



AGENDA CITY COUNCIL MEETING

March 20, 2025 | 6:30 PM

Council Chambers

City Hall | 665 Country Club Road, Lucas, Texas

Notice is hereby given that a meeting of the Lucas City Council will be held on Thursday, March 20, 2025, beginning at 6:30 pm at Lucas City Hall, 665 Country Club Road, Lucas, Texas 75002-7651, at which time the following agenda will be discussed. As authorized by Section 551.071 of the Texas Government Code, the City Council may convene into closed Executive Session for the purpose of seeking confidential legal advice from the City Attorney on any item on the agenda at any time during the meeting. Pursuant to Texas Government Code 551.127, one or more members of the governing body may appear via videoconference call. The presiding officer and a quorum of the City Council will be physically present at this meeting.

If you would like to watch the meeting live, you may go to the City's live streaming link at <https://www.lucastexas.us/departments/public-meetings/>.

How to Provide Input at a Meeting:

Speak In Person: Request to Speak forms will be available at the meeting. Please fill out the form and give to the City Secretary prior to the start of the meeting. This form will also allow a place for comments.

Submit Written Comments: If you are unable to attend a meeting and would like to submit written comments regarding a specific agenda item, email City Secretary Toshia Kimball at tkimball@lucastexas.us by no later than 3:30 pm the day of the meeting. The email must contain the person's name, address, phone number, and the agenda item(s) for which comments will be made. Any requests received after 3:30 pm will not be included at the meeting.

Call to Order

- Roll Call
- Determination of Quorum
- Reminder to turn off or silence cell phones
- Pledge of Allegiance

Citizen Input

1. Citizen Input.

Community Interest

Pursuant to Section 5510415 of the Texas Government Code, the City Council may report on the following items: 1) expression of thanks, congratulations or condolences; 2) information about holiday schedules; 3) recognition of individuals; 4) reminders about upcoming City Council events; 5) information about community events; and 6) announcements involving imminent threat to public health and safety.

2. Items of Community Interest.
 - Mayor's items of community interest

- A. 2024 Mayoral Red Kettle Challenge Presentation by Dominic Nohe, Texas Division, North Texas Command, Development Specialist – Denton & Collin County.

Consent Agenda

All items listed under the consent agenda are considered routine and are recommended to the City Council for a single vote approval. If discussion is desired, an item may be removed from the consent agenda for a separate vote.

3. Consent Agenda:

- A. Approval of the March 6, 2025, meeting minutes

Regular Agenda

4. Discuss Chapter 3 of the city's code of ordinances. (**Development Services Director Joe Hilbourn**)
5. Discuss and take possible action to approve an Interlocal Agreement between the City of Lucas and the City of Parker mutually agreeing on certain jurisdictional boundaries. (**City Manager John Whitsell**)
6. Discuss and take possible action to approve Resolution R 2025-03-00566 authorizing the submittal of one or more applications for Hazard Mitigation Grant Program funds to the Texas Division of Emergency Management under DR-4781 and DR-4798 and committing matching funds in the amount of 25%. (**City Manager John Whitsell**)

Executive Session

7. Executive Session: An Executive Session is not scheduled for this meeting.

As authorized by Section 551.071 of the Texas Government Code, the City Council may convene into closed Executive Session for the purpose of seeking confidential legal advice from the City Attorney regarding any item on the agenda at any time during the meeting. This meeting is closed to the public as provided in the Texas Government Code.

8. Reconvene from Executive Session and take any action necessary as a result of the Executive Session.
9. Adjournment.

Certification

I do hereby certify that the above notice was posted in accordance with the Texas Open Meetings Act on the bulletin board at Lucas City Hall, 665 Country Club Road, Lucas, TX 75002 and on the City's website at www.lucastexas.us on or before 5:00 p.m. on March 14, 2025.

Toshia Kimball, City Secretary

In compliance with the American with Disabilities Act, the City of Lucas will provide for reasonable accommodations for persons attending public meetings at City Hall. Requests for accommodations or interpretive services should be directed to City Secretary Toshia Kimball at 972.912.1211 or by email at tkimball@lucastexas.us at least 48 hours prior to the meeting.



City of Lucas

City Council Agenda Request

March 20, 2025

Item No. 01

Requester: Mayor Dusty Kuykendall

Agenda Item Request

Citizen Input.

Background Information

NA

Attachments/Supporting Documentation

NA

Budget/Financial Impact

NA

Recommendation

NA

Motion

NA



City of Lucas

City Council Agenda Request

March 20, 2025

Requester: Mayor Dusty Kuykendall
City Manager John Whitsell
City Secretary Toshia Kimball

Agenda Item Request

Items of Community Interest.

- A. 2024 Mayoral Red Kettle Challenge Presentation by Dominic Nohe, Texas Division, North Texas Area Command, Development Specialist – Denton & Collin County.

Background Information

NA

Attachments/Supporting Documentation

NA

Budget/Financial Impact

NA

Recommendation

NA

Motion

NA



City of Lucas

Council Agenda Request

March 20, 2025

Requester: Mayor Dusty Kuykendall
City Secretary Toshia Kimball

Agenda Item Request

1. Consent Agenda:

A. Approval of the minutes of the March 6, 2025, City Council meeting.

Background Information

NA

Attachments/Supporting Documentation

1. Minutes of the March 6, 2025, City Council meeting.

Budget/Financial Impact

NA

Recommendation

City Staff recommends approval of the Consent Agenda.

Motion

I make a motion to approve the Consent Agenda as presented.



MINUTES **CITY COUNCIL REGULAR MEETING**

March 6, 2025 | 6:30 PM

Council Chambers

City Hall | 665 Country Club Road, Lucas, Texas

City Councilmembers Present:

Mayor Dusty Kuykendall
Mayor Pro Tem Debbie Fisher
Councilmember Chris Bierman
Councilmember Tim Johnson
Councilmember Philip Lawrence
Councilmember Neil Peterson
Councilmember Brian Stubblefield

City Staff Present:

City Manager John Whitsell
City Secretary Toshia Kimball
Development Services Director Joe Hilbourn
CIP Manager Patrick Hubbard
Fire Chief Ted Stephens
Public Works Director Jeremy Bogle
Finance Director Liz Exum
Deputy Christopher Ronan

Mayor Kuykendall called the meeting to order at 6:30 p.m., determined that a quorum was present, and the Pledge of Allegiance was recited.

Citizen Input

1. Citizen Input

No citizen input.

Community Interest

2. Community Interest

- 2025 General Elections:
 - City Council Seats 5 and 6 are unopposed. The city will cancel the election, as a result, the Lucas Community Center will not be open for voting.
- Community Events:
 - Keep Lucas Beautiful Spring Cleanup – April 5, 2025 – 9 am – 1 pm
 - Founder's Day – April 12, 2025 – 10 am – 2 pm
 - Art in Public Places – April 22, 2025 – 5 pm – 7 pm
 - The Lucas Car Show – May 17, 2025 – 8 am – 12 pm
- Calling all Lucas Veterans and their families
 - If you or a family member are a veteran who resides in Lucas and would like to be featured at Founders Day, please send Ms. Fisher an email at dfisher@lucastexas.us.

Consent Agenda

3. Consent Agenda:

A. Approval of the February 6, 2025, meeting minutes



MINUTES

CITY COUNCIL REGULAR MEETING

March 6, 2025 | 6:30 PM

Council Chambers

City Hall | 665 Country Club Road, Lucas, Texas

- B. Approval of Ordinance 2025-03-01013 declaring unopposed candidates in the May 3, 2025, General Election to be elected to office, cancelling the May 3, 2025, General Election and providing an effective date.
- C. Approval of the City of Lucas Quarterly Investment Report ended December 2024.
- D. Approval of authorizing the city manager to negotiate and enter into a contract with Hydromax USA, LLC for fire hydrant and valve maintenance utilizing an interlocal agreement with the City of Garland, Texas in an amount not to exceed \$124,000.

MOTION: A motion was made by Councilmember Johnson, seconded by Councilmember Lawrence to approve the Consent Agenda as presented. The motion passed unanimously by a 7 to 0 vote.

Public Hearing

- 4. Conduct a public hearing and consider approving a request for a change in zoning from R2 (Residential 2-acre) to CB (Commercial Business) and amend the comprehensive zoning map on a tract of land being 7.96-acre tract located in the James Anderson Survey, Abstract No. 17, City of Lucas Collin County, Texas.
 - A. Presentation by Development Services Director Joe Hilbourn
 - B. Conduct public hearing
 - C. Take action on Zoning Change Request

Mayor Kuykendall opened the public hearing at 7:10 p.m.

Sarah Scott, 2500 Pacific Avenue, Dallas, Texas 75226, is in favor.

Mark Robinson, 7 Harvest Way, Wylie, Texas, 75098, is in favor.

Mayor Kuykendall closed the public hearing at 7:13 p.m.

MOTION: A motion was made by Councilmember Johnson, seconded by Councilmember Lawrence to approve a request for a change in zoning from R2 (Residential 2-acre) to CB (Commercial Business) and amend the comprehensive zoning map on a tract of land being 7.96-acre tract located in the James Anderson Survey, Abstract No. 17, City of Lucas Collin County, Texas. The motion passed unanimously by a 7 to 0 vote.



CITY COUNCIL REGULAR MEETING

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Regular Agenda

5. Consider the acceptance and approval of the following:

- **City of Lucas Annual Comprehensive Financial Report (ACFR) for Fiscal Year 2023-2024**
- **Alternative Compliance Examination of the Coronavirus State and Local Fiscal Recovery Funds (CSLFRF) for Fiscal Year 2023-2024.**

Susan K. LaFollett, CPA, Vail & Park, P.C. Principal and Tung Pham, CPA, Vail & Park Shareholder presented.

MOTION: A motion was made by Mayor Pro Tem Fisher, seconded by Councilmember Lawrence to approve the City of Lucas Annual Comprehensive Financial Report (ACFR) for Fiscal Year 2023-2024. The motion passed unanimously by a 7 to 0 vote.

MOTION: A motion was made by Mayor Pro Tem Fisher, seconded by Councilmember Lawrence to approve Alternative Compliance Examination of the Coronavirus State and Local Fiscal Recovery Funds (CSLFRF) for Fiscal Year 2023-2024. The motion passed unanimously by a 7 to 0 vote.

6. Consider an analysis of pavement condition data, discuss strategies for the City of Lucas Road Improvement Program, and provide direction to the city manager.

No motion is required on this item.

7. Consider approval of the 2025 City of Lucas Strategic Plan.

MOTION: A motion was made by Mayor Kuykendall, seconded by Councilmember Bierman to approve the City of Lucas 2025 Strategic Plan. The motion passed unanimously by a 7 to 0 vote.

8. Consider authorizing the city manager to negotiate and enter into an Interlocal Agreement with The South-Central Planning and Development Commission ("Licensor" or "SCPDC") for a suite of government management software modules collectively called MyGovernmentOnline (MGO) software (the "SCPDC Software"). Permitting, Planning and zoning applications, Public Works work orders, Code enforcement, Fire Inspections, Health inspections, Integrated GIS addressing, and online payments are included.

MOTION: A motion was made by Mayor Pro Tem Fisher, seconded by Councilmember Lawrence to approve a request to authorizing the city manager to negotiate and enter into an Interlocal Agreement with the South-Central Planning and Development



MINUTES

CITY COUNCIL REGULAR MEETING

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Commission ("Licensor" or "SCPDC") for a suite of government management software modules collectively called MyGovernmentOnline (MGO) software (the "SCPDC Software"). The motion passed unanimously by a 7 to 0 vote.

9. **Consider authorizing the city manager to reject all design-build proposals for an accessory structure for Lucas Fire Rescue and authorize advertising for new proposals.**

MOTION: A motion was made by Mayor Kuykendall, seconded by Councilmember Lawrence to approve a request authorizing the city manager to reject all design-build proposals for an accessory structure for Lucas Fire Rescue. The motion passed unanimously by a 7 to 0 vote.

Executive Session Agenda

10. **Executive Session:**

An Executive Session was not held at this meeting.

11. **Reconvene from Executive Session and take any action necessary as a result of the Executive Session.**

No action was taken from the Executive Session.

Adjournment

10. **Adjournment.**

MOTION: A motion was made by Councilmember Johnson, seconded by Mayor Kuykendall to adjourn the meeting at 7:52 pm. The motion passed unanimously by a 7 to 0 vote.

APPROVED:

ATTEST:

Dusty Kuykendall, Mayor

Toshia Kimball, City Secretary



City of Lucas

City Council Agenda Request

March 20, 2025

Requester: Development Services Director Joe Hilbourn

Agenda Item Request

Discuss Chapter 3 of the city's code of ordinances.

Background Information

The city has been amending and updating each Chapter of the city's Code of Ordinances. We have almost finished Chapter 14 Zoning. It is time to start looking at the next Chapter, Chapter 3 Building Regulations. The three sections staff would like to concentrate on in Chapter 3 are Fencing requirements, Sign regulations, and adopted Building Codes with Local Amendments. Article 3.11 Dangerous Buildings was reviewed by the engineering department in June of 2023 as Part of Chapter 10 Drainage. Article 3.22 Minimum Maintenance Standards were completed in January of 2023. Article 3.15 Irrigation complies with state law for required rain detection sensors, and when required. Article 3.18 Tree conservation and Landscaping meets the city's needs; we use that section regularly. 3.01 General Provisions have been updated regularly as needed, with the last update in February 2022. Article 3.02 was updated in 2017 and reviewed by the city attorney in 2024 for compliance with state law. Article 3.03 meets the city's needs. Article 3.17 Right of Way use meets the city's needs. Staff recommends having the city attorney review Article 3.13 Industrialized Housing for compliance with state law. Staff recommends updating 3.04 Building Code, 3.05 Mechanical Code, 3.06 Plumbing, 3.07 Electrical, 3.08 Residential Code, 3.09 Energy Conservation Code, 3.10 Fuel Gas Code, 3.20 Existing Building Code, 3.21 Swimming Pool and Spa Code. These need to be updated from the 2015 to either the 2021, 2024 versions, staff have purchased the 2021 version and reviewed changes from the 2015 version, we originally intended to bring this forward 18 months ago. We may want to consider moving to the 2024 version, the city usually skips one code cycle. When we adopt a new code series, we also usually adopt the North Texas Council of Governments recommended amendments. Staff would like the council to look at Article 3.19 Fencing Requirements, adopted in January 2015. The most complained-about ordinance we have by citizens accomplishes what the council at the time wanted. Staff have no concern with it other than the amount of opposition to it. Article 3.16 Signs: This one has some problems and will need to be reviewed from start to finish.

