> | <i>major</i> | large tree | > 50 feet | lowland/upland | |
| Ashe's juniper | <i>Juniperus</i> | <i>ashei</i> | shrub/small tree | < 10 to 20 feet | upland | 10 |
| Bald cypress | <i>Taxodium</i> | <i>distichum</i> | large tree | > 50 feet | riparian/lowland | 6 |
| Bigtooth maple | <i>Acer</i> | <i>grandidentatum</i> | medium tree | 20-50 feet | lowland/upland | 6 |
| Black cherry | <i>Prunus</i> | <i>serotina</i> var. <i>eximia</i> | medium tree | 20-50 feet | lowland/upland | 6 |
| Black hickory | <i>Carya</i> | <i>texana</i> | medium tree | 20-50 feet | upland | |
| Black walnut | <i>Juglans</i> | <i>nigra</i> | medium tree | 20-50 feet | lowland/upland | |
| Black willow | <i>Salix</i> | <i>nigra</i> | medium tree | 20-50 feet | riparian/lowland | 5 |
| | | | | | | |
| Bois d'arc/osage orange | <i>Maclura</i> | <i>pomifera</i> | large tree | > 50 feet | lowland/upland | 6 |
| Box elder | <i>Acer</i> | <i>negundo</i> | medium tree | 20-50 feet | lowland/upland | 6 |
| Bur oak | <i>Quercus</i> | <i>macrocarpa</i> | large tree | > 50 feet | lowland/upland | 6 |
| Carolina basswood | <i>Tilia</i> | <i>americana</i> var. <i>caroliniana</i> | medium tree | 20-50 feet | lowland | 6 |
| Carolina buckthorn | <i>Frangula</i> | <i>caroliniana</i> | shrub/small tree | < 10 to 20 feet | upland | 6 |
| Catclaw acacia/Gregg's and Wright's | <i>Senegalia</i> | <i>greggii, wrightii</i> | shrub/small tree | < 10 to 20 feet | upland | |
| Cedar elm | <i>Ulmus</i> | <i>crassifolia</i> | medium tree | 20-50 feet | riparian/lowland/upland | 6 |
| Chinkapin oak | <i>Quercus</i> | <i>muehlenbergii</i> | medium/large tree | 20 to > 50 feet | riparian/lowland/upland | 6 |
| Common buttonbush | <i>Cephalanthus</i> | <i>occidentalis</i> | shrub/small tree | < 10 to 20 feet | riparian | 3 |
| Common hoptree/wafer ash | <i>Ptelea</i> | <i>trifoliata</i> | shrub/small tree | < 10 to 20 feet | riparian/lowland/upland | 3 |
| Eastern cottonwood | <i>Populus</i> | <i>deltoides</i> | large tree | > 50 feet | riparian/lowland | 6 |
| Eggleaf silktassel | <i>Garrya</i> | <i>ovata</i> | shrub/small tree | < 10 to 20 feet | upland | 3 |
| Escarpment/Plateau black cherry | <i>Prunus</i> | <i>serotina</i> var. <i>eximia</i> | medium tree | 20-50 feet | lowland/upland | 6 |
| Evergreen sumac | <i>Rhus</i> | <i>virens</i> | shrub/small tree | < 10 to 20 feet | upland | 3 |
| Eve's necklace | <i>Styphnolobium</i> | <i>affine</i> | small/medium tree | 10-50 feet | upland | 5 |
| Goldenball lead tree | <i>Leucaena</i> | <i>retusa</i> | small/medium tree | 10-50 feet | upland | |
| Green ash | <i>Fraxinus</i> | <i>pennsylvanica</i> | medium/large tree | 20 to > 50 feet | riparian/lowland | |
| Green hawthorn | <i>Crataegus</i> | <i>viridis</i> | shrub/small tree | < 10 to 20 feet | lowland/upland | |
| Gregg's hawthorn | <i>Crataegus</i> | <i>greggiana</i> | shrub/small tree | < 10 to 20 feet | upland | |
| Gum bully | <i>Sideroxylon</i> | <i>lanuginosum</i> | medium tree | 20-50 feet | upland | 5 |
| Honey mesquite | <i>Prosopis</i> | <i>glandulosa</i> | small/medium tree | 10-50 feet | upland | 10 |

| <u>COMMON NAME</u> | <u>GENUS</u> | <u>SPECIES</u> | <u>TYPE</u> | <u>HEIGHT AT MATURITY</u> | <u>WHERE FOUND</u> | <u>DBH</u> |
|-------------------------------------|---------------------|---|-------------------|---------------------------|--------------------|------------|
| Honeylocust | <i>Gleditsia</i> | <i>triacanthos</i> | medium tree | 20-50 feet | lowland/upland | |
| Huisache/sweet acacia | <i>Vachellia</i> | <i>farnesiana</i> | shrub/small tree | < 10 to 20 feet | upland | 5 |
| Jerusalem thorn/retama | <i>Parkinsonia</i> | <i>aculeata</i> | shrub/small tree | < 10 to 20 feet | upland | |
| Lacey oak | <i>Quercus</i> | <i>laceyi</i> | medium tree | 20-50 feet | upland | 6 |
| Lindheimer's hackberry | <i>Celtis</i> | <i>lindheimeri</i> | medium tree | 20-50 feet | upland | 6 |
| Little walnut | <i>Juglans</i> | <i>microcarpa</i> | small/medium tree | 10-50 feet | upland | 6 |
| Littleleaf sumac | <i>Rhus</i> | <i>microphylla</i> | shrub/small tree | < 10 to 20 feet | upland | 3 |
| Live oak | <i>Quercus</i> | <i>virginiana</i> | large tree | > 50 feet | lowland/upland | 6 |
| Lotebush | <i>Ziziphus</i> | <i>obtusifolia</i> | shrub/small tree | < 10 to 20 feet | upland | |
| Mexican ash | <i>Fraxinus</i> | <i>berlandieriana</i> | small/medium tree | 10-50 feet | upland | |
| Mexican buckeye | <i>Ungnadia</i> | <i>speciosa</i> | shrub/small tree | < 10 to 20 feet | upland | 3 |
| Mexican plum | <i>Prunus</i> | <i>mexicana</i> | small/medium tree | 10-50 feet | lowland/upland | 5 |
| Netleaf hackberry | <i>Celtis</i> | <i>laevigata</i> var. <i>reticulata</i> | medium tree | 20-50 feet | upland | 6 |
| Northern spicebush | <i>Lindera</i> | <i>benzoin</i> | shrub/small tree | < 10 to 20 feet | lowland | 3 |
| Pecan | <i>Carya</i> | <i>illinoensis</i> | large tree | > 50 feet | lowland | 6 |
| Possumhaw | <i>Ilex</i> | <i>decidua</i> | shrub/small tree | < 10 to 20 feet | lowland/upland | 5 |
| Post oak | <i>Quercus</i> | <i>stellata</i> | large tree | > 50 feet | upland | 6 |
| Prairie sumac | <i>Rhus</i> | <i>lanceolata</i> | shrub/small tree | < 10 to 20 feet | upland | 3 |
| Red buckeye | <i>Aesculus</i> | <i>pavia</i> var. <i>pavia</i> | shrub/small tree | < 10 to 20 feet | lowland/upland | 3 |
| Red mulberry | <i>Morus</i> | <i>rubra</i> | large tree | > 50 feet | lowland/upland | 6 |
| Red/yellow woolly buckeye | <i>Aesculus</i> | <i>pavia</i> var. <i>flavescens</i> | shrub/small tree | < 10 to 20 feet | lowland/upland | 3 |
| Roemer's acacia/roundflower catclaw | <i>Senegalia</i> | <i>roemeriana</i> | shrub/small tree | < 10 to 20 feet | upland | 3 |
| Roughleaf dogwood | <i>Cornus</i> | <i>drummondii</i> | shrub/small tree | < 10 to 20 feet | lowland/upland | 3 |
| Rusty blackhaw | <i>Viburnum</i> | <i>rufidulum</i> | small tree | 10-20 feet | upland | 3 |
| Slippery elm | <i>Ulmus</i> | <i>rubra</i> | large tree | > 50 feet | lowland/upland | 6 |
| Spiny hackberry | <i>Celtis</i> | <i>ehrenbergiana</i> | shrub/small tree | < 10 to 20 feet | upland | |
| Sugarberry | <i>Celtis</i> | <i>laevigata</i> var. <i>laevigata</i> | medium/large tree | 20 to > 50 feet | lowland/upland | 6 |
| Sycamoreleaf snowbell | <i>Styrax</i> | <i>platanifolius</i> | shrub/small tree | < 10 to 20 feet | lowland | 3 |
| Texas ash | <i>Fraxinus</i> | <i>albicans</i> | medium tree | 20-50 feet | lowland/upland | 6 |
| Texas crab apple | <i>Malus</i> | <i>ioensis</i> var. <i>texana</i> | shrub/small tree | < 10 to 20 feet | upland | 5 |
| Texas hawthorn | <i>Crataegus</i> | <i>texana</i> | shrub/small tree | < 10 to 20 feet | lowland/upland | |
| Texas Hercules' club | <i>Zanthoxylum</i> | <i>hirsutum</i> | shrub/small tree | < 10 to 20 feet | upland | |
| Texas kidneywood | <i>Eysenhardtia</i> | <i>texana</i> | shrub/small tree | < 10 to 20 feet | upland | |
| Texas live oak/Escarpment live oak | <i>Quercus</i> | <i>fusiformis</i> | large tree | > 50 feet | lowland/upland | 6 |
| Texas madrone | <i>Arbutus</i> | <i>xalapensis</i> | medium tree | 20-50 feet | upland | 5 |
| Texas mountain laurel | <i>Sophora</i> | <i>secundiflora</i> | shrub/small tree | < 10 to 20 feet | upland | 5 |

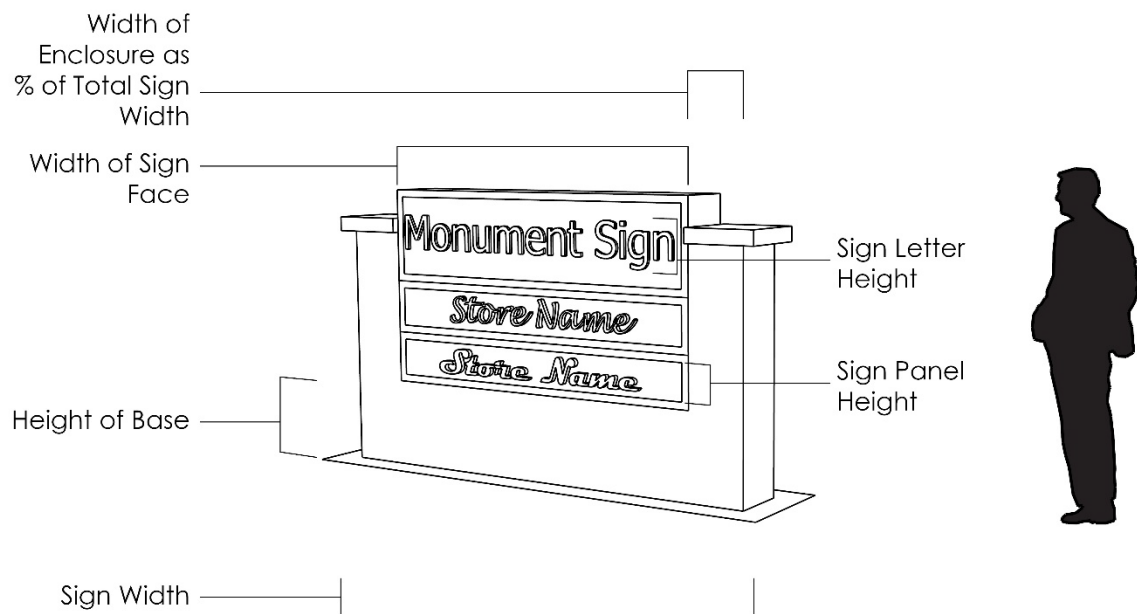
| <u>COMMON NAME</u> | <u>GENUS</u> | <u>SPECIES</u> | <u>TYPE</u> | <u>HEIGHT AT MATURITY</u> | <u>WHERE FOUND</u> | <u>DBH</u> |
|--------------------------------|------------------|--|------------------|---------------------------|--------------------|------------|
| Texas mulberry | <i>Morus</i> | <i>microphylla</i> | small tree | 10-20 feet | lowland/upland | 6 |
| Texas persimmon | <i>Diospyros</i> | <i>texana</i> | shrub/small tree | < 10 to 20 feet | upland | 5 |
| Texas pistache | <i>Pistacia</i> | <i>mexicana</i> | shrub/small tree | < 10 to 20 feet | upland | |
| Texas redbud | <i>Cercis</i> | <i>canadensis</i> var. <i>texensis</i> | small tree | 10-20 feet | lowland/upland | 5 |
| Texas snowbell | <i>Styrax</i> | <i>platanifolius</i> ssp. <i>texanus</i> | shrub/small tree | < 10 to 20 feet | lowland/upland | 3 |
| Torrey's yucca | <i>Yucca</i> | <i>torreyi</i> | shrub/small tree | < 10 to 20 feet | upland | |
| Tracy's hawthorn | <i>Crataegus</i> | <i>tracyi</i> | shrub/small tree | < 10 to 20 feet | upland | |
| Turner's hawthorn | <i>Crataegus</i> | <i>turnerorum</i> | shrub/small tree | < 10 to 20 feet | upland | |
| Vasey oak/sandpaper oak | <i>Quercus</i> | <i>vaseyana</i> | shrub/small tree | < 10 to 20 feet | upland | 3 |
| Western soapberry | <i>Sapindus</i> | <i>saponaria</i> var. <i>drummondii</i> | medium tree | 20-50 feet | upland | 6 |
| White shin oak | <i>Quercus</i> | <i>sinuata</i> var. <i>breviloba</i> | shrub/small tree | < 10 to 20 feet | upland | 3 |