Attachments/Supporting Documentation

1. Fencing Regulations
2. Sign Regulations
3. Chapter 3

Budget/Financial Impact

NA



City of Lucas

City Council Agenda Request

March 20, 2025

Recommendation

1. Adopt 2024 International family of codes, with North Texas Council of Governments recommended amendments.
2. Adopt 2023 National Electric Code, with North Texas Council of Governments recommended amendments.
3. Have the city attorney review Article 3.13 Industrialized Housing for compliance with state law.
4. The City Council verifies if they are still okay with Article 3.19 Fencing Requirements, or if changes are needed.
5. Have staff work with the city attorney and update 3.16 Signs in its entirety.

Motion

No motion is required. Staff is seeking direction.

ARTICLE 3.19 FENCING REQUIREMENTS

§ 3.19.001. Applicability.

This article shall apply to all fences that are erected in the city for the purpose of creating a barrier and used to prevent entry and/or to confine or to mark a boundary provided such fence is greater than sixty (60) feet in length and greater than thirty-six (36) inches in height.
(Ordinance 2015-01-00808 adopted 4/2/15)

§ 3.19.002. Residential, agricultural and estate districts.

(a) Height.

- (1) Maximum height of 6 feet (6') for front yards.
 - (2) Maximum height of 8 feet (8') for side and rear yards.
- (b) Fencing located within the required front, side and rear yard setbacks shall be a minimum of 50% see through.
- (c) If property is used to pasture or control livestock, for farming or other similar agricultural uses, and such uses are permitted, the fencing requirements in section 3.19.003(b) are permitted.
- (d) Fencing located outside of the required, rear and side yard setbacks may be privacy-style.
(Ordinance 2015-01-00808 adopted 4/2/15)

§ 3.19.003. Prohibited fencing materials for agricultural; residential; and estate districts.

- (a) Razor ribbon, plywood or other materials that are not normally used for fencing are prohibited.
- (b) Electrically charged fences are permitted but cannot be charged in such a manner as to be dangerous to humans.
(Ordinance 2015-01-00808 adopted 4/2/15)

§ 3.19.004. General fencing requirements.

- (a) No fences are permitted to be constructed upon or caused to protrude over any city property, including easements, except by written approval of the city engineer, or right-of-way without prior written permission from the city council.
- (b) All fences must be maintained in good repair and appearance so as not to become a nuisance or hazard and shall not be out of vertical alignment greater than 20% measured from the top of the fence.
- (c) Any and all broken, loose, damaged, removed or missing portions of fencing must be replaced or repaired with comparable materials of a comparable color to the remaining portions of the fence.

- (d) Fences shall not obstruct proper visual clearance for vehicular traffic.
- (e) Each fence must contain at least one gate not less than three feet (3') wide along the common path of travel for emergency ingress and egress.
- (f) Any request for the construction of fence over eight feet (8') in height shall be considered for approved [approval] by the board of adjustments. The board of adjustment's decision shall not require a finding of a hardship and there shall be no application fee.
(Ordinance 2015-01-00808 adopted 4/2/15)

§ 3.19.005. Permit required.

- (a) A permit shall be required prior to the construction for all new fencing. A permit fee shall be set by ordinance and is contained in the master fee schedule.
- (b) A permit shall not be required for fence repair.
- (c) Any permit issued by the city does not allow for any construction of fencing in violation of any deed restrictions for the property.
(Ordinance 2015-01-00808 adopted 4/2/15)

§ 3.19.006. Commercial business district.

All proposed fencing within the commercial business district shall be required to be approved as part of the landscape plan approval process.
(Ordinance 2015-01-00808 adopted 4/2/15)

§ 3.19.007. Light industrial district.

All proposed fencing within the light industrial district shall be required to be approved as part of the landscape plan approval process.
(Ordinance 2015-01-00808 adopted 4/2/15)

§ 3.19.008. Self and mini-storage units.

Fencing for self and mini-storage unit facilities shall require a minimum eight foot (8') masonry screen wall on all sides with wrought iron gate(s) for ingress, egress and pedestrian gates.
(Ordinance 2015-01-00808 adopted 4/2/15)

§ 3.19.009. Penalty.

Any person, firm or corporation violating any provision of this article shall be punishable by a fine in accordance with section 1.01.009 of this code.
(Ordinance 2015-01-00808 adopted 4/2/15)

ARTICLE 3.16

SIGNS

§ 3.16.001 Purpose.

§ 3.16.002 Definitions.

§ 3.16.003 Penalty.

§ 3.16.004 Administration.

§ 3.16.005 General provisions.

§ 3.16.006 Noncommercial messages.

§ 3.16.007 Exempt signs.

§ 3.16.008 Prohibited signs.

§ 3.16.009 Signs allowed in specific zoning districts.

§ 3.16.010 Permits; inspections.

§ 3.16.011 Nonconforming signs.

§ 3.16.012 Variances.

§ 3.16.013 Compensation for signs required to be relocated, reconstructed or removed.

§ 3.16.001 Purpose.

The purpose of this article is to regulate the location, size, construction, erection, duration, use and maintenance of all signs within the jurisdiction of the city. The general objectives of these regulations are to promote safety, convenience, and a sense of community, and support the objectives of individual zoning districts while preserving the city's unique country appearance and atmosphere. Objectives to be pursued in applying specific standards are as follows:

(1) Safety. To promote the safety of persons and property by providing that signs:

(A) Do not create a hazard due to collapse, fire, decay or abandonment;

(B) Do not obstruct firefighting or police surveillance; and

(C) Do not create traffic hazards by confusing or distracting motorists, or by impairing the driver's ability to see pedestrians, obstacles or other vehicles or to read traffic signs.

(2) Communications efficiency. To promote the efficient transfer of information in sign messages so as to identify individual businesses and residential and public uses without creating confusion or unsightliness.

(3) Landscape quality and preservation. To protect the appearance and economic value of the landscape by providing that:

(A) All signs in terms of size, scale, height, and location are properly related to the overall adjacent land use, character and development lot size;

(B) All signs, sign supports and sign bases shall be so constructed and designed to provide for design compatibility with surrounding land use. The materials used, form, color, lighting and style should be similar to the materials used in the surrounding land uses;

(C) Signs do not interfere with scenic views;

(D) Signs do not create a nuisance to persons using the public rights-of-way;

(E) Signs do not constitute a nuisance to occupancy of adjacent and contiguous property by their brightness, size, or height;

(F) Signs are not detrimental to land or property values; and

(G) Signs contribute to the special character of the particular areas or districts within the city, helping the observer to understand the city and orient himself within it.

(Ordinance 2007-08-00596 adopted 8/2/07)

§ 3.16.002 Definitions.

Unless the context clearly indicates otherwise, for the purpose of this article, the following words and phrases have the meanings respectively ascribed to them by this section:

Advertise. To attract, or to attempt to attract, the attention of any person to any business, accommodations, goods, services, property, or commercial activity.

Advertising. Any promotion of commodities or services.

Agricultural sign. Any sign identifying the farm or ranch on which it is placed and advertising the produce, crops, animals or poultry raised or quartered thereon.

Animated. Copy or other images that flash or move or otherwise change.

Area. The area of a sign measured as follows:

(1) Square or rectangular signs: Length times height of the sign;

(2) Irregular shaped signs: Area of rectangles necessary to enclose the sign face; and

(3) Signs composed of individual letters mounted or painted on a natural or existing finish of a building surface: Sum of area of rectangle necessary to enclose total copy.

Attached sign. Any sign attached to, applied on, or supported by any part of a building (such as a wall, roof, window, canopy, awning, arcade, or marquee) that encloses or covers usable space.

Banner. A temporary sign containing a worded message or graphic image composed of lightweight material secured or mounted so as to allow movement caused by wind.

Board of adjustments. The board of adjustments of the city.

Building. A structure which has a roof supported by columns, walls, or air for the shelter, support, or enclosure of persons, animals or chattel.

Building official or designee. The individual, or his subordinates, designated by the city and charged with code and ordinance enforcement.

Changeable electronic variable message signs (CEVMS). A sign which permits light to be turned on or off intermittently or which is operated in a way whereby light is turned on or off intermittently, including an illuminated sign on which such illumination is not kept stationary or constant in intensity and color at all times when such sign is in use, including an LED (light emitting diode) or digital sign, and which varies in intensity or color. A CEVMS sign does not include a sign located within the right-of-way that functions as a traffic-control device and that is described and identified in the Manual on Uniform Traffic-Control Devices (MUTCD) approved by the Federal Highway Administrator as the National Standard.

Character. Any letter of the alphabet or numeral.

Commercial message. A message placed or caused to be placed before the public by a person or business enterprise directly involved in the manufacture or sale of the products, property, accommodations, services, attractions, or activities or possible substitutes for those things which are the subject of the message and that:

(1) Refers to the offer for sale or existence for sale of products, property, accommodations, services, attractions, or activities; or

(2) Attracts attention to a business or to products, property, accommodations, services, attractions, or activities that are offered or exist for sale or for hire.

Construction sign. A temporary sign identifying the property owner, decorator, architect, engineer, contractor, subcontractor and/or financier engaged in the design, construction or improvement of the premises on which the sign is located.

Copy. Letters, characters, illustrations, logos, graphics, symbols, writing or combination thereof designed to communicate information of any kind or to advertise, announce the purpose of, or identify the purpose of a person or entity, or to identify or advertise a business or business product, or to advertise the sale or lease of premises.

Directional sign. A temporary sign which is limited, exclusively, to the identification of a specific premises, occupancy, or owner of said premises located elsewhere, and which tells the location of and/or route to said premises or occupancy.

Erect. To build, attach, hang, place, suspend, fasten, affix, maintain, paint, draw, or otherwise construct.

Face or surface. The surface of the sign upon, against, or through which the message is displayed or illustrated on the sign.

Freestanding sign. Any self-supporting sign connected to the ground that is not attached to a building or structure for reasons of support.

Garage sale, estate sale, yard sale, rummage sale or similar sale signs. The occasional sale of tangible personal property.

Government sign. A flag, insignia, legal notice, or informational, directional, traffic, or safe school zone sign which is legally required or necessary to the essential functions of government agencies.

Height. As applied to a sign, means the vertical distance measured from an average elevation of the finished grade along the area of sign installation, excluding any artificial berming, to the highest part of the sign or its supporting structure, whichever is higher.

Identification sign. A sign that includes as copy only the name of the business, place, organization, building, or person it identifies.

Illuminated sign. Any sign which is directly lighted by an electrical or artificial light source, internal or external. This definition does not include signs that are illuminated by streetlights or other light sources owned by any public agency or light sources that are specifically operated for the purpose of lighting the area in which the sign is located rather than the sign itself.

Intersection. The junctions of the centerlines of any two public rights-of-way other than alleyways, crossing at grade, or, where the crossing is separated at grade, the intersection is the point where expressway travel pavements converge or diverge, or the point where any expressway interchange ramp intersects the expressway travel pavement.

Logo. Any formalized design or insignia of a company, service or product which is commonly used in advertising to identify that company, service or product.

Marketing sign. A temporary sign identifying the subdivision or manufactured home park name, and may include the name and telephone number of the home builders or sales contacts for the property, the price point, the city name and logo, and the school district name.

Noncommercial message. Any message that is not a commercial message.

Occupancy. The purpose for which a building is used or intended to be used. The term also includes the building or room housing such use.

Off-premises sign. A sign that pertains to a business, person, organization, activity, event, place, service, or product not principally located or primarily manufactured or sold on the premises on which the sign is located.

On-premises sign. A freestanding sign identifying or advertising a business, person, or activity, and installed and maintained on the same premises as the business, person, or activity.

Permanent. A sign intended to be used for a period of longer than six (6) months.

Person. An individual, corporation, sole proprietorship, government or governmental subdivision or agency, trust, partnership, or two (2) or more persons having a joint or common economic interest.

Political sign. Any type of sign which refers only to the issues, political parties or candidates involved in a political election.

Portable sign. Any sign that is not securely connected to the ground in such a way that it cannot easily be moved from one location to another, including signs which are mounted on skids, trailers, wheels, legs or stakes, and that is not an attached sign, vehicular sign, political sign, or a sign that refers solely to the sale or lease of the premises.

Premises. A lot or unplatted tract that is reflected in the plat books of the building inspection division of the city.

Protective sign. Any sign which is commonly associated with safeguarding the permitted uses of the occupancy, including but not limited to “bad dog,” “beware of dog,” “electric fence,” “no trespassing,” and “no solicitors.”

Residential subdivision sign. A sign used to identify the name of a specific residential subdivision.

Roofline. The uppermost part of the main structure of the building, excluding appurtenances such as air conditioners, chimneys, vents, etc.

Scoreboard. A sign displaying scores, statistics and general information for an athletic event during the course of play. Scoreboards shall be permissible only on public property or on property to which a substantial group of the public has access, owned, controlled or operated by the state, an instrumentality of the state, a school, or a municipality. Any commercial advertising or commercial messages shall be limited to no more than ten percent (10%) of the surface area of the front of the sign with no commercial message on the reverse side. When permitted, there shall be allowed no more than one scoreboard per playing field. A scoreboard shall not exceed a height of twenty-five feet (25') and shall not exceed a width of thirty feet (30'). Scoreboards shall conform to all sign requirements set forth in this article.

Setback. The distance between a sign and the nearest existing public right-of-way line or planned future right-of-way line as proposed on the city's thoroughfare plan, whichever is greater. An alley is not considered to be public right-of-way for the purpose of calculating a setback. Where a public way crosses a railroad right-of-way, the setback is measured from the public right-of-way line extended across the railroad right-of-way.

Sign. An outdoor structure, sign, display, light device, figure, painting, drawing, message, plaque, poster, billboard, or other thing that is designed, intended, or used to advertise or inform.

Special event sign. Signs for the advertisement of temporary events in the nature of religious or community gatherings, carnivals and Christmas tree sales and those other events likely of interest to the entire community of the city.

Support. Any pole, post, strut, cable, or other structural fixture or framework necessary to hold and secure a sign, providing that said fixture or framework is not imprinted with any picture, symbol or word using characters in excess of one inch in height, nor is internally or decoratively illuminated.

Vehicular sign. Any sign on a vehicle moving along the ground or on any vehicle parked, incidental to its principal use for transportation. This definition does not include signs which are being transported to a permanent site.

Visibility triangle. A triangle sight area, at all intersections, which shall include that portion of the public right-of-way and any corner lot within the adjacent curb lines and a diagonal line intersecting such curb lines at points fifty feet (50') back from their intersection.

(Ordinance 2007-08-00596 adopted 8/2/07; Ordinance 2008-07-00621 adopted 7/17/08)

§ 3.16.003 Penalty.

Any person, firm or corporation violating any of the provisions of this article shall be deemed guilty of a misdemeanor and, upon conviction, shall be punished by a penalty or fine as provided in section 1.01.009(a) of this code for each offense, and every day such offense is continued shall constitute a new and separate offense.

(Ordinance 2007-08-00596 adopted 8/2/07)

§ 3.16.004 Administration.

The duties and responsibilities of administering this article shall be vested in the building official or designee of the city or such other person as may be designated from time to time by the city administrator.

(Ordinance 2007-08-00596 adopted 8/2/07)

§ 3.16.005 General provisions.

(a) Signs shall be in harmony and consistent with the architecture of the building and relate to the features of the building in terms of location, scale, color, lettering materials, texture and depth. Signs shall not be dominant but shall be proportionate and shall complement the building, existing signs and surroundings.

(b) There shall be consistent sign design throughout a particular development, whether residential or commercial. The design elements include style of lettering, construction material, size and illumination.

(c) Freestanding signs shall be integrated with the landscaping on site.

(d) No electric wiring associated with a sign shall be visible to public view.

(e) Illuminated signs.

(1) Sources of sign illumination shall be completely shielded from the view of vehicular traffic and shall not be visible from any residential district.

(2) External lights used for the illumination of any sign on a building, whether or not such lights are attached to or separate from the building, shall not project above the highest elevation of the front wall of the building or more than eighteen feet (18') above the street level of the premises, whichever is less.

(3) Sources of sign illumination shall be extinguished by 10:00 p.m., and shall remain extinguished until dawn or one-half hour before the business opens, whichever is earlier.

Commented [JH1]: Should be city manager, not administrator, the whole sentence is wrong Should city manager or city managers designee Not Building official or his designee

Commented [JH2]: Not really sure what that means

Commented [JH3]: This is hard for applicants in a strip Mall to accommodate, some franchises having differing requirements for lettering, colors, etc..

Commented [JH4]: Visible?

Commented [JH5]: What if the business is 24 hours a day?

(f) There shall be no minimum setback requirement for freestanding signs; provided, however, that freestanding signs shall not be placed or erected within any public right-of-way, are not erected within the visibility triangle, and comply with the provisions of this article.

(g) Signs within the visibility triangle are prohibited.

(h) Signs in which electrical wiring and connections are used shall comply with the requirements of the city's electrical code.

(i) Every sign in the city, regardless of whether any permit is required for such sign, shall be maintained in a safe, presentable and sound structural and operational condition at all times, including the replacement of nonfunctioning, broken, defective, or missing parts, painting, repainting, cleaning and any other acts required for the maintenance of such sign. All signs and sign supports, brackets and frames shall be kept painted or otherwise treated to prevent rust, rot or deterioration. If, upon inspection by the building official or designee, a sign is found to violate this section, written notice shall be given to the owner, giving the owner sixty (60) days to either put the sign in acceptable condition or remove the sign. Otherwise, the building official or designee is hereby authorized to cause the removal of the sign at the expense of the owner.

(j) Banners shall be permissible for a period not exceeding thirty (30) calendar days in a year and are subject to permitting. The thirty (30) days can be during one (1) time period, four (4) one-week periods or two (2) two-week periods.

(Ordinance 2007-08-00596 adopted 8/2/07)

§ 3.16.006 Noncommercial messages.

Notwithstanding any other provision of this article to the contrary, any noncommercial message may be substituted for the message on any commercial sign allowed by this article, and any other noncommercial message may be substituted for any noncommercial message on any sign allowed by this article.

(Ordinance 2007-08-00596 adopted 8/2/07)

§ 3.16.007 Exempt signs.

Exempt signs as designated under this section are allowed without a permit in all zoning districts in accordance with this article.

(1) City governmental signs for control of traffic or other regulatory purposes, street signs, danger signs, railroad crossing signs and signs of public service companies indicating danger and/or aids to service or safety which are erected by or on approval of the city.

(2) The flag, pennant or insignia of any nation, organization of nations, state, county or city, of any religious, civic or fraternal organization, or of any educational institution, provided such flags are no larger than sixty (60) square feet, are flown on a pole no higher than thirty-five feet (35'), are flown at a height no greater than thirty-five feet (35') if attached to a building, and are not illuminated, and provided such flags are not used in connection with a commercial promotion or as an advertising device.

Commented [JH6]: Do Banners include Pennants and Flags?

Commented [JH7]: There is no allowance for grand openings or special events, to allow extra signage, banners, flags typical grand opening type things.

(3) Signs that contain primarily a political message and are located on private real property with the consent of the property owner and:

(A) Do not have an effective area greater than thirty-six (36) feet;

(B) Are not more than eight (8) feet high;

(C) Are not illuminated; or

(D) Do not have any moving elements.

(4) Special event signs on public property designated by the city for such signage, provided that they are not illuminated and provided they are not erected more than thirty (30) days prior to the event to which they apply and are removed within seven (7) days after the event to which they apply. Special event signs must not exceed six (6) feet in height, and shall be no larger than sixty-four (64) square feet in area.

(5) Temporary holiday lights and decorations which do not contain advertising and are not used as such, clearly incidental and customarily and commonly associated with any national, local or religious holiday.

(6) Two (2) nonilluminated attached identification signs including only the address and/or name of the occupant per lot or parcel, whichever is greater, not to exceed two (2) square feet in area.

(7) A maximum of two (2) protective signs per acre, in accordance with the following provisions:

(A) Each sign must not exceed one-and-one-half (1-1/2) square feet in area.

(B) Detached signs must not exceed two (2) feet in height.

(C) Letters must not exceed six inches (6") in height.

(D) Such signs shall be nonilluminated.

(8) One (1) temporary nonilluminated sign shall be allowed on each lot or parcel of real estate, whichever is larger, to advertise the leasing, rental or sale of such lot or parcel, provided that it does not exceed six (6) square feet in total area and no part of such sign shall extend more than four feet (4') above the surface of the ground on which it is erected.

(9) Temporary resident information signs on matters of local interest such as garage, estate, yard or similar sales, provided such signs are not illuminated and do not exceed four-and-one-half (4-1/2) square feet in area. Each sign must have the name of the resident erecting the sign and the date of the posting and must be removed within twenty-four (24) hours following the conclusion of the event.

(10) Nonilluminated temporary signs for the seasonal sale of agricultural products such as hay, grain, fruits and vegetables, not to exceed thirty-two (32) square feet in area, and provided that the products are produced within the city or extraterritorial jurisdiction of the city.

(11) Any wrought iron or pipe fencing which forms a name, address or logo as an ornamental part of the fencing, gate, or entrance to premises.

(12) Any landscaping, including plants, flowers, rocks, seashells or wood mulch, which is grown, trimmed or manipulated in such a way as to form sign copy.

(13) Temporary resident information signs on matters of local interest such as lost and found pet notices, free pets, and neighborhood gatherings, provided such signs are not illuminated and do not exceed four-and-one-half (4-1/2) square feet in area. Each sign must have the name of the resident erecting the sign and the date of the posting and must be removed within seven days of the date of the posting.

(14) Construction signs shall conform to the following requirements:

(A) The sign area shall not exceed twelve (12) square feet.

(B) Construction signs may not be illuminated.

(C) Signs shall not be placed more than seven (7) days in advance of the project, and must be removed within seven (7) days of completion of the project.

(D) Only one construction sign per street frontage, per property is permitted.

(Ordinance 2007-08-00596 adopted 8/2/07; Ordinance 2012-10-00742 adopted 10/18/12; Ordinance 2013-02-00751 adopted 2/7/13; Ordinance 2014-02-00774 adopted 2/20/14)

§ 3.16.008 Prohibited signs.

(a) Signs using any combination of forms, words, colors, or lights which imitate standard public traffic regulatory or emergency signs or signals are prohibited. No sign shall make use of the word “stop,” “go,” “look,” “slow,” “danger,” or any other similar word, phrase, symbol or character or employ any red, yellow, orange, green or other colors or light in such a manner as to interfere with, mislead or confuse vehicular or pedestrian traffic.

(b) No sign shall be erected, relocated or maintained so as to prevent free ingress to or egress from any door, window, or fire escape. No sign of any kind shall be attached to a standpipe or fire escape except signs relating directly to a standpipe or fire escape.

(c) Animated signs, including but not limited to those signs or sign parts which flash, reflect, blink, or effect changes in hue or intensity or illumination, are prohibited. Signs or sign parts illuminated to such intensity or in such a manner as to cause glare or brightness to a degree that they constitute hazards or nuisances are prohibited, including searchlights and beacons. Signs which employ the use of luminescent inert gases, including but not limited to neon, argon and krypton, and which are visible from the exterior of structures, are specifically prohibited.

Commented [JH8]: Prohibiting Digital signs is dated.

(d) Moving signs, including but not limited to signs which rotate, move or reflect, pennants, banners, streamers, flags (except as specifically permitted under section 3.16.007(4)), and generally, signs having parts which may be set in motion by mechanical, electrical or atmospheric means.

(e) Signs which emit sound, odor or visible matter are prohibited.

(f) A sign shall not project above the top of the second floor or the roofline, whichever is lower, of the building to which it is affixed.

(g) Off-premises signs, including but not limited to temporary real estate directional signs and billboards are prohibited unless specifically authorized by another section of this article.

(h) Portable signs are specifically prohibited.

(i) Signs attached to or upon any vehicle where any such vehicle is allowed to remain parked in the same location or in the same vicinity, at frequent or extended periods of time, where the intent is apparent to be using the vehicle and signs for purposes of advertising an establishment, service or product, are prohibited.

(j) No person shall attach or maintain any sign upon any public utility pole or tree.

(k) Freestanding signs that exceed forty (40) square feet in area or six (6) feet in height are prohibited unless specifically authorized by another section in this article.

(l) It shall be unlawful for any person to display upon any sign any obscene, indecent or immoral matter.

(m) Changeable electronic variable message signs and other moving, flashing, intermittently lighted, changing color, beacons, revolving or similarly constructed signs shall not be allowed.

Commented [JH9]: This may be a bit dated

(Ordinance 2007-08-00596 adopted 8/2/07; Ordinance 2008-07-00621 adopted 7/17/08)

§ 3.16.009 Signs allowed in specific zoning districts.

The following signs, in the use district where permitted, require the issuance of a sign permit prior to the erection of such signs:

(1) AO agricultural district.

(A) One (1) nonilluminated freestanding sign used for identification and containing information relating specifically to operations on the premises, not to exceed forty (40) square feet in area and not to exceed five feet (5') in height, and the characters comprising the sign shall not be less than six inches (6") in height.

(B) One (1) nonilluminated attached sign not to exceed forty (40) square feet in area. The characters comprising the sign shall be between seven inches (7") and thirty inches (30") in height.

(2) R2, R1.5, R1, and MHD single-family residential districts.

Commented [JH10]: No letter size requirements in this district

(A) Residential subdivisions and manufactured home parks.

(i) Signage identifying a given subdivision or manufactured home park may be erected at one (1) entrance only. One (1) permanent identification sign may be erected on each side of said entrance not to exceed five feet (5') in height.

(ii) One (1) nonilluminated marketing sign, not to exceed twenty-four (24) square feet in area and not to exceed eight feet (8') in height, and provided that such sign is located on the premises where home or lot sales will be occurring. Only one marketing sign shall be erected for each subdivision or manufactured home park and is to be removed no later than three (3) years after the city grants substantial completion, twelve (12) months after the subdivision or manufactured home park has

95% of the lots or homes sold or transferred, or upon issuance of the last certificate of occupancy, whichever event is first occurring. The erection of a marketing sign may occur for each individual phase of the subdivision or manufactured home park sequentially, but in no instance shall there be the allowance of more than one marketing sign for the subdivision or manufactured home park at one time. No copy on any marketing sign may refer to other existing or future subdivisions or manufactured home parks.

(B) Nonresidential uses.

(i) One (1) nonilluminated attached sign not to exceed forty (40) square feet in area. The characters comprising the sign shall be between seven inches (7") and thirty inches (30") in height.

(ii) One (1) nonilluminated freestanding sign not to exceed thirty-two (32) square feet in area and not to exceed four (4) feet in height.

(3) C commercial district; LI light industrial district; VC village center district.

(A) Plans to be submitted by applicant. All applications for sign permits must include a dimensioned drawing illustrating the design of the sign, the height, base, frame materials, color schemes, and letter size to be contained within the sign. If the sign is an electrical sign, electrical plans and specifications, and a site plan showing the location of the sign is also required. When requested by the chief building official, more detailed plans may be required and such plans may be required to be prepared by a registered professional engineer or architect.

Commented [JH11]: 4' tall from grade?

Commented [JH12]: One size fits all approach for three districts, and no letter sizes in these districts.

Commented [JH13]: Should be City Manager of Designee

(B) Specific criteria for certain signs.

(i) Monument signs.

a. Location. Signs shall not be placed in that portion of any corner lot in the city which portion is included in a triangle of the street corner of the lot formed by a diagonal line intersecting the curb line, at points twenty (50) [sic] feet from the street corner intersection of the curb line.

Commented [JH14]: Consistency some areas refer to a visibility triangle others Give dimensions of a triangle different from the cities visibility triangle.

b. Height. The maximum allowable overall height of the sign including the base, measured from existing grade or ground level is 6 feet. Creating a grade by berming or adding fill to increase the height of the sign is prohibited.

c. Sign area. The sign area illustrating the business name must not exceed forty (40) square feet. The overall sign area, including the base and/or supporting frame, may be no more than eighty (60) [sic] square feet.

d. Sign base. Monument bases must be a minimum of two (2) feet in height for signs 6 feet or less in total height. All bases must have a minimum width of one (1) foot, and the entire base utilized for construction of the monument base and sign frame shall be compatible in materials and color with building materials selected for use on the main building of the lot.

e. Setback. There shall be no minimum setback requirement for freestanding signs; provided, however, that freestanding signs shall not be placed or erected within any public right-of-way, are not erected within the visibility triangle, and comply with the provisions of this article.

f. Lighting. Single-faced or double-faced signage is allowed. Lighting is permissible by back fluorescent or accent lighting.