Appendix C: Sign Illustrations

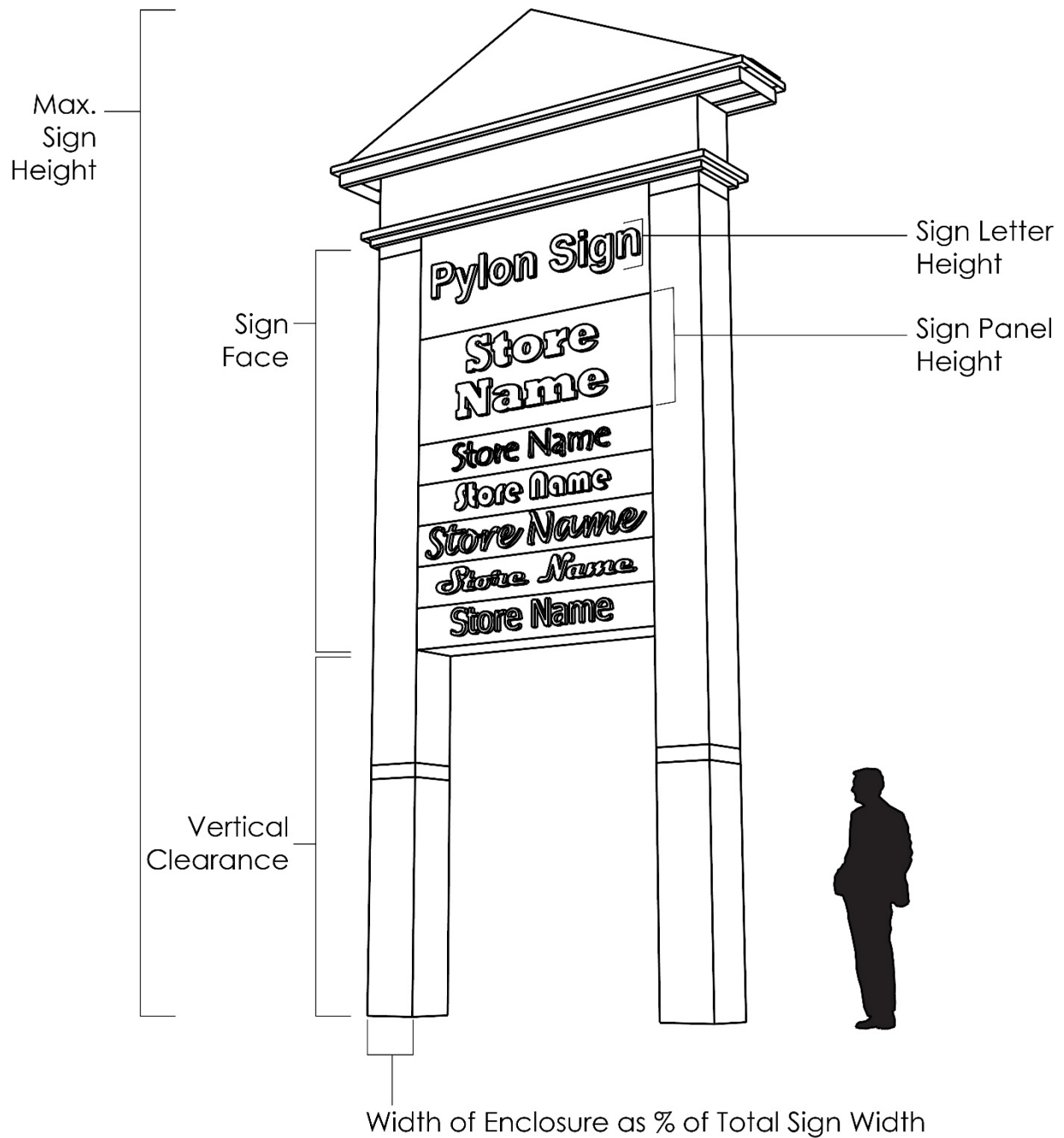
1. Relative Sign Height



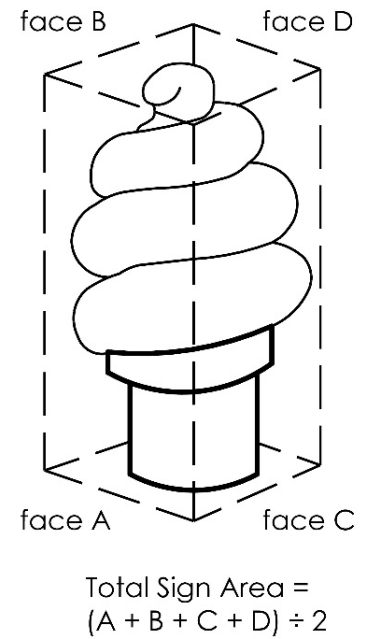
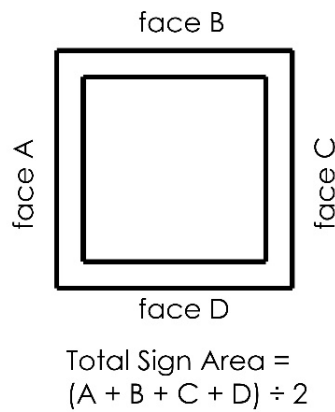
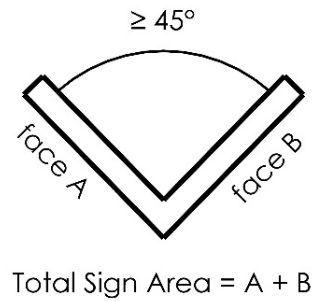
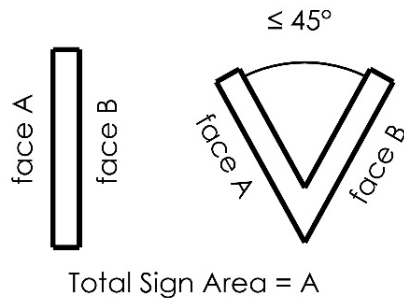
2. Measuring Monument Signs