Commented [JH15]: Fluorescent lighting is a bit dated

g. Sources of illumination for signs in any district are to be extinguished by 10:00 p.m.

Commented [JH16]: What if it is a 24 hour business?

h. Distance between signs. The minimum distance between business signs is one hundred (100) feet.

(ii) Signs for multiple buildings located on a single premises. Signs located in the front yard of lots containing multiple main buildings which are separate and independent buildings must adhere to the following guidelines:

a. Wall signs are allowed.

b. Monument signs are allowed if the main building exceeds two thousand five hundred (2,500) square feet.

c. No monument sign may be spaced closer than one hundred (100) feet along the street frontage for any one (1) lot or development.

d. The monument sign criteria contained in subsection (B)(i) of this section applies.

(iii) Menu boards.

a. Location. Signs shall not be placed in that portion of any corner lot in the city which portion is included in a triangle of the street corner of the lot formed by a diagonal line intersecting the curb line, at points twenty (20) feet from the street corner intersection of the curb line.

b. Height. The maximum allowable height measured from existing grade or ground level is seven (6) [sic] feet. Creating a grade by berming or adding fill to increase the height of the sign is prohibited.

c. Sign area. The overall sign area may not exceed forty (40) square feet.

d. Appearance. To avoid distractions that could constitute a traffic hazard, menu boards must be compatible with the architecture of the main building.

(iv) Wall signs.

a. Location. One (1) wall sign is allowed on the front facade of the building. Additional wall signs may be placed on any other facade of the building if such facade faces an abutting street.

b. Sign area. A wall sign may be up to ten (10) percent of the front facade or 100 square feet maximum.

(v) Construction sign. One (1) nonilluminated construction sign, not to exceed twenty-four (24) square feet in area and not to exceed six feet (6') in height and provided that such signs are located on the premises where construction will be occurring. Only one construction sign may be erected for each commercial establishment and is to be removed upon completion of a permanent identification sign or issuance of certificate of occupancy, whichever is sooner.

(4) Lakeside development district.

(A) One (1) attached sign not to exceed forty (40) square feet in area. The characters comprising the sign shall be between seven inches (7") and thirty inches (30") in height.

(B) One (1) freestanding sign not to exceed forty (40) square feet in area and not to exceed six (6) feet in height. The characters comprising the sign shall be between seven inches (7") and thirty inches (30") in height.

(C) One (1) nonilluminated construction sign, not to exceed twenty-four (24) square feet in area and not to exceed six feet (6') in height, and provided that such signs are located on the premises where construction will be occurring. Only one construction sign may be erected for each commercial establishment and is to be removed upon completion of a permanent identification sign or issuance of certificate of occupancy, whichever is sooner.

(5) OS open space district; ED estate development district.

(A) One (1) nonilluminated freestanding sign, not to exceed twenty-four (24) square feet in area nor three feet (3') in height, and having characters no less than six inches (6") in height.

(B) One (1) nonilluminated attached sign not to exceed forty (40) square feet in area. The characters comprising the sign shall be between seven inches (7") and thirty inches (30") in height.

(Ordinance 2007-08-00596 adopted 8/2/07)

Commented [JH17]: Lakeside development was removed from the cities requirements some time ago

Commented [JH18]: No monument signs but free standing allowed?

Commented [JH19]: Light Industrial sign requirements?

§ 3.16.010 Permits; inspections.

(a) Except as otherwise provided for in section 3.16.007 (Exempt signs), it shall be unlawful for any person to erect, place, display, alter or relocate a sign without first obtaining a permit or permits from the city.

(b) It shall be the duty of the building official or designee, upon the filing of an application for a sign permit, to examine the plans, specifications and other data, including the premises upon which the sign is to be erected, relocated, or repaired, including the following information:

(1) Name, address, and telephone number of the owner of the property.

(2) Size of the sign (i.e., height, length, area, thickness, number of faces).

(3) Letter style and size.

(4) Illumination.

(5) Colors (i.e., background, letters, trim).

(6) Construction, materials, structural integrity and installation details.

(7) Location (i.e., height above grade, distance from roofline, building width, location from lot lines).

(c) If the proposed structure is in compliance with all the requirements of this article, the building code and all other applicable laws and ordinances of the city, the city shall then issue the sign permit. If the work authorized under a sign permit has not been completed within ninety (90) days after the date of issuance, the permit shall become null and void unless renewed by the city.

(d) The building official or designee may, in writing, suspend or revoke a permit issued under provisions of this article whenever the permit is issued on the basis of a material omission or misstatement of fact, or in violation of this article or this code or the laws of this state or the federal government.

(e) Sign permits for new or additional signs shall not be issued for a specific occupancy if such occupancy displays unlawful or nonconforming signs. A sign permit may be issued for a specific occupancy provided the terms thereof specify modification or removal of nonconforming signs resulting in conformity with the provisions of this article.

(f) On application for any sign permit required by this article, the city shall collect a fee in accordance with the fee schedule of the city, as amended from time to time.

(g) Each sign requiring a permit shall be inspected by the building official or designee in January of each year so as to determine compliance with the approved application and permit issued. The building official or designee shall communicate in writing to the owner of any sign found not in compliance and said sign shall be subject to the conditions outlined in section 3.16.005(i) of the general provisions of this article. For this inspection, the city shall collect an annual fee in accordance with the fee schedule of the city, as amended from time to time.

(Ordinance 2007-08-00596 adopted 8/2/07)

§ 3.16.011 Nonconforming signs.

- (a) Existing signs in conflict with this article shall be classified as nonconforming.
- (b) A nonconforming sign shall not be altered, rebuilt, enlarged, extended, or relocated.
- (c) A nonconforming sign shall not be permitted to remain after cessation or change of the business or activity to which the sign pertains.
- (d) A nonconforming sign shall not be reestablished, repaired, or rebuilt if the sign is allowed to deteriorate, or is damaged or destroyed by any means, to an extent that the cost of repair or reconstruction is 50% or more of the replacement cost.
- (e) A nonconforming sign shall not be converted to another nonconforming sign by changing copy, except as follows: Any existing sign which is designed for changing copy, such as a bulletin or message board, joint identification tenant sign, or gasoline pricing sign, may be changed where individual letters, numerals, or name panels are readily interchangeable.
- (f) A nonconforming off-premises sign (billboard) located on any lot shall be removed prior to the issuance of any building permit, or prior to any variance, use permit, replatting, or zoning change becoming effective for that lot, and shall not be reconstructed at any later time.
- (g) A lot may not be divided, or created, for the express or implied purpose of preserving the nonconforming status of any off-premises/off-site sign (billboard).
- (h) On premises where there exists a nonconforming sign, no new sign of any type otherwise permitted in this article shall be erected or placed on such premises, permanently or temporarily, until such existing legal nonconforming sign is brought into compliance with this article or otherwise removed.
- (i) Signs rendered discontinued:
 - (1) The use of any sign which is located on property which becomes vacant and unoccupied for a period exceeding twelve (12) months shall be deemed to have been discontinued. Any sign whose use has been discontinued is prohibited and shall be removed.
 - (2) Sign structures which remain vacant for a period exceeding ninety (90) days, devoid of any message of permitted or legal nonconforming use for ninety (90) days, or display a message pertaining to a time, event, or purpose that no longer applies for a period exceeding ninety (90) days, shall be deemed to be discontinued. Any sign whose use has been discontinued is prohibited and shall be removed.

(Ordinance 2007-08-00596 adopted 8/2/07)

§ 3.16.012 Variances.

The board of adjustments shall have authority to grant special variance exceptions from the provisions of this article on proper application. Special exceptions may be granted when circumstances permit and when the proposed exception does not violate the spirit or intent of this article, on such conditions and requirements as may reasonably be required by the board.

(Ordinance 2007-08-00596 adopted 8/2/07)

§ 3.16.013 Compensation for signs required to be relocated, reconstructed or removed.

(a) Generally.

Subject to the requirements of chapter 216, Local Government Code, the city may require the relocation, reconstruction, or removal of any sign within its corporate limits or extraterritorial jurisdiction. In lieu of compensation for a sign that is required to be relocated, reconstructed, or removed, the city may exempt from required relocation, reconstruction, or removal those signs lawfully in place on the effective date of the requirement.

(b) Sign board. Before requiring the relocation, reconstruction, or removal of any sign within the city's corporate limits or extraterritorial jurisdiction, the mayor shall first appoint a city board on sign control. Members of this board shall be appointed for a term of two (2) years. The sign board shall be composed of:

(1) Two (2) real estate appraisers, each of whom must be a member in good standing of a nationally recognized professional appraiser society or trade organization that has an established code of ethics, educational program, and professional certification program;

(2) One (1) person engaged in the sign business in the municipality;

(3) One (1) employee of the state department of transportation who is familiar with real estate valuations in eminent domain proceedings; and

(4) One (1) architect or landscape architect licensed by this state. Members are appointed for a term of two (2) years.

(c) Determination of amount of compensation. The board shall first determine the amount of compensation due the owner of a sign that is required to be relocated, reconstructed, or removed. The determination shall be made after the owner of the sign is given the opportunity for a hearing before the board about the issues involved in the matter.

(d) Compensation for relocated sign. The compensable costs for a sign that is required to be relocated include the expenses of dismantling the sign, transporting it to another site, and re-erecting it. The board shall determine the compensable costs according to the standards applicable in a proceeding under chapter 21, Texas Property Code. In addition, the city shall issue to the owner of the sign an appropriate permit or other authority to operate a substitute sign of the same type at an alternative site of substantially equivalent value. Whether an alternative site is of substantially equivalent value is determined by standards generally accepted in the outdoor advertising industry, including visibility, traffic count, and demographic factors. The city shall compensate the owner for any increased operating costs, including increased rent, at the new

(4) The city may provide for the issuance of sign abatement revenue bonds and use the proceeds to make payments to reimburse costs to the owners of signs within its corporate limits that are required to be relocated, reconstructed, or removed.

(5) The city may pay compensable costs in cash.

(i) Tax appraisal of property with nonconforming sign. For each nonconforming sign, the board shall file with the appropriate property tax appraisal office the board's compensable costs value appraisal of the sign. The appraisal office shall consider the board's appraisal when the office, for property tax purposes, determines the appraised value of the real property to which the sign is attached.

(j) Exceptions.

(1) The requirements of this section do not apply to a sign that was erected in violation of local ordinances, laws, or regulations applicable at the time of its erection.

(2) The requirements of this section do not apply to a sign that, having been permitted to remain in place as a nonconforming use, is required to be removed by the city because the sign, or a substantial part of it, is blown down or otherwise destroyed or dismantled for any purpose other than maintenance operations or for changing the letters, symbols, or other matter on the sign.

(3) For purposes of subsection (2) above, a sign or substantial part of it is considered to have been destroyed only if the cost of repairing the sign is more than sixty percent (60%) of the cost of erecting a new sign of the same type at the same location.

Chapter 3

BUILDING REGULATIONS

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- § 3.01.001. Penalty.
- § 3.01.002. Violations declared nuisance.
- § 3.01.003. (Reserved)
- § 3.01.004. Administration and enforcement.
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ARTICLE 3.02 BUILDING AND STANDARDS COMMISSION

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- § 3.03.001. Required.
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ARTICLE 3.04 BUILDING CODE

- § 3.04.001. Adopted.
- § 3.04.002. Amendments.
- § 3.04.003. Certificate of occupancy.
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ARTICLE 3.05 MECHANICAL CODE

- § 3.05.001. Adopted.
- § 3.05.002. Amendments.

ARTICLE 3.06 PLUMBING

DIVISION 1 Generally

- § 3.06.001. through § 3.06.030. (Reserved)

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- § 3.06.031. Adopted.
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ARTICLE 3.07 ELECTRICAL

DIVISION 1 Generally

- § 3.07.001. Office of electrical inspection.
- § 3.07.002. Permit required; exceptions.
- § 3.07.003. Application for permit.
- § 3.07.004. Fees.
- § 3.07.005. Inspection of installations made under permit.

LUCAS CODE

§ 3.07.006.	Effect of notice of conformance.	§ 3.09.002.	Amendments.
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ARTICLE 3.01
GENERAL PROVISIONS

§ 3.01.001. Penalty.

Any person or corporation who shall violate any of the provisions of this chapter or fail to comply therewith or with any of the requirements thereof, or who shall build or alter any building or use in violation of any detailed statement or plan submitted and approved hereunder, shall be guilty of a misdemeanor and shall be liable for a fine as provided in section 1.01.009 of this code, and each day such violation shall be permitted to exist shall constitute a separate offense. The owner or owners of any building or premises or part thereof, where anything in violation of this chapter shall be placed or shall exist, and any architect, builder, contractor, agent, person or corporation employed in connection therewith and who may have assisted in the commission of any such violation, shall be guilty of a separate offense, and upon conviction shall be fined as herein provided.

(1995 Code, sec. 3-10; Ordinance adopting Code)

§ 3.01.002. Violations declared nuisance.

Any development, construction, site preparation, enlargement or structural alteration in violation of any provision of this chapter or the city building code is hereby declared to be a common nuisance and may be abated by the city in any manner authorized by law, including injunction and an action for damages.

(Ordinance 2000-10-00435, sec. 1, adopted 10/23/00)

§ 3.01.003. (Reserved)

Editor's note—Former section 3.01.003 pertaining to the building official and deriving from section 3-1 of the 1995 Code, was repealed and deleted in its entirety by Ordinance 2011-01-00673 adopted by the city on January 20, 2011.

§ 3.01.004. Administration and enforcement.

The provisions of this chapter shall be administered and enforced by the building official of the city, or such other person as may be designated by the city manager. All applications for building permits shall be accompanied by a plat in duplicate, drawn to scale, showing the actual dimensions of the lot to be built upon, the size of the building to be erected, the use of the property, and such other information as may be necessary to provide for the enforcement of these regulations. A careful record of such applications and plats shall be kept in the office of the city secretary, or such other person as may be designated by the city manager.

(Ordinance 2011-01-00673 adopted 1/20/11)

§ 3.01.005. Building permit.

(a) Required; application; expiration.

- (1) It shall be unlawful for any person, firm or corporation to commence the construction, enlargement or structural alteration of any building in the city or in its extraterritorial jurisdiction without first applying for and securing a building permit prior to commencement of development, construction or site preparation.
- (2) The issuance or granting of a permit or approval of plans and specifications shall not be deemed or construed to be a permit for, or an approval of, any violation of any of the provisions of this

code. No permit presuming to give authority to violate or cancel the provisions of this code shall be valid except insofar as the work or use which is authorized is lawful.

- (3) The issuance or granting of a permit or approval of plans shall not prevent the administrative authority from thereafter requiring the correction of errors in said plans and specifications or from preventing construction operations being carried on thereunder when in violation of this code or of any other ordinance or from revoking any certificate of approval when issued in error.
 - (4)
 - (A) Every permit issued by the building official under the provisions of this code shall expire by limitation and become null and void if the building or work authorized by such permit is not commenced within 180 days from the date of such permit, or if the building or work authorized by such permit is suspended or abandoned at any time after the work is commenced for a period of 180 days. Before such work can be recommenced, a new permit shall be first obtained to do so, and the fee therefor shall be one-half the amount required for a new permit for such work, provided no changes have been made or will be made in the original plans and specifications for such work, and provided further that such suspension or abandonment has not exceeded one year. In order to renew action on a permit expiration, the permittee shall pay a new full permit fee.
 - (B) Any permittee holding an unexpired permit may apply for an extension of the time within which work may commence under that permit when the permittee is unable to commence work within the time required by this subsection for good and satisfactory reasons. The building official may extend the time for action by the permittee for a period not exceeding 180 days on written request by the permittee showing that circumstances beyond the control of the permittee have prevented action from being taken. No permit shall be extended more than once.
 - (5) Every application for a building permit shall be accompanied by a drawing or plot plan in duplicate, together with such other copies as the building official may require for city review, showing the lot lines, the subdivision name, the lot and block numbers, the location of the building on the lot, accurate dimensions of building and lot, and such other information as may be necessary to provide for the enforcement of the zoning regulations. A record of the original copy of such application and plans shall be kept in the office of the building official and a duplicate copy of the approved plan shall be at the building at all times during construction and for four (4) years thereafter.
 - (b) Denial or revocation. If the city, by and through an engineer engaged by the city for the purposes of studying and reporting on the application, determines that the construction, enlargement or structural alteration of any building or other structure or facility in the city or its extraterritorial jurisdiction would not comply with the provisions of any article of the city code or any ordinance of the city or would endanger the health or welfare of the citizens of the city, the city secretary shall so inform the city council, who may deny or revoke the building permit. The city secretary shall notify the applicant, in writing, of the denial.
 - (c) Fee. At the time a building permit is issued, the city secretary shall receive from the applicant a fee that is set from time to time by resolution of the city council.
 - (d) Starting without a permit. Where work for which a permit is started prior to obtaining a permit, the fee specified shall be doubled, but the payment of such double fee shall not relieve any person from fully complying with the requirements of the applicable building code in the execution of the work, nor shall it relieve the person from any other penalties that may be applicable.
- (1995 Code, sec. 3-3; Ordinance 1996-05-00333.1, sec. 1, adopted 5/6/96; 1995 Code, secs. 3-3–3-5;

Ordinance 2022-02-00944 adopted 2/17/22)

§ 3.01.006. Certificate of occupancy.

- (a) Required; application. It shall be unlawful for any person, firm, or corporation to use or occupy any building in the city without first securing a certificate of occupancy and compliance from the building official of the city. Application shall be made on forms furnished by the city secretary.
- (b) Issuance; posting.
- (1) When certificate issued; contents. After final inspection when it is found that the premises and building or structure comply with the provisions of this code and with other pertinent ordinances of this jurisdiction, the building official shall issue a certificate of occupancy, which shall contain the following:
- (A) The address of the building.
 - (B) The name and address of the owner.
 - (C) The description of that portion of the building for which the certificate is issued.
 - (D) The name of the building official.
 - (E) The zoning district in which the use is located.
- (2) Temporary certificate. A temporary certificate of occupancy may be issued by the building official for the use of a portion or portions of a building or structure prior to the completion of the entire building or structure.
- (3) Posting. The certificate of occupancy shall be posted in a conspicuous place on the premises and shall not be removed except by the building official.

(1995 Code, secs. 3-6, 3-7)

§ 3.01.007. Indemnification of city.

Registrants under the building code shall indemnify and hold harmless the city, its officials, employees and agents against all claims and damages, including attorney fees, for which the city and such persons do not have governmental immunity, which arise or result from the issuance and exercise of a permit issued hereunder pursuant to an application from a registrant.

(1995 Code, sec. 3-12)

§ 3.01.008. Construction in easement.

- (a) Regardless of materials or manner of construction, or unique characteristics of land, it shall be unlawful for any person, firm or corporation to do, or cause or permit to be done, the installation, revision, or relocation of any construction improvement where any part of such improvement is to be located in a public easement for street, drainage or utilities, except as such improvement may be specifically provided for the city ordinances.
- (b) The term “improvement” includes, but is not limited to, concrete or asphalt paving, swimming pools, fences, retaining walls, temporary or permanent buildings, earth fill or excavation, and landscaping. “Improvement” shall not include public or private mailboxes or poles and boxes necessary for public utility services.

- (c) Improvements in city street easements may be allowed by specific approval of the city council, subject to the property owner indemnifying the city against claims for repair or damages that might occur because of the improvements.
 - (d) Improvements in any other public easement may be allowed by specific approval of the city engineer, based on criteria which consider any adverse effect on the municipal use or purpose of the easement, and subject to indemnification by the property owner as described above.
- (1995 Code, sec. 3-8)

§ 3.01.009. Sanitary facilities at construction sites.

Adequate sanitary facilities for the convenience of all workmen shall be provided. These facilities shall be kept in a clean and sanitary condition throughout the duration of the work. The temporary sanitary facilities shall be enclosed, screened, and weatherproofed and shall be connected to an approved septic system. Upon removal of the temporary facilities, the septic connection shall be removed and suitably capped. In lieu of connecting to an approved septic system, the temporary facility may be a portable, enclosed, chemically treated, tank-tight unit, as approved by the building official.

(1995 Code, sec. 3-9)

§ 3.01.010. Construction hours.

Loading, unloading and handling of construction material and the use of any tools or equipment used in construction, drilling or demolition work shall be permitted and lawful only between the hours of 7:00 a.m. and 6:00 p.m., Monday through Saturday, except by written special permission given by the building department. A person in control of the activity or the owner of such property commits an offense if he fails to prevent such construction during the prohibited hours.

(Ordinance 2000-10-00435, sec. 1, adopted 10/23/00)

§ 3.01.011. Construction site maintenance.

- (a) As a condition of receiving a permit for construction under this article, the owner and/or contractor shall place and maintain a minimum 20-cubic yard covered commercial roll-off container free from graffiti and in reasonable condition during the construction on the site subject of such permit. The roll-off container may be set a maximum of ten (10) calendar days prior to the start of construction, and must be removed prior to final inspection and/or issuance of a certificate of occupancy. Such roll-off container shall be removed and its contents disposed of in accordance with state and/or local laws. If, for any reason, construction is abandoned or stopped for a period greater than twenty-one (21) calendar days, such roll-off container shall be removed and its contents disposed of in accordance with state and/or local laws.
 - (b) The city council may by resolution establish such fee as it deems appropriate for the placement and/or maintenance of any roll-off container under this article.
- (Ordinance 2016-04-00836 adopted 4/7/16)

ARTICLE 3.02
BUILDING AND STANDARDS COMMISSION¹

§ 3.02.001. Created; composition.

There is hereby created the building and standards commission, composed of five members and two alternates, which shall consist of the members of the zoning board of adjustment. The alternates shall serve in the absence of one or more of the regular members. Persons appointed to the zoning board of adjustment shall also automatically be appointed to the building and standards commission. The zoning board of adjustment shall not assume or perform any duties or responsibilities of the building and standards commission, nor shall the building and standards commission assume or perform any duties or responsibilities of the zoning board of adjustment, each such board being separate and distinct boards. Members must be residents of the city. Their appointment is for a term of two years or until replacements are appointed and qualified.

(Ordinance 2017-04-00851 adopted 4/6/17)

§ 3.02.002. Powers and duties.

- (a) The building and standards commission has the authority to enforce the enumerated health and safety ordinances authorized by V.T.C.A., Local Government Code ch. 54, subch. C, as amended. Specifically, the commission shall have the following powers and duties:
- (1) To require the reduction in occupancy load of an overcrowded structure or vacation of a structure that is reasonably dangerous to the health, safety or welfare of the occupants.
 - (2) To require, as an alternative to demolition of a structure found to be substandard, the repair of the structure by the owner or by the city.
 - (3) To require the demolition of a structure found to be substandard.
 - (4) To require the removal of personal property from a structure ordered vacated or demolished. Removal may be accomplished by use of city forces or a private transfer company if the owner of the personal property is not known, or the whereabouts of the owner cannot be ascertained, or the owner fails to remove the personal property. The commission may cause any personal property removed to be stored in the care and custody of a bonded warehouse facility. Cost of removal and storage are the responsibility of the owner of the personal property.
 - (5) To require a vacant structure or vacant portion of a structure constituting a dangerous condition or nuisance to be securely closed and made safe.
 - (6) To require or cause the correction of a dangerous condition on the land. Correction of a dangerous condition may be accomplished by city forces or private contract. Costs of correction are the responsibility of the owner.
 - (7) To assess a civil penalty, not to exceed \$1,000.00 a day, against a property owner for each day or part of a day that he fails to repair or demolish a structure in compliance with a commission order issued under this article.
 - (8) To cause an act to be brought in district court in accordance with V.T.C.A., Local Government

1. Editor's Note—Former Article 3.02 Pertaining To The Board Of Adjustments And Deriving From Ordinance 2009-11-00660 Adopted 11/19/09, Was Repealed And Deleted In Its Entirety By Ordinance 2016-01-00826, Sec. 2, Adopted 1/7/16. These Provisions Can Now Be Found In Sections 14.02.031–14.02.036.

Code § 214.003, as amended, for the appointment of a receiver for property found to be an urban nuisance.

- (9) To declare a building substandard in accordance with the powers granted by V.T.C.A., Local Government Code ch. 54, subch. C (§54.031 et seq.), as amended.
 - (10) To issue orders or directives to any peace officer of the state, including a sheriff or constable, to enforce and carry out the lawful orders or directives of the commission.
 - (11) To enforce ordinances relating to the condition caused by the accumulations of refuse, vegetation, or other matter that creates breeding and living places for insects and rodents.
 - (12) To enforce ordinances relating to a building code or to the condition, use, or appearance of property within the city.
 - (13) Any other powers granted by V.T.C.A., Local Government Code ch. 54, subch. C (§54.031 et seq.), as amended.
- (b) The authority granted in this section is in addition to that granted by V.T.C.A., Local Government Code §214.001.
- (Ordinance 2017-04-00851 adopted 4/6/17)

§ 3.02.003. Procedure.

- (a) The building and standards commission may adopt rules not inconsistent with this article. Meetings of the commission will be held at the call of the chairman, or in his absence the acting chairman, or as the board may determine from time to time. The chairman or in his absence, the acting chairman may administer rolls and compel the attendance of witnesses. All meetings are open to the public. The development services director or designee shall present the cases to the commission.
 - (b) A designated representative shall act as secretary to the commission, but shall not be a member. The secretary shall keep a record of the cases, activities, and actions of the commission and its determinations, give notice of the date and time of hearings, and perform such other duties as are consistent with or may be necessary for the enforcement of this article.
- (Ordinance 2017-04-00851 adopted 4/6/17)

§ 3.02.004. Notice of proceedings; conduct of hearings.

- (a) Notice of all proceedings before the building and standards commission shall be given:
 - (1) By personal delivery, by certified mail with return receipt requested, or by delivery by the United States Postal Service using signature confirmation service, to the record owners of the affected property and each holder of a recorded lien against the affected property, as shown by the records of the office of the county clerk in which the affected property is located if the address of the lienholder can be ascertained from the deed of trust establishing the lien or other applicable instruments on file in the office of the county clerk.
 - (2) To all unknown owners by posting a copy of the notice on the front door of each improvement situated on the affected property or as close to the front as practicable.
 - (3) The notice must be posted and either personally delivered or mailed on or before the tenth day before the date of the hearing before the commission and must state the date, time and place of the hearing. In addition, the notice must be published in a newspaper of general circulation in

the city on one occasion on or before the tenth day before the date fixed for the hearing.

(4) The notice shall contain the following:

- (A) An identification, which is not required to be a legal description of the building and the property on which it is located.
- (B) A description of the violation of the municipal standards that is present at the building.
- (C) A statement that the city will vacate, secure, remove, repair or demolish the building or relocate the occupants of the building if the ordered action is not taken within a reasonable time.

(5) If the notice sent to the last known address of the person being notified is returned undelivered, the development services director or designee may serve the notice personally if the person to be notified can be found in Dallas or Collin County, Texas. If notice sent to an owner is returned undelivered, and after diligent search, the development services director or designee is unable to discover a correct address for the owner or is unable to serve the owner personally, then the development services director or designee shall give notice by publication in the official newspaper of the city at least five days before the hearing.

(b) At each hearing of the commission an owner, lessor, occupant, or lienholder may present witnesses in his own behalf and is entitled to cross-examine any witnesses appearing against him.

(c) After a public hearing, the decision of the commission is final as to the administrative remedies.
(Ordinance 2017-04-00851 adopted 4/6/17)

§ 3.02.005. Appeals.

(a) Any owner, lienholder, or mortgagee of record, jointly or severally aggrieved by any final decision of the commission may appeal such decision by filing a verified petition in state district court setting forth that the commission's decision is illegal, in whole or in part, and specifying the grounds of the illegality. The petition must be filed by an owner, lienholder, or mortgagee of record within 30 calendar days after the date(s) a copy of the commission's order is personally delivered in the manner required by V.T.C.A., Local Government Code ch. 54, as amended, to all persons to which notice is required to be sent in compliance with V.T.C.A., Local Government Code ch. 54, as amended. Such appeal shall be as set forth in V.T.C.A., Local Government Code ch. 54, except that an appeal in state district court shall be trial de novo.