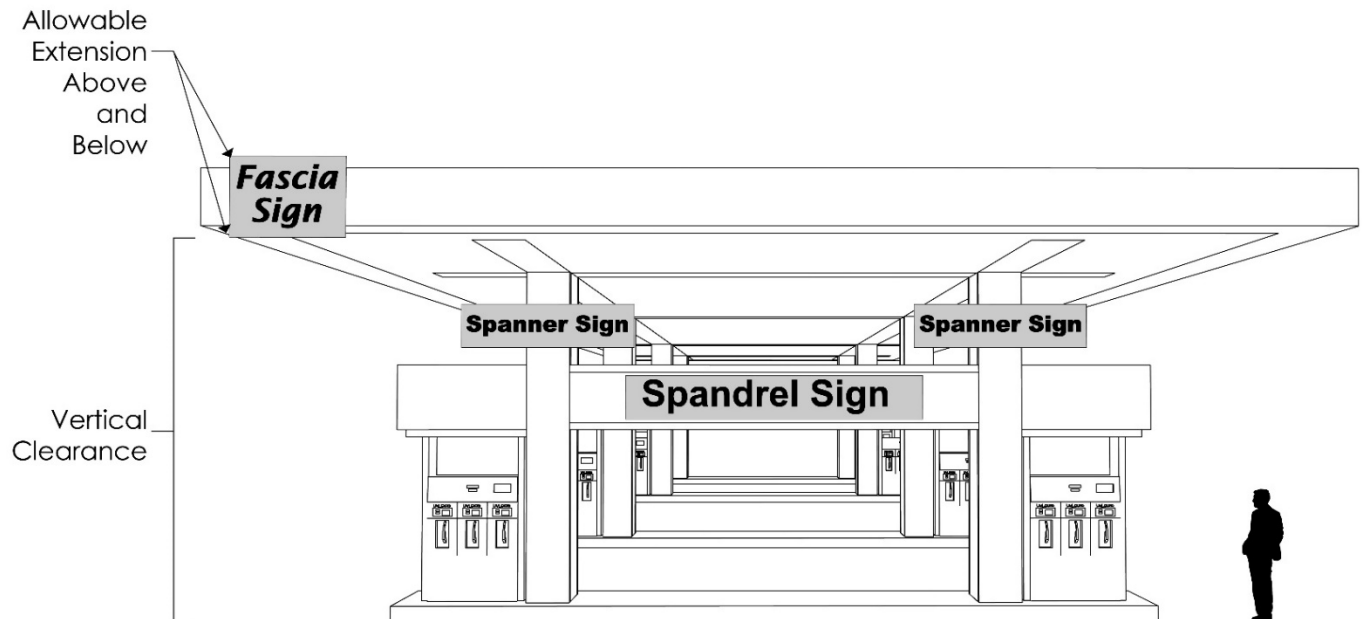
3. Measuring Pylon Signs



4. Measuring Multi-Face Signs



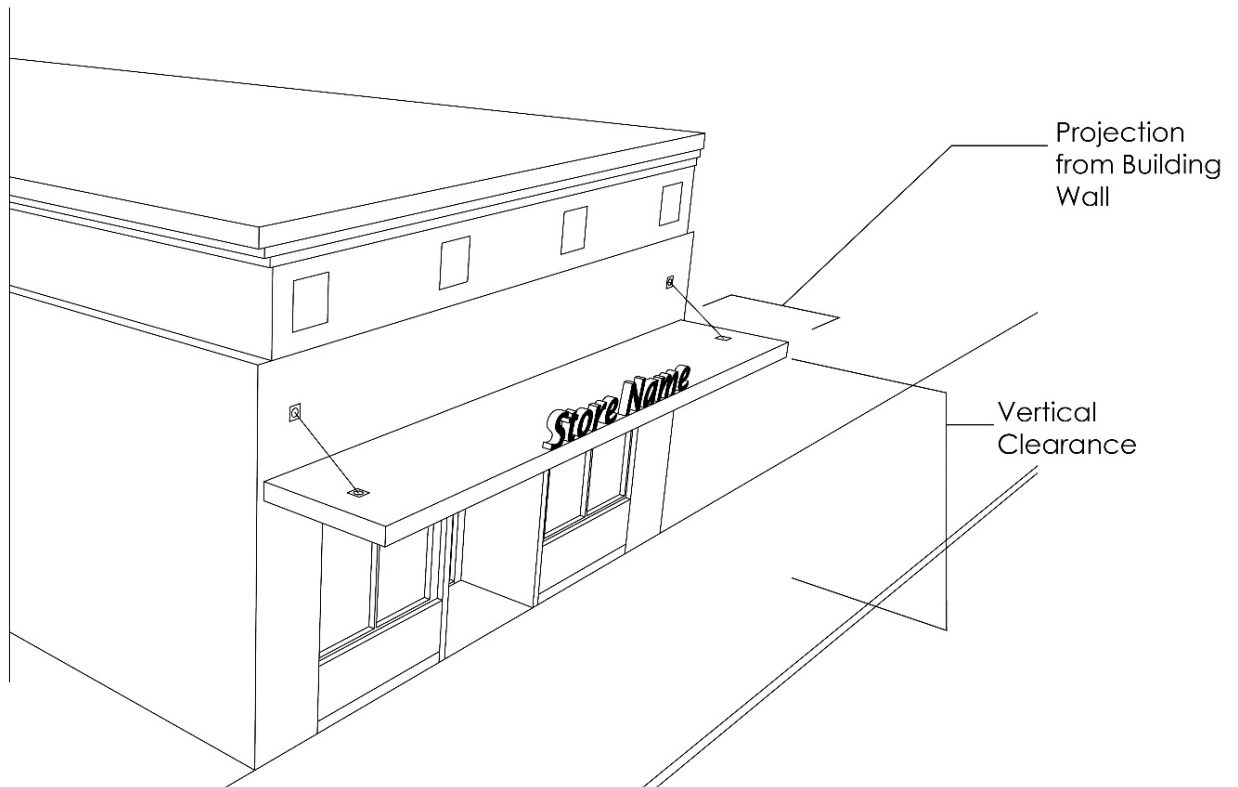
5. Detached Canopy Signs: Fascia Signs, Spandrel Signs and Spanner Signs