(b) This article does not affect the ability of the municipal court to proceed under the jurisdiction of the municipal court.

(Ordinance 2017-04-00851 adopted 4/6/17)

§ 3.02.006. Failure to comply with order.

(a) A person commits an offense if he fails to correct a violation of this article in compliance with a building and standards commission order that has become final.

(b) It is a defense to prosecution under subsection (a) of this section that the commission order has been appealed to the state district court.

(Ordinance 2017-04-00851 adopted 4/6/17)

ARTICLE 3.03
REGISTRATION OF CONTRACTORS

§ 3.03.001. Required.

Except as specifically exempted within this article, it shall be unlawful for any person, firm or corporation to perform, or cause to be performed, any work described in the codes adopted in this chapter as requiring a permit unless such person, firm or corporation is the holder of a valid registration with the city to perform such work. Such person, firm or corporation shall be herein termed "registrant." In extending the rights and privileges of such registration, the city makes no statement of the technical competency of those so registered, and no manner of license is proffered.

(1995 Code, sec. 3-60(a); Ordinance adopting Code)

§ 3.03.002. Information to be provided; liability insurance.

- (a) An applicant for registration under this article shall provide to the building official the following information:
 - (1) The complete name, complete street address and telephone number of the firm or corporation.
 - (2) The name and private street address of a principal of the firm or corporation who is a person authorized to bind the firm or corporation in legal agreements.
 - (3) The name and license identification of the licensed individual, as provided for in section 3.03.001 of this article, through whom the person, firm or corporation is to be represented in all activities before the building official (except registration for a person, firm or corporation specifically exempted from license requirements).
 - (4) Other pertinent information deemed necessary by the building official.
 - (b) Every registrant shall make contact with the office of the building official to ensure the accurate revision of registration information, including change of licensed individual or address or telephone number, within ten (10) days from when previous information supplied in his application is made invalid for any reason.
 - (c) Every registrant shall carry contractor's public liability insurance in not less than the following amounts:
 - (1) Bodily injury: \$300,000.00 each occurrence.
 - (2) Property damage: \$100,000.00 each occurrence.
- (1995 Code, sec. 3-60(b); Ordinance adopting Code)

§ 3.03.003. Transfer; unlawful use.

No registrant under this article shall allow his registration, by name or other identification, to be transferred or assigned to, or in any manner directly or indirectly used by, any person, firm or corporation other than the one to whom issued by the building official, for any purpose.

(1995 Code, sec. 3-60(c))

§ 3.03.004. Exemption for homeowners.

No such registration requirements shall pertain for alteration or repair work to be performed on a residential structure when the person performing the alteration or repair work is the owner of the structure, and has his legal residence there, and is not assisted by any other person for remuneration. The homeowner shall be automatically termed a registrant for the purposes of such a project. Notwithstanding such relief from registration, all requirements for permits for the work shall remain in force.

(1995 Code, sec. 3-60(d))

§ 3.03.005. Expiration and renewal.

Registration shall expire annually and shall be routinely reactivated by payment of a renewal fee if application information remains accurate. A registration may be renewed, as herein provided, at any time from sixty (60) days preceding the date of expiration through ninety (90) days following the date of expiration. A registration not renewed for ninety (90) days beyond the date of expiration shall require resubmittal of registration information and payment of a fee as for initial registration.

(1995 Code, sec. 3-60(e))

§ 3.03.006. Permits to be issued only to registrants.

A permit to perform, or cause to be performed, any work regulated by this code shall only be issued to a registrant, as provided for in this article, and only after the requirements defined in this article have been accomplished.

(1995 Code, sec. 3-61)

§ 3.03.007. Responsibilities of licensee and registrant.

- (a) Operations. Licensed contractors and mechanics shall be responsible for the performance of permitted work in compliance with this code.
- (b) Administration. Registrants shall be responsible for the employment of licensed personnel to perform the permitted work, and for the payment of fees as required by this code.

(1995 Code, sec. 3-62)

ARTICLE 3.04
BUILDING CODE

§ 3.04.001. Adopted.

The International Building Code, 2015 edition, as published by the International Code Council, is hereby adopted by reference. Unless deleted, amended, expanded or otherwise changed herein, all provisions of such code shall be fully applicable and binding.

(Ordinance 2019-09-00900, sec. 2, adopted 9/19/19)

§ 3.04.002. Amendments.²

(Ordinance 2019-09-00900, sec. 2, adopted 9/19/19)

§ 3.04.003. Certificate of occupancy.

No premises or building or structure in Group R shall be used or occupied and no change in the existing occupancy classification of premises or buildings or structures or portion thereof shall be made until the building official has issued a certificate of occupancy therefor as provided herein.

(Ordinance 2006-01-00555, sec. 1, adopted 1/16/06)

§ 3.04.004. Construction site maintenance.

(a) As a condition of receiving a permit for construction under this article, the owner and/or contractor shall place and maintain a minimum 20-cubic yard covered commercial roll-off container during the construction on the site subject of such permit. Prior to final inspection and/or issuance of a certificate of occupancy, such roll-off container shall be removed and its contents disposed of in accordance with state and/or local laws.

(b) The city council may by resolution establish such fee as it deems appropriate for the placement and/or maintenance of any roll-off container under this article.

(Ordinance 2007-03-00585 adopted 3/1/07)

2. Editor's note-The 2015 IBC Amendments are included as an attachment to this chapter.

ARTICLE 3.05
MECHANICAL CODE

§ 3.05.001. Adopted.

The International Mechanical Code, 2015 edition, as published by the International Code Council, is hereby adopted by reference. Unless deleted, amended, expanded or otherwise changed herein, all provisions of such code shall be fully applicable and binding.
(Ordinance 2019-09-00900, sec. 3, adopted 9/19/19)

§ 3.05.002. Amendments.³

(Ordinance 2019-09-00900, sec. 3, adopted 9/19/19)

3. Editor's note-The 2015 IMC amendments are included as an attachment to this chapter.

**ARTICLE 3.06
PLUMBING**

**DIVISION 1
Generally**

§ 3.06.001. through § 3.06.030. (Reserved)

DIVISION 2
Plumbing Code

§ 3.06.031. Adopted.

The International Plumbing Code, 2015 edition, as published by the International Code Council, is hereby adopted by reference. Unless deleted, amended, expanded or otherwise changed herein, all provisions of such code shall be fully applicable and binding.

(Ordinance 2019-09-00900, sec. 4, adopted 9/19/19)

§ 3.06.032. Intent and purpose.

The intent and purpose of the code is to regulate, for the protection of the public health and safety, the construction, erection, enlargement, alteration, repair, removal, and maintenance of all piping, fittings, fixtures, etc., used for the conduction of water and gas in or on any and all premises of the city and outside the boundaries of the city, if same be connected to the city water system.

(Ordinance 2010-10-00666, sec. 4, adopted 10/7/10)

§ 3.06.033. Applicability.

- (a) This division shall apply to all piping, fixtures, fittings, or appliances installed, constructed, erected, altered, or added to or built upon and within the boundaries of the city if same be connected to either the city water or private septic systems, except those for which permits have already been issued by the building official prior to the passage of this division.
- (b) This division is not meant to apply to that work done by the proper employees of the city or other companies furnishing water in the laying of water mains and services, or to the installation of gas distributing mains and services in the streets and alleys by employees of the gas distributing company, or any work performed by such gas distributing company on any piping or connection up to and including the outlet connections of the service meter. Nothing in this code shall be construed as prohibiting an individual from negotiating with the gas company for the repair, replacement, or installation of yard or service lines (that line carrying the unmeasured gas) on his premises or as requiring a license or bond from gas company. Such work shall be performed by qualified employees of the gas company in accordance with all state and federal regulations.

(Ordinance 2006-01-00558, sec. 1, adopted 1/16/06; Ordinance 2010-10-00666, sec. 4, adopted 10/7/10)

§ 3.06.034. Amendments.⁴

(Ordinance 2019-09-00900, sec. 4, adopted 9/19/19)

4. Editor's note-The 2015 IPC Amendments are included as an attachment to this chapter.

**ARTICLE 3.07
ELECTRICAL****DIVISION 1
Generally****§ 3.07.001. Office of electrical inspection.**

- (a) Created. There is hereby established within the city an office of electrical inspection, which shall be under the supervision of the building official.
- (b) Appointment of electrical inspectors. The building official may appoint electrical inspectors and may designate a chief electrical inspector with such powers of supervision and control over the office of electrical inspection as he may prescribe. Where the term “building official” is used herein, it shall mean either the building official or his duly authorized representative.
- (c) Duties. It shall be the duty of the building official to enforce the provisions of this code, either individually or acting by and through his duly authorized representatives. He shall be responsible for making inspections, issuing licenses and permits, administering examinations, and performing all the other functions of the office of electrical inspections, as prescribed in this code or by administrative order. He shall keep complete records of all permits issued, inspections made, and other official work performed in accordance with the provisions of this code. He shall also keep on file in the office of electrical inspection a list of acceptable testing laboratories, which shall be accessible for public reference during regular office hours.
- (d) Restrictions on business interests of building official and inspectors. It shall be unlawful for any person, while holding the office of building official or electrical inspector, to engage either directly or indirectly in the business of the sale, design, installation or maintenance of electrical equipment or have a financial interest of any nature in any concern engaged in such business in the city.
- (e) Authority.
 - (1) Inspections; disconnection of electric service. Whenever necessary to make an inspection to enforce any of the provisions of this code, or whenever the building official or his authorized representative has reasonable cause to believe that there exists in any building or upon any premises a violation of this code, the building official or such representative may enter such building at all reasonable times to inspect the same or to perform any duty imposed by this code; provided that, if such building or premises be occupied, he shall first present proper credentials and demand entry; and, if such building or premises be unoccupied, he shall first make a reasonable effort to locate the owner or other persons having charge or control of the building or premises and demand entry. If such entry is refused or if the owner or other person having charge or control of the building is not located, the building official or electrical inspector shall have recourse to every remedy provided by law to secure entry. When any electrical equipment is found by the electrical inspector to be dangerous to persons or property, the person, firm or corporation responsible for the electrical equipment shall be notified and shall make any changes or repairs which are required to make such equipment in safe condition, and, if such work is not completed within fifteen (15) days or any longer period than may be specified in said notice, the building official shall have the authority to disconnect or order the electricity supply agency to disconnect all electric service to said electrical equipment and/or the premises in or upon which the same is located.

- (2) Disconnection of equipment. In case of emergency, where necessary for safety to persons or property, or where electrical equipment may interfere with the work of the fire department, the building official shall have the authority to disconnect immediately and without notice to anyone, or to cause the immediate disconnection of, any electrical equipment.
- (3) Stop orders. Whenever any work is being done contrary to the provisions of this code, the building official may order the work stopped by notice in writing served on any persons engaged in doing or causing such work to be done, and any such persons shall forthwith stop such work until authorized by the building official to proceed with the work, or an appeal perfected pursuant to article 3.02 of this chapter has resulted in a waiver of the condition causing the stop order or a finding that there is no cause for a stop order. Failure to stop such work, in addition to penalties and remedies elsewhere set forth, shall void any appeal.

(1995 Code, sec. 3-80; Ordinance adopting Code)

§ 3.07.002. Permit required; exceptions.

- (a) No electrical equipment shall be installed, nor shall any alteration or addition be made to existing equipment in or on any building, structure, or premises in the city, whether such be publicly or privately owned, unless a permit shall first be obtained from the office of electrical inspection authorizing such installation, alteration or addition.
- (b) No permit shall be required for constructing, installing, altering, extending, maintaining, repairing, or replacing any electrical wiring, apparatus, or equipment of any voltage of twenty-four (24) volts or less. Exemption from the permit requirements of this code shall not be deemed to grant authorization for any work to be done in violation of the provisions of this code or any other laws or ordinances of this jurisdiction.
- (c) The provisions of this division shall not apply to equipment owned and used by an electricity supply company or communications agency in the generation, transmission or distribution of electricity or for the operation of signals or the transmission of intelligence.
- (d) A separate permit shall be required for each separate building, store space or apartment, whether such unit is metered separately or conjunctively, and a service permit shall be taken on all such units whether supplied from a central metering station or directly from an electricity supply agency, except that, in trailer courts, the individual trailer disconnect switches shall not be deemed services; fees for such service permits shall be as prescribed in this division.

(1995 Code, sec. 3-88)

§ 3.07.003. Application for permit.

- (a) Except as provided in subsection (b) hereof, application for such permits, with a description of the work to be done, shall be made in writing to the office of electrical inspection by the electrician properly licensed to perform the work. With each application for an electrical permit and when required by the building official for enforcement of any provisions of this code, two sets of plans and specifications [shall be submitted], to be prepared and designed by an engineer licensed by the state to practice as such, and his professional seal affixed to the documents.
- (b) Plans and specifications shall be drawn to scale upon substantial paper or cloth and shall be of sufficient clarity to indicate the nature and extent of the work proposed, and show in detail that it will conform to the provisions of this code and all relevant laws, ordinances, rules and regulations. The first sheet of each set of plans shall give the house and street address of the work and the name and

address of the owner and person who prepared them. Plans shall include a plot plan showing the location of the proposed building and of every existing building on the property. In lieu of detailed specifications, the building official may approve references on the plans to a specific section or part of this code or other ordinances or laws.

- (c) Payment of all permit and inspection fees required in this code shall be made prior to the inspection required in section 3.07.005 hereof.
- (d) The building official may make and issue in writing such regulations in connection with the filing of applications for permit by telephone as he may deem necessary for the collection of fees and the proper enforcement of this code.
- (e) The issuance or granting of a permit or approval of plans and specifications shall not be construed to be a permit for, or an approval of, any violation of any of the provisions of this code or of any other ordinance of this jurisdiction. No permit presuming to give authority to violate or cancel the provisions of this code shall be valid. The issuance of a permit based upon plans, specifications and other data shall not prevent the building official from thereafter requiring the correction of errors in said plans, specifications and other data, or from preventing building operations being carried on thereunder when in violation of this code or of any other ordinances of this jurisdiction.

(1995 Code, sec. 3-89; Ordinance adopting Code)

§ 3.07.004. Fees.

- (a) Starting work without obtaining permit. In any case where a registrant allows the commencing of work requiring any permit and said registrant does not first make application for such permits as may be necessary, the fees therefor shall be doubled.
- (b) Fee schedule. The permit fee for installation of electrical equipment in all buildings and the permit for alterations of electrical equipment in any building shall be at the rate as adopted from time to time by resolution of the city council.
- (c) Reinspections. A reinspection fee may be assessed for each inspection or reinspection when such portion of work for which inspection is called is not complete, or when corrections called for are not made, or for failure to provide access on the date for which inspection is requested. In instances where reinspection fees have been assessed, no additional inspection of the work will be performed until the required fees have been paid.
- (d) Refunds. There shall be no refund of building permit fees except as provided herein:
 - (1) Limitation of time. An application for which no permit is issued within one hundred and eighty (180) days following the date of application shall expire by limitation of time, and plans submitted for review may thereafter be returned to the applicant or destroyed by the building official. The building official may extend the time for action on the application upon request by the applicant showing that circumstances beyond the control of the applicant have prevented action from being taken. An expired application may only be reactivated as a new application, including plans and fees. Fees paid prior to expiration, in excess of the plan review fee, may be refunded by the building official, on receiving the applicant's written request not later than ninety (90) days after expiration. An applicant's written request for voluntary withdrawal of the application shall be deemed to be expiration of the application.
 - (2) No work commenced. When the permit has been issued and no part of the work has commenced, the refund shall be reduced by the amount of the plan review fee.

- (3) Permit issued in error. When the permit has been issued through error on the part of the city and it is found that the work applied for cannot be allowed, the refund shall be made in full.
- (4) Disallowed permit. For items not requiring a plan review fee, the building official may authorize full or partial refund of fee payment. When subsequent examination shows an item to not be allowed as requested and the building official has determined that the city is not in error in initially receiving payment, full refund shall be made, less an administrative assessment as set by the city council from time to time by resolution, upon request by the applicant received by the building official not more than ninety (90) days following notification of disallowance of the item. For a revision to a previously paid item, an administrative assessment as set by the city council from time to time by resolution will be made and any excess payment refunded, subject to the provisions described above. If payment was received through error on the part of the city, no administrative cost will be assessed and refund will be made automatically.

(1995 Code, sec. 3-90)

§ 3.07.005. Inspection of installations made under permit.

Upon the completion of any installation of electrical equipment for which a permit has been obtained and upon the payment to the city of the fees required for such installation, it shall be the duty of the licensed electrician making the installation to notify the office of electrical inspection of said completion. The building official shall inspect the installation within forty-eight (48) hours after such notification, exclusive of Saturdays, Sundays and holidays, or as soon thereafter as practicable.

(1995 Code, sec. 3-91)

§ 3.07.006. Effect of notice of conformance.

- (a) The issuance of a notice of conformance shall not be construed to be a permit for, or an approval of, any violation of any of the provisions of this code or of any other ordinance of this jurisdiction. No notice of conformance presuming to give authority to violate or cancel the provisions of this code shall be valid.
- (b) The issuance of a notice of conformance shall not prevent the building official from thereafter requiring the correction of errors in said installations, or from preventing building operations being carried on thereunder when in violation of this code or of any other ordinance of this jurisdiction.

(1995 Code, sec. 3-92)

§ 3.07.007. Certificate of approval for temporary installation.

When a certificate of approval is issued authorizing the connection and use of a temporary installation, such certificate shall be issued to expire at a time to be stated therein, and shall be revocable by the building official for good cause. No occupancy of any structure may occur, however, prior to the issuance of a notice of conformance for the premises or the equipment upon said premises.

(1995 Code, sec. 3-93)

§ 3.07.008. Inspection of concealed equipment.

When any electrical equipment is to be hidden from view by the permanent placement of parts of the building and/or equipment, the licensed electrician installing the equipment shall notify the office of electrical inspection and such equipment shall not be concealed until it has been inspected and approved by the electrical inspector, or until forty-eight (48) hours, exclusive of Saturdays, Sundays, and holidays, shall have elapsed from the time of such notification; provided that, on large installations where the concealment

of equipment proceeds continuously, the licensed electrician installing the electrical equipment shall give the electrical inspector due notice, and inspection shall be made periodically during the progress of the work.

(1995 Code, sec. 3-94)

§ 3.07.009. Notice of nonconformance.

If, upon inspection, the installation is not found to be fully in conformity with the provisions of this code, the electrical inspector shall issue a notice of nonconformance and the licensed electrician making the installation shall be notified of the defects which have been found to exist. All defective work shall be corrected and brought into conformity with the provisions of this code before any further electrical work will be permitted within or on the building or premises and before the licensed electrician making the installation shall be issued any other permits to perform any other electrical work.

(1995 Code, sec. 3-95)

§ 3.07.010. Operation of disapproved or condemned equipment.

It shall be unlawful for any person, firm or corporation to conceal or place in operation any electrical equipment which has been disapproved or condemned by the building official unless and until the same has been so repaired or altered that it complies with all provisions of this code and has thereafter been approved by said building official.

(1995 Code, sec. 3-96)

§ 3.07.011. Uncovering concealed equipment.

The building official shall have the authority to require any person, firm or corporation to uncover any wiring or electrical equipment which has been concealed without the knowledge or permission of the building official.

(1995 Code, sec. 3-97)

§ 3.07.012. Authorization of connections.

It shall be unlawful for any person, firm or corporation to make connection from a supply of electricity or to supply electricity to any electrical equipment for the installation of which a permit is required, or which has been disconnected or ordered to be disconnected by the building official or (except for private residences) which has been disconnected for any reason whatsoever, until such connection has been authorized by the building official. In the event, however, that electricity to a private residence has been disconnected by reason of a fire on the premises, the electrical service shall not be reconnected until the electrical installations on the premises have been inspected and approved the building official.

(1995 Code, sec. 3-98)

§ 3.07.013. Inspection on change of occupancy.

The electricity supply agency shall disconnect the electrical service to any building and/or premises except private residences and duplex apartments each time such building or premises changes occupants, and it shall not again supply electricity to such buildings or premises until authorized to do so by the building official. The owners and/or the new occupants of such buildings and/or premises shall make application to the office of electrical inspection for an inspection, which shall be made within forty-eight (48) hours, exclusive of Saturdays, Sundays and holidays, of the time such application is made or as soon thereafter as practicable. No charge shall be made nor fee collected for such inspections.

(1995 Code, sec. 3-99)

§ 3.07.014. Posting of notices; attachment of seal prohibiting use of electricity.

When an order or notice is issued pursuant to the provisions of this code to any person who, after a reasonable search, cannot be found, such order or notice may be served by posting it in a conspicuous place upon the premises occupied by such person or upon the premises where the defects are alleged to exist. The electrical inspector is hereby authorized to attach to electrical cabinets and equipment an official notice of seal to prevent use of electricity, and it shall be unlawful for any person to remove such seal, or to break, change, destroy, tear, mutilate, cover or otherwise deface or injure such official notice of seal posted by an electrical inspector.

(1995 Code, sec. 3-100)

§ 3.07.015. Connection or disconnection of meters.

Any electricity supply agency operating under a franchise granted by the city shall have the right to install and connect, or disconnect and remove, its meters and protective devices without a permit, but it shall not connect any electrical equipment to a source of supply without first having been authorized in writing to do so by the building official.

(1995 Code, sec. 3-101)

§ 3.07.016. Supply of service.

Any electricity supply agency operating under a franchise granted by the city shall supply all three-wire single-phase services with three-wire single-phase service drops to premises whereon electricity furnished by such organization is used, and shall when practicable furnish the type and size of service needed and requested, except that it shall not be required to furnish three-phase service unless such service is available in the vicinity and unless, in addition, there is a power demand of at least seven (7) horsepower, at least five (5) horsepower of which is three-phase.

(1995 Code, sec. 3-102)

§ 3.07.017. Inaccessible meters.

Where meters originally installed in accessible places satisfactory to the electricity supply agency are rendered inaccessible thereafter by virtue of alterations or new construction by the owner of the premises or his agent, such meters shall be reinstalled in accordance with the provisions of this code at the expense of the owner.

(1995 Code, sec. 3-103)

§ 3.07.018. through § 3.07.050. (Reserved)

DIVISION 2
Electrician's Registration

§ 3.07.051. Required.

Registration of electrical contractors shall be as provided in article 3.03 of this chapter.
(Ordinance adopting Code)

§ 3.07.052. through § 3.07.080. (Reserved)

DIVISION 3
Electrical Code

§ 3.07.081. Adopted.

The National Electrical Code, 2014 edition, as published by the International Code Council, is hereby-adopted by reference. Unless deleted, amended, expanded or otherwise changed herein, all provisions of such code shall be fully applicable and binding.

(Ordinance 2019-09-00900, sec. 5, adopted 9/19/19)

§ 3.07.082. Amendments.⁵

(Ordinance 2019-09-00900, sec. 5, adopted 9/19/19)

5. Editor's note-The 2014 NEC Amendments are included as an attachment to this chapter.

ARTICLE 3.08
RESIDENTIAL CODE

§ 3.08.001. Adopted.

The National Residential Code, 2015 edition, including appendices A, B, C, D, E, F, G, H, J, M, N, O, P, and U, as published by the International Code Council ("IRC"), is hereby-adopted by reference. Unless deleted, amended, expanded or otherwise changed herein, all provisions of such code shall be fully applicable and binding. Save and except sections R324.1 through R324.2 of the 2003 IRC which remain unchanged to require residential fire sprinklers.

(Ordinance 2019-09-00900, sec. 6, adopted 9/19/19)

§ 3.08.002. Amendments.⁶

(Ordinance 2019-09-00900, sec. 6, adopted 9/19/19)

§ 3.08.003. Construction site maintenance.

(a) As a condition of receiving a permit for construction under this article, the owner and/or contractor shall place and maintain a minimum 20-cubic yard covered commercial roll-off container during the construction on the site subject of such permit. Prior to final inspection and/or issuance of a certificate of occupancy, such roll-off container shall be removed and its contents disposed of in accordance with state and/or local laws.

(b) The city council may by resolution establish such fee as it deems appropriate for the placement and/or maintenance of any roll-off container under this article.

(Ordinance 2007-03-00586 adopted 3/1/07)

§ 3.08.004. Construction site drainage.

Construction on individual or multiple lots shall follow the approved engineering plans for collection and conveyance of stormwater. In the absence of approved engineering plans, the owner or owners agent shall submit the following items to the city for review which have been signed and sealed by a licensed professional engineer in the state:

- (1) Full extents of the contributing drainage area with contours and identifying existing drainage courses;
- (2) Flow calculations for the 2, 5, 10, 25 & 100-year storm events in conformance with the city drainage design manual;
- (3) Plan, profile, and sections of conveyance (open ditch and culverts) to be graded which are adequate to convey 100-year flow; and
- (4) Flow calculations for conveyance, in conformance with the city drainage design manual, which demonstrate there are no adverse impacts on adjacent properties.

(Ordinance 2023-06-00983 adopted 6/1/2023)

6. Editor's note-The 2015 IRC Amendments are included as an attachment to this chapter.

ARTICLE 3.09
ENERGY CONSERVATION CODE

§ 3.09.001. Adopted.

The International Energy Conservation Code, 2015 edition, as published by the International Code Council, is hereby adopted by reference. Unless deleted, amended, expanded or otherwise changed herein, all provisions of such code shall be applicable and binding.
(Ordinance 2019-09-00900, sec. 7, adopted 9/19/19)

§ 3.09.002. Amendments.⁷

(Ordinance 2019-09-00900, sec. 7, adopted 9/19/19)

7. Editor's note-The 2015 IRC Amendments are included as an attachment to this chapter.

**ARTICLE 3.10
FUEL GAS CODE**

§ 3.10.001. Adopted.

The International Fuel Gas Code, 2015 edition as published by the International Code Council, is hereby adopted by reference. Unless deleted, amended, expanded or otherwise changed herein, all provisions of such code shall be applicable and binding.

(Ordinance 2019-09-00900, sec. 8, adopted 9/19/19)

§ 3.10.002. Amendments.⁸

(Ordinance 2019-09-00900, sec. 8, adopted 9/19/19)

8. Editor's note-The 2015 IFGC Amendments are included as an attachment to this chapter.

ARTICLE 3.11
DANGEROUS BUILDINGS

§ 3.11.001. Definition.

All buildings or structures of any nature, including any trailer houses or mobile homes, outbuildings or swimming pools as defined in this code, that are found to be dangerous structures or buildings or dilapidated buildings or buildings calculated to increase the fire hazard, that could injure, hurt, or harm individuals or which endanger health, and which have any one or all of the following defects, shall be deemed dangerous buildings:

- (1) Those whose interior walls or other vertical structural members list, lean or buckle to such an extent that a plumb line passing through the center of gravity falls outside of the middle third of its base.
 - (2) Those which, exclusive of the foundation, show thirty-three percent or more of damage or deterioration of the supporting member or members or fifty percent of damage or deterioration of the nonsupporting enclosure or outside walls or covering.
 - (3) Those which have improperly distributed loads upon the floors or roofs or in which the same are overloaded or which have insufficient strength to be reasonably safe for the purpose used.
 - (4) Those which have been damaged by fire, wind, or other causes so as to have become dangerous to life, safety, morals or the general health and welfare of the occupants or the people of the city.
 - (5) Those which have become or are so dilapidated, decayed, unsafe, or unsanitary, or which utterly fail to provide amenities essential to decent living, so that they are unfit for human habitation or are likely to cause sickness or disease so as to work injury to the health, morals, safety, or general welfare of those living therein.
 - (6) Those which have parts thereof which are so attached that they may fall and injure members of the public or property.
 - (7) Those which, because of their condition, are unsafe, unsanitary, or dangerous to the health, safety, or general welfare of the people of this city.
 - (8) Those which have a foundation that is not so free of holes, cracks, buckling, crumbling, and defects as to support adequately the dwelling structure.
 - (9) Those which do not have a floor, exterior wall and roof that is so free of holes, cracks, and loose, rotten, warped or protruding boards as to protect the occupants of the dwelling or dwelling unit reasonably from weather elements and from danger of collapse.
 - (10) Those which do not have interior walls and ceilings that are so free of holes, cracks, loose plaster, loose and baggy wallpaper, defective materials, and structural deterioration as to reasonably serve their purpose and as to protect the occupants of the structure from danger of collapse and of fire.
 - (11) Those buildings existing in violation of any provision of the building code of the city, or any provision of the city fire code or other ordinances of the city.
- (1995 Code, sec. 3-50)

§ 3.11.002. Declaration of nuisance.