6. Attached Canopy Signs: Mounted to a Canopy



7. Vertical Clearance and Horizontal Projection



8. Calculating Total Sign Area for One Building Wall



Total sign area for one building wall = sum of all signs on the wall:

$$\mathbf{A + B + C + D}$$

9. Calculating Total Sign Area for the Entire Building



Total Sign Area for Entire Building = sum of all signs on the building:

$$\mathbf{A + B + C + D + E + F + G}$$

10. Window Signs That Count Toward Sign Area for a Building or Building Wall



| | | | |
|-------------------------------|------------|-----------|------------|
| 50% coverage? | YES | NO | YES |
| Count toward total sign area? | YES | NO | YES |

Appendix D: Dark Sky Regulations

DRAFT

A. Applicability

1. All public and private outdoor lighting installed in the City of Boerne after the effective date of this ordinance shall conform to the requirements established here, applicable electrical codes, and building codes.
2. All outdoor lighting shall be fully shielded fixture, the luminous elements of the fixture shall not be visible from any other property, and the fixture shall have a correlated color temperature of 2700 K or less. All off-site impacts will be limited to the greatest extent possible.
3. Outdoor lighting fixtures with a maximum output of 1000 lumens per fixture, regardless of the number of bulbs, may be left unshielded, provided that the fixture has an opaque top to prevent light from shining directly up, the source of the light is not visible from any other property, and the total lumens per acre of unshielded fixture is no more than 20% of the total.

B. Nonconforming existing lighting

1. All outdoor lighting that was installed before the effective date of this ordinance, and that does not conform with the standards specified here shall be considered nonconforming.
2. Nonconforming outdoor lighting must be brought into compliance with this ordinance when one of these occur:
 - a. All nonconforming existing outdoor lighting located on a property for which an application for a conditional use permit, subdivision approval, or building permit, is made shall be brought into compliance with this ordinance before the final inspection, issuance of a certificate of occupancy, or final plat recordation, whichever is applicable.
 - b. If more than fifty percent (50%) of the total appraised value of a structure has been destroyed, the remaining outdoor lighting must be removed and may only be replaced in conformity with the ordinance.
 - c. All maintenance of nonconforming existing outdoor lighting, that does not require to replace the fixture is exempt from this ordinance.
3. All existing nonconforming outdoor lighting, including City streetlights, shall be brought into compliance with this ordinance within ten (10) years from the date of adoption.

C. Lighting Classification

1. Class 1 Lighting

a. Recreational facilities

Any light source permitted by this ordinance may be used for lighting of outdoor recreational facilities (public or private), including, but not limited to, sports fields or courts, amphitheaters, and similar applications, provided the following conditions are met:

- i. A secondary low-level lighting system that complies with Class 2 Lighting shall be installed to facilitate security, cleanup, maintenance, and exit from the facility. The low-level lighting system shall provide an average horizontal illumination, at grade level, of no more than three (3) foot-candles.
- ii. Recreational facilities shall turn off Class 1 lighting within thirty (30) minutes of the end of an event.
- iii. Comply with the levels of illumination consistent with the IESNA "Recommended Practice for Sports and Recreational Area Lighting" (IESNA RP-6-10) or successor recommendations for the class of play appropriate for the kinds of facilities.
- iv. Timers must be installed to prevent lights being left on accidentally overnight.
- v. Off-site impacts will be limited to the greatest extent possible.

b. Outdoor Sales

Any light source permitted by this ordinance may be used for lighting of outdoor sales located in non-residential districts, provided the following conditions are met:

- i. The primary outdoor lighting of the primary facility shall be turned off at 11:00 p.m. or thirty (30) minutes after closing, whichever is later, but in no event shall the main outdoor lighting be illuminated after 12:00 a.m. unless there is a scheduled "special event"; i.e. an all-night sale.
- ii. Lighting Levels - During operating hours:
 - (a) Feature display area (the area within 200 ft. of the main building) the average horizontal illumination level shall not exceed twenty (20) foot-candles. These areas shall not be located within 100 feet of a residentially zoned areas.

- (b) Other display areas the average horizontal illumination level shall not exceed fifteen (15) foot-candles. These areas shall not be located within 100 feet of a residentially zoned area.
 - (c) General parking areas for staff etc. shall not exceed five (5) foot-candles
 - iii. Timers must be installed to prevent lights being left on accidentally overnight.
 - c. Lighting Levels - After Hours:
 - i. The primary outdoor lighting of the primary facility shall be turned off at 11:00 p.m. or thirty (30) minutes after closing, whichever is later, but in no event shall the main outdoor lighting be illuminated after 12:00 a.m. unless there is a scheduled "special event" i.e. an all-night sale.
 - ii. A secondary low-level lighting system that complies with Class 2 Lighting shall be installed to facilitate security, cleanup, maintenance, and exit from the facility if the property owner desires. The lamps may be metal Halide or LED. The low-level lighting system shall provide an average horizontal illumination, at grade level, of no more than two and one half (2.5) foot-candles.
2. Class 2 lighting
- a. Parking lots

Parking lot lighting shall be designed to provide the minimum lighting necessary to ensure adequate vision, security and comfort in parking areas, and to not cause glare or direct illumination onto adjacent properties or streets. Any light source permitted by this ordinance may be used for parking lots, provided the following conditions are met:

 - i. All luminaires used for parking lot lighting shall be either yellow high-pressure sodium or LED and shall follow the standards for lighting identified below. Any exceptions to this section of the ordinance may be made by the City Manager and/or the City Manager's designee.
 - ii. All luminaires shall use Fully Shielded Fixtures as that term is defined herein.
 - iii. Design levels shall correspond to the appropriate IES (Illuminating Engineering Society) minimum requirements for illumination.
 - iv. No up lighting.
 - v. Poles are measured from grade.
 - vi. Light trespass at the property line is 0.00 foot-candle.
 - vii. Design goals should be the lowest levels that meet the requirement of the task
 - viii. Any lighting under awnings or canopies shall be completely recessed or shielded
 - ix. Yellow high-pressure sodium luminaires used for parking lot lighting may be installed at a maximum height of thirty (30) feet
 - (a) Perimeter poles that abut a residence or residential district shall be no more than 10 feet in height.
 - (b) They shall turn off by 9:00 p.m. unless there is a special event.
 - x. River Road and River Corridor zoning districts parking lot lights shall be fully shielded, decorative, high pressure sodium lights with bulbs that do not exceed five (5) foot-candles. The poles shall not exceed twelve (12) feet in height.
 - xi. LED parking lot lighting shall adhere to the following criteria.
 - (a) All fixtures are Full cut-off.
 - (b) Poles shall be 20 feet in height with perimeter (at the property line) poles at 10 feet in height.
 - (c) Lumens per net acre in industrial areas shall not exceed 75,000 (does not include governmental owned streetlights).
 - (i) This lumen per net acre value is an upper limit and not a design goal.
 - (ii) Design goals should be the lowest levels that meet the requirement of the task
 - (d) Maximum 2,700 kelvins for bulbs.
 - (e) Any lighting under awnings or canopies shall be completely recessed or shielded.
 - (f) Outdoor lighting intended to be left on more than 30 minutes after closing, or the completion of activities must be reduced to 50% or less of the normal lumen output. Motion sensor activation may be allowed to cause the light to resume normal lumen output only when activated and to be reduced back to 50% or less of normal lumen output with 5 minutes after activation.

- (g) Wall packs may be used in combination with pole lights if they are full cut-off and/or shielded fixtures.
- (h) SoBo area, east of Hwy 87 is limited to 50,000 lumens per acre.

b. Street Lighting

- i. Street lighting installed, repaired or replaced after the adoption of this ordinance shall be fully shielded fixture or full cutoff standard for all fixture over 1,000 lumens initial lamp output, in order to limit light trespassing, and shall have a correlated color temperature of 2700 K or less. No exemption shall apply to any street lighting and to any lighting within the public right of way or easement when the purpose of the luminaire is to illuminate areas outside of the public right of way or easement.
- ii. New street lighting shall be designed to provide minimum lighting necessary to ensure adequate vision, and comfort in public and private streets, and to not cause glare or direct illumination more than five (5) feet beyond the right of way. Any light source permitted by this ordinance may be used for street lighting in any District, provided the following conditions are met:
 - (a) Luminaires used for public/private street lighting that are installed after the effective date of this ordinance shall be installed using Fully Shielded Fixtures, as that term is defined herein. Design levels shall correspond to the appropriate IES (Illuminating Engineering Society) minimum requirements for illumination.
 - (b) The use of adaptive controls are to be employed in all future installations of public outdoor lighting, considering the circumstances indicating the need for said public outdoor lighting based on the presence or absence of citizens on public property or rights-of-way. For the purposes of this subsection, "public outdoor lighting" shall be defined as all City public street lighting and outdoor lighting on other City property and City owned rights-of-way.
 - (c) Motion sensor shall be installed and properly maintained, and the trigger threshold set such that the light doesn't inappropriately trigger on; a failed motion sensor must fail only to the "off" state, and not to the "on"; the duration of each trigger should be limited to no longer than five (5) minutes.

c. Security lighting

For the purposes of this section, security lighting is defined as lighting intended to reduce the risk (real or perceived) of personal attack. Any light source permitted by this ordinance may be used for security lighting in any Lighting District, provided the following conditions are met:

- i. All security lighting fixtures installed after the effective date of this ordinance shall be fully shielded and aimed so that illumination is directed only within the owner's property boundaries and not cast on other areas. The use of general floodlighting fixtures shall be prohibited.
- ii. Security lighting may illuminate vertical surfaces (e.g. building facades and walls) up to a level eight (8) feet above grade or eight (8) feet above the bottoms of doorways or entries, whichever is greater. The use of up-lighting luminaires shall be prohibited.
- iii. Security lighting fixtures may be mounted on poles located no less than ten (10) feet from the perimeter of the property boundary.
- iv. Security lights intended to illuminate a perimeter (such as a fence line) shall include motion sensors and be designed to be off unless triggered by an intruder located within five (5) feet of the perimeter. The zone of activation sensors must be within the property boundaries of the property wishing to be illuminated.
- v. In the River Road and River Corridor zoning districts, security lights shall be fully shielded, decorative, high pressure sodium lights, or LED (with approval of the City Manager), that do not exceed two (2) foot candle and twelve (12) feet in height measured from grade.
- vi. It is the property owner's responsibility to ensure that the motion sensor is properly maintained, and the trigger threshold set such that the light doesn't inappropriately trigger on; a failed motion sensor must fail only to the "off" state, and not to the "on"; the duration of each trigger should be limited to no longer than five (5) minutes.

d. Lighting of Canopies and Service Islands

Lighting levels on service islands and under canopies shall be adequate to facilitate the activities taking place in such locations.

- i. Areas on the apron away from the service islands used for parking or vehicle storage shall be illuminated in accordance with the Illuminating Engineering Society (IES) requirements for parking areas.
- ii. Areas around the service islands and under canopies shall be illuminated so that the minimum horizontal illuminance at grade level is at least one (1) foot candles and no more than fifteen (15) foot candles in Industrial Districts and ten (10) foot candles in Commercial Districts.
- iii. Light fixtures mounted on canopies shall be fully shielded or recessed so that the lens cover is recessed or flush with the bottom surface (ceiling) of the canopy.
- iv. Lights shall not be mounted on top, or sides (fascia) of the canopy, and the sides (fascia) of the canopy shall not be illuminated.
- v. Outdoor light fixtures located under canopies, under building overhangs, or under roof eaves where the center of the lamp or luminaire is located at 5 feet, but less than 10 feet from the nearest edge of the canopy or overhang are to be included in the total outdoor light output as though they produced only one-quarter (1/4) of the lamp's rated lumen output.
- vi. Outdoor light fixture located under canopies, under building overhang, or under roof eaves where the center of the lamp or luminaire is located 10 or more feet from the nearest edge of a canopy, building overhang, or eaves are to be included in the total outdoor light output as though they produced only one-tenth (1/10) of the lamp's rated lumen output.

e. Lighting Curfews

Nonresidential outdoor lighting intended to be left on more than 30 minutes after closing, or the completion of activities, must be reduced to 25% or less of the total outdoor light output allowed.

- i. Motion sensor activation may be allowed to cause the light to resume total outdoor light output allowed only when activated and to be reduced back to 25% or less of total outdoor light output allowed within 5 minutes after activation has ceased, and the light shall not be triggered by activity off the property.
- ii. The 75% reduction in illumination may be accomplished by dimming, by turning off 75% of the light fixtures, by a combination of the two, or by any other method that results in a total outdoor light output of no more than 25% of the total outdoor light output allowed.
- iii. Illumination for all advertising signs, both externally and internally illuminated, shall be turned off by the later of closing time or 10:00 p.m., provided, however, that such signs may be turned back on prior to sunrise, but no more than one hour prior to opening.
- iv. Street lighting, other than at the intersection of roadways, shall utilize half night photocells or timers to turn off the lights halfway between dusk and dawn. Passive reflective roadway markings are encouraged.
- v. All outdoor lighting is encouraged to be turned off when no one is present to use the light. Luminance levels for operation between sunset and sunrise shall not exceed 1250 lumens.

3. Class 3 Lighting

Class 3 Lighting shall apply to all outdoor lighting for primarily decorative effect where safety and security of grounds is not the primary concern and color rendition is not required to preserve the effectiveness of the application. Class 3 Lighting includes, but is not limited to, architectural illumination, flag and monument lighting, landscape illumination, and seasonal holiday lighting.

a. Lighting of Building Facades and Landscaping.

Any light source permitted by this ordinance may be used for lighting of building facades and landscaping in any District, provided the following conditions are met:

- i. The maximum illumination on any vertical surface or angular roof surface shall not exceed two (2) foot-candles.
- ii. Lighting fixtures shall be at least partially shielded, as defined herein, and aimed so that no light is directed onto adjacent streets or roads.
- iii. The use of up-lighting luminaires shall be prohibited, unless such luminaires are fully shielded, and directed in such a way that no light is aimed beyond the building or landscaping directly into the night sky with the exception the illumination of governmental flags.

b. Ornamental Lights

Ornamental lights may be used in any Lighting District, provided the following conditions are met:

- i. Decorative strings of lamps/bulbs must not create glare on adjacent streets or property.

- ii. Lighting (including strings of lamps/bulbs) for parties, celebrations, and other social gatherings is allowed.

c. Lighting of Walkways, Bikeways, Sidewalks

Any light source permitted by this ordinance may be used for lighting walkways, bikeways and sidewalks in any District, provided the following conditions are met:

- i. The walkway, pathway, sidewalk, or ground area may be illuminated with bollards.
- ii. Lighting fixtures shall be fully shielded, or otherwise designed to direct light downward, and light sources shall have an initial output of no more than 2000 lumens.

d. Outdoor Advertising Signs

Any light source permitted by this ordinance may be used for lighting of outdoor advertising signs located in any District, provided the following conditions are met. In the event of a conflict, the City of Boerne's Sign Ordinance shall control:

- i. All legally installed externally illuminated signs shall have top-mounted luminaires which meet the shielding and grandfathering requirements contained herein.
- ii. Bottom-mounted luminaires on externally illuminated signs shall be prohibited.
- iii. Legally installed internally illuminated signs, to the degree same are permitted by the Boerne Sign Ordinance, shall be constructed of translucent materials, and the source of internal illumination shall not be directly visible through said material. Internally illuminated signs are prohibited in Residential Districts.
- iv. Sign illumination shall be extinguished completely one (1) hour after sunset and remain off until one (1) hour before sunrise.
- v. The illuminated surface area of an individual sign shall not exceed 200 square feet.
- vi. Luminance levels shall not exceed 100 nits (100 candelas per sq. meter)

e. Lighted Signs.

An establishment shall only have one lighted window or door sign per store front, not to exceed three (3) square feet. These signs shall be turned off when the establishment is not open for business. Illuminated exterior signs not lit by internal lighting shall be illuminated by down lighting methods; "up-lighting" is prohibited.

f. Residential Area Lighting.

While fully shielded lights are required, individual lamps are limited to 2700 lumens or less.

D. Illumination Plan requirements for Development Projects

1. Outdoor lighting should be carefully designed with regards to placement, intensity, timing, duration and color. A good lighting plan can promote safety, save money, conserve natural resources, retain community character, reduce skyglow.
2. The submission of an illumination plan shall contain, but shall not be limited to the following, all or part of which may be part or in addition to the information required elsewhere in the ordinances of the City of Boerne upon application for the required permit.
 - a. Two copies of an illumination plan shall be submitted with the building permit for review for compliance with this section.
 - b. A site plan, drawn to an appropriate scale, showing buildings, landscaping, parking area, and all proposed exterior fixtures including lamps, supports, reflectors and other devices.
 - c. Specifications for all proposed lighting fixtures including photometric data designation as IESNA full cut-off fixtures where required, and other descriptive information on the fixtures.

E. Total Outdoor Light Output and Shielding Requirements

Table 1 gives requirements of the total light output permitted per acre for the different lighting areas for class of lighting, lamp type and lighting area. These requirements shall be met for all lighting installations subject to this section.

1. Total Outdoor Light Output

Total outdoor light output shall not exceed the lumen limits given in Table 1. In the table, Total means the sum of shielded. For determining compliance with this section, the total lumens is the sum of the following:

- a. One hundred percent of the lumens from outdoor light fixtures installed on grade, on poles, on the top or sides of buildings or other structures.
- b. 2. Outdoor light fixture located under canopies, under buildings overhangs, or under roof eaves where the center of the lamp or luminaire is located at 5 feet, but less than 10 feet from the nearest edge of the canopy or overhang are to be included in the total outdoor light output as though they produced only one-quarter (1/4) of the lamp's rated lumen output. Outdoor light fixture located under canopies, under building overhang, or under roof eaves where the center of the lamp or luminaire is located 10 or more feet from the nearest edge of a canopy, building overhang, or eaves are to be included in the total outdoor light output as though they produced only one-tenth (1/10) of the lamp's rated lumen output.

| Table 1 Maximum Total Outdoor Light Output Requirements | | | |
|--|------------|------------|-------------|
| Lumen Caps: Mean Lumens per Net Acre (1) | | | |
| Districts | | | |
| | Industrial | Commercial | Residential |
| Commercial, Industrial and Multifamily | | | |
| Maximum total outdoor light | 75,000 | 50,000 | 20,000 |

Notes to Table 1:

1. Mean lumens per acre equals total outdoor light output divided by net acres.

F. Exemptions

1. Emergency lighting utilized during natural or man-made disasters, but only for the duration of the declared emergency may be exempted.
2. Nonconforming lighting fixtures located in the Historic District, which are consistent with the character of the Historic District may be kept in place as long as it complies with the IDA (International Dark Skies) guidelines.
3. Lighting elements, such as shades with perforated patterns and opaque diffusers, shall be exempted from the fully shielded requirement provided they do not exceed 1000 lumens.
4. Ornamental lights that are string lighting.
5. If a proposed lighting plan or fixture does not meet the requirements of this ordinance, and no other reasonable technical solution is available, but is of demonstrable community benefit, City Council may approve an exemption. The applicant requesting a permanent exemption under this ordinance shall submit enough information so that City Council may adequately consider the proposed community benefit. All requests for exemptions must comply with the zoning variance request procedures.
6. The provisions of this code do not prevent the replacement of an existing grandfathered luminaire with an alternate fixture, or the use of bottom-mounted luminaires on externally illuminated signs if it can be shown that the luminaire(s) to be used improve the view of the night sky consistent with the intent of this code. A person may request (and the City Manager may approve) an exemption if the following information is provided:
 - a. The location of the luminaire to be installed or replaced;
 - b. The purpose of the luminaire;
 - c. The total wattage and lumens of the grandfathered and the replacement luminaire, if applicable;
 - d. The type of luminaire to be installed, and if applicable, the type of replacement;
 - e. If the luminaire is a replacement, through manufacturer's literature or otherwise, the replacement luminaire will reduce light pollution, glare, or Total Outdoor Light Output; or,
 - f. When the luminaire is bottom-mounted, through the use of manufacturer's literature or otherwise, its use is superior in reducing light pollution, glare, or Total Outdoor Light Output as compared to a top-mounted luminaire.
 - g. Any other information deemed relevant.

G. Temporary Exemption

1. Any person may submit a written request, to the City Manager or the City Manager's designee for a temporary exemption from the requirements of this section. The Request for Temporary Exemption shall contain the following information:
 - a. Specific exemption or exemptions requested;

- b. Type and use of outdoor fixture involved;
- c. Duration of time for requested exemption;
- d. Total wattage of lamp or lamps;
- e. Proposed location on premises (if any) and addresses of premises;
- f. Physical size of outdoor light fixture(s) and type of shielding provided;
- g. Such other data and information as may be required by the Building Official.

2. Approval, Duration

The City Manager or the City Manager's designee shall have five (5) business days from the date of submission of the Request for Temporary Exemption to act in writing on the request. If approved, the exemption shall be valid for not more than thirty (30) days from the date of issuance of the approval. The approval shall be renewable at the discretion of the City Manager or the City Manager's designee upon a consideration of all the circumstances. Each such renewed exemption shall be valid for not more than thirty (30) days. Each exemption can be renewed up to two (2) times.

3. Disapproval, Appeal

If the Request for Temporary Exemption is disapproved, the person making the request will have the appeal rights as provided in the City of Boerne's Zoning Ordinance.

H. Prohibitions

- 1. The installation of any mercury vapor fixture or lamp, krypton, or argon discharge tubes intended for use as an architectural highlight to attract attention is prohibited.
- 2. The use of laser source light or any similar high-intensity light (such as a strobe light) is prohibited.
- 3. The operation of searchlights is prohibited.
- 4. Outdoor lighting that interferes with the safe operation of a motor vehicle is prohibited.
- 5. Up-lighting is prohibited, except as otherwise provided in this ordinance.
- 6. It shall be unlawful for any outdoor lighting fixture to cause glare, as defined herein and determined by the City Manager or the City Manager's designee, of sufficient intensity as to create an unsafe condition on public or private streets between the hours of midnight (12:00 a.m.) and 6:00 a.m.

I. Temporary Lighting for Sports Practices

- 1. Where temporary lighting is to be provided for sports practices that are not located in City Parks, or schools the following requirements shall apply.
 - a. The field to be illuminated shall be a minimum of fifty (50) feet from a residential property line or a residential district.
 - b. Luminaires used for sports practices shall be at a maximum height of twenty (20) feet and may be positioned at that height up to the edge of the property on which the practice is being held.
 - c. The Luminaires shall be turned triat 9:00 p.m. or thirty (30) minutes after the practice is over, but in no event shall the field be illuminated after 9:30 p.m.

Figure A

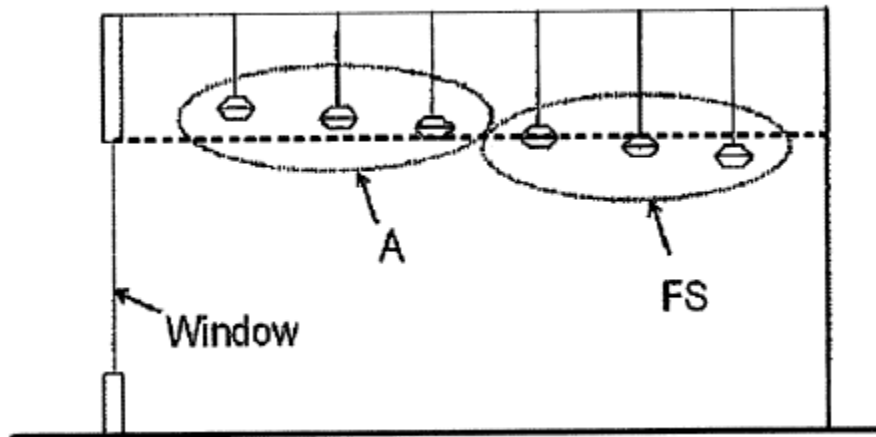


Figure A: Elevation view showing a nonresidential application of indoor lighting, labeled FS, which will be subject to this article and indoor lighting, labeled A, which is installed so that it is not subject to this article. This example presumes the structure in question is not elevated such that any of the luminaires labeled A in the figure above may be seen from any other property. If the structure is elevated such that the luminaires labeled A are visible from another property then, they are subject to this article.