All dangerous buildings within the terms of section 3.11.001 are hereby declared to be public nuisances

and shall be repaired, vacated or demolished as provided in this article.
(1995 Code, sec. 3-51)

§ 3.11.003. Standards for ordering repair, vacation or demolition.

The following standards shall be followed by the building official, the fire marshal, and the building and standards commission, under the terms of this article, in ordering repair, vacation or demolition:

- (1) If the dangerous building can reasonably be repaired so that it will no longer exist in violation of this article, it shall be ordered repaired.
- (2) If the dangerous building is in such a condition as to make it dangerous to the health, safety, morals or general welfare of its occupants, it shall be ordered to be vacated.
- (3) In any case where a dangerous building is fifty percent or more damaged, decayed or deteriorated from its original value or structure, it shall be demolished, and in all cases where a building cannot be repaired so that it will no longer exist in violation of the terms of this article, it shall be demolished. In all cases where a dangerous building is a fire hazard existing or erected in violation of the terms of this article or any ordinance of the city or statutes of the state, it shall be demolished. Included in the term “demolished” in this article is the cleaning of the property and removing of all debris and trash.
(1995 Code, sec. 3-52; Ordinance 2022-08-00534 adopted 8/4/2022)

§ 3.11.004. Duties of building official or fire marshal.

The duties of the building official or fire marshal under this article shall be as follows:

- (1) Inspect or cause to be inspected annually all public buildings, schools, halls, churches, theaters, hotels, multifamily residences, and commercial manufacturing or loft buildings for the purpose of determining whether any conditions exist which render such places a dangerous building.
- (2) Inspect any building, wall or structure about which complaints are filed by any person to the effect that a building, wall or structure is or may be existing in violation of this article.
- (3) Inspect any building, wall or structure reported by the fire or police departments of the city as probably existing in violation of the terms of this article.
- (4) Notify in writing, by certified mail, the owner, occupant, lessee, mortgagee, agent, and all other persons having an interest in such building as shown by the city’s tax roll or the deed records of the county clerk, of any building found by them to be a dangerous building, stating that:
 - (A) The owner shall vacate or repair or demolish the building in accordance with the terms of the notice and this article;
 - (B) The occupant or lessee shall vacate the building or may have it repaired in accordance with the notice and remain in possession;
 - (C) The mortgagee, agent or other person having an interest in the building as shown by the deed records of the county clerk may, at his own risk, repair, vacate or demolish the building or have such work or act done;

provided that any person notified under this subsection to repair, vacate or demolish any building shall be given such reasonable time, not exceeding 90 days, as may be necessary to do or have done the work or act required by the notice provided for herein.

- (5) Set forth in the notice provided for in subsection (4) of this section a description of the building or structure deemed unsafe, a statement of the particulars which make the building or structure a dangerous building and an order requiring the same to be put in such condition as to comply with the terms of this article within such length of time, not exceeding 90 days, as is reasonable.
- (6) Report to the city council in its capacity as building commission any noncompliance with the notice provided for in subsections (4) and (5) of this section.
- (7) Appear at all hearings conducted by the city council in its capacity as building commission and testify as to the conditions of dangerous buildings.
- (8) Place a notice on all dangerous buildings upon determination, reading as follows:

“This building has been found to be a dangerous building by the City of Lucas Building Official and Fire Marshal. This notice is to remain on this building until it is repaired, vacated or demolished in accordance with the notice which has been given the owner, occupant, lessee, mortgagee, or agent of this building, and all other persons having an interest in said building as shown by the Deed Records in the office of the County Clerk of Collin County, Texas. It is unlawful to remove this notice until such notice is complied with.”

(1995 Code, sec. 3-54)

§ 3.11.005. Duties of building and standards commission.

- (a) The duties of the building and standards commission under this article shall be as follows:
 - (1) Upon receipt of a report of the building official and fire marshal as provided for in subsection (6) of section 3.11.004, written notice by certified mail is to be given to the owner, occupant, mortgagee, lessee, agent and all other persons having an interest in the building as shown by the deed records of the county clerk’s office to appear before the building and standards commission on a date specified in the notice to show cause why the building or structure reported to be a dangerous building should not be repaired, vacated or demolished in accordance with the statement of particulars set forth in the building official’s and fire marshal’s notice provided for in subsection (5) of section 3.11.004.
 - (2) Hold a hearing and hear such testimony as the building official and fire marshal and the owner, occupant, mortgagee, lessee or any other person having an interest in the building as shown by the deed records of the county clerk’s office shall offer relative to the determination of the question of whether the building or structure in question is a dangerous building.
 - (3) Make written findings of fact from the testimony offered pursuant to subsection (a)(2) of this section as to whether or not the building in question is a dangerous building.
 - (4) Upon a determination that the building or structure in question does constitute a dangerous building, issue an order based upon findings of fact made pursuant to subsection (a)(3) of this section commanding the owner, occupant, mortgagee, lessee, agent and all other persons having an interest in the building as shown by the deed records of the county clerk’s office to repair, vacate or demolish any building found to be a dangerous building within the terms of this article.

- (b) If, at the expiration of 60 days from a determination by the building and standards commission that a building or structure is to be demolished, the same has not been destroyed, it may be demolished at the expense of the owner thereof by the city or its contractor. The materials of such building shall be sold and the net cost of the demolition shall be charged to the owner and, if any balance remains, it shall be held for the owner or any other parties entitled thereto. If the cost of the demolition exceeds the value of the materials of such building, such excess shall be charged as a lien upon the real property on which the building is situated and the city may file suit to foreclose and satisfy the lien to the extent allowed by law.

(1995 Code, sec. 3-55; Ordinance 2022-08-00534 adopted 8/4/2022)

§ 3.11.006. Service of notices when owner or occupant is absent from city.

In cases, save those that constitute a clear and present danger as determined by the fire marshal and/or building official, where the owner, occupant, lessee or mortgagee is absent from the city, all notices or orders provided for in this article shall be sent by certified mail to the owner, occupant, mortgagee, lessee, and all other persons having an interest in the building as shown by the deed records of the county clerk's office, to the last known address of each, and a copy of such notice shall be posted in a conspicuous place on the building or structure in question. Such mailing and posting shall be deemed sufficient notice for the building commission to hold its hearing.

(1995 Code, sec. 3-56; Ordinance adopting Code)

ARTICLE 3.12
MOBILE HOMES AND MANUFACTURED HOMES

§ 3.12.001. Definitions.

HUD-code manufactured home. A structure, constructed on or after June 15, 1976, according to the rules of the United States Department of Housing and Urban Development (HUD), transportable in one or more sections, which, in the traveling mode, is eight (8) body feet or more in width or forty (40) body feet or more in length, or, when erected on-site, is three hundred twenty (320) or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems. The term does not include a recreational vehicle as that term is defined by 24 CFR section 3282.8(g).

Mobile home. A structure that was constructed before June 15, 1976, transportable in one or more sections, which, in the traveling mode, is eight (8) body feet or more in width or forty (40) body feet or more in length, or, when erected on-site, is three hundred twenty (320) or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems.

(1995 Code, sec. 13-1)

§ 3.12.002. Mobile homes prohibited; exceptions.

This section applies only to zoning districts other than the MHD manufactured home district, as established in the zoning ordinance in chapter 14 of this code. After November 1, 1969, it shall be unlawful for any person, firm or corporation to leave parked or to maintain on any tract or parcel of land within the limits of the city any mobile home. In the event that a residential dwelling is damaged or destroyed by fire or other calamity, the city council may grant a specific use permit for the parking or maintenance of a HUD-code manufactured home on the homeowner's property for use as a temporary residence of the homeowner for a period of time not to exceed six (6) months on the conditions that the homeowner post a reasonable bond as set by the city council at the time that the permit is granted and that the homeowner actually occupy the mobile home. The city council may in its sound discretion grant one (1) extension of the permit for an additional six (6) months. The terms of this section shall not be applicable to a mobile home parked or maintained within the limits of the city prior to November 1, 1969; provided, however, that should such mobile home be moved, such space, parcel or tract of land shall not again be used thereafter for the parking or maintaining of a mobile home.

(1995 Code, sec. 13-2; Ordinance adopting Code)

ARTICLE 3.13
INDUSTRIALIZED HOUSING

§ 3.13.001. Definition.

- (a) For the purposes of this article, industrialized housing is a residential structure, including the structure's plumbing, heating, air conditioning, and electrical systems, that is:
- (1) Designed for the occupancy of one or more families;
 - (2) Constructed in one or more modules or constructed using one or more modular components built at a location other than the permanent site; and
 - (3) Designed to be used as a permanent residential structure when the module or the modular component is transported to the permanent site and erected or installed on a permanent foundation system.
- (b) Industrialized housing does not include:
- (1) A residential structure that exceeds three stories or 49 feet in height as measured from the finished grade elevation at the building entrance to the peak of the roof;
 - (2) Housing constructed of a sectional or panelized system that does not use a modular component; or
 - (3) A ready-built home constructed in a manner in which the entire living area is contained in a single unit or section at a temporary location for the purpose of selling and moving the home to another location.

(Ordinance 2004-11-00512, sec. 1, adopted 11/15/04)

§ 3.13.002. Inspections.

All applications and permits required for site-built houses and residential structures shall be required for industrialized housing. Inspections shall be conducted at the permanent site where the structure is intended to be located. The building official shall inspect all construction involving industrialized housing and buildings to be located in the city to ensure compliance with designs, plans, and specifications, including inspection of:

- (1) The construction of the foundation system; and
- (2) The erection and installation of the modules or modular components on the foundation.

(Ordinance 2004-11-00512, sec. 1, adopted 11/15/04)

§ 3.13.003. Standards.

- (a) Industrialized housing shall be in conformance with all zoning, subdivision and other city regulations and requirements. Except as provided hereinafter, all ordinances and regulations applicable to industrialized housing shall not be enforced or applied in a manner that is more restrictive than that required for a new single-family or duplex dwelling constructed on-site. All requirements and regulations shall be reasonably and uniformly applied and enforced without distinctions as to whether the housing or buildings are manufactured or are constructed on-site; provided, however, that industrialized housing shall:

- (1) Have a value equal to or greater than the median taxable value for each single-family dwelling located within 500 feet of the lot on which the industrialized housing is proposed to be located, as determined by the most recent certified tax appraisal roll;
 - (2) Have exterior siding, roofing, roof pitch, foundation fascia, and fenestration compatible with the single-family dwellings located within 500 feet of the lot on which the industrialized housing is proposed to be located;
 - (3) Comply with all aesthetic standards, building setbacks, side and rear yard offsets, subdivision regulations, architectural landscaping, square footage, and other site requirements applicable to single-family dwellings in the zoning district in which the industrialized housing is proposed to be located; and
 - (4) Be securely fixed to a permanent foundation.
- (b) For purposes of this section, “value” means the taxable value of the industrialized housing and the lot after installation of the housing.
- (Ordinance 2004-11-00512, sec. 1, adopted 11/15/04)

§ 3.13.004. Inspections and permits.

- (a) Any person proposing to locate an industrialized housing unit within the territorial limits of the city shall:
- (1) Comply with the application and permitting requirements imposed by all building and construction codes heretofore adopted by the city, as such may from time to time be amended, and, as a part of the application and permitting process, the person shall submit a complete set of designs, plans, and specifications bearing the stamp of approval of the state industrialized building code council for each installation of industrialized housing or buildings in the city;
 - (2) Apply for and obtain all applicable permits and licenses before construction begins on a building site;
 - (3) Demonstrate that all modules or modular components bear an approved decal or insignia indicating inspection by the state department of licensing and regulation, as required by rules adopted by the state commission of licensing and regulation;
 - (4) Comply with all procedural requirements established for the inspection of:
 - (A) The erection and installation of industrialized housing or buildings to be located in the city, to ensure compliance with mandatory building codes and rules adopted by the state commission of licensing and regulation; and
 - (B) All foundation and other on-site construction, to ensure compliance with approved designs, plans, and specifications.
- (b) Any person constructing, locating or erecting industrialized housing in the city shall be subject to a final inspection by the city prior to occupancy, and no person shall occupy, inhabit or otherwise use an industrialized housing unit unless and until a certificate of occupancy has first been issued.
- (Ordinance 2004-11-00512, sec. 1, adopted 11/15/04)

ARTICLE 3.14
FLOOD DAMAGE PREVENTION

DIVISION 1
Generally

§ 3.14.001. Statutory authorization.

The legislature of the state has in section 16.315 of the Flood Control Insurance Act, Texas Water Code, delegated the responsibility of local governmental units to adopt regulations designed to minimize flood losses. Therefore, the city council does ordain as follows.

(Ordinance 2009-04-00646 adopted 4/16/09)

§ 3.14.002. Findings of fact.

- (a) The flood hazard areas of the city 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, floodproofed or otherwise protected from flood damage.

(Ordinance 2009-04-00646 adopted 4/16/09)

§ 3.14.003. Statement of purpose.

The purpose of this article is 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:

- (1) Protect human life and health;
- (2) Minimize expenditure of public money for costly flood control projects;
- (3) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (4) Minimize prolonged business interruptions;
- (5) Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in floodplains;
- (6) Help maintain a stable tax base by providing for the sound use and development of floodprone areas in such a manner as to minimize future flood blight areas; and
- (7) Insure that potential buyers are notified that property is in a flood area.

(Ordinance 2009-04-00646 adopted 4/16/09)

§ 3.14.004. Methods of reducing flood losses.

In order to accomplish its purposes, this article uses the following methods:

- (1) 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;
- (2) Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- (3) Control the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of floodwaters;
- (4) Control filling, grading, dredging and other development which may increase flood damage; and
- (5) Prevent or regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other lands.

(Ordinance 2009-04-00646 adopted 4/16/09)

§ 3.14.005. Definitions.

Unless specifically defined below, words or phrases used in this article shall be interpreted to give them the meaning they have in common usage and to give this article its most reasonable application.

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.

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.

Appeal board. The city zoning board of adjustments.

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.

Area of future conditions flood hazard. The land area that would be inundated by the 1-percent-annual chance (100-year) flood based on future conditions hydrology.

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 1-percent or greater annual chance of flooding to an average depth of 1 to 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.

Area of special flood hazard. The land in the floodplain within a community subject to a 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.

Base flood. The flood having a 1-percent chance of being equaled or exceeded in any given year.

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, A1-A30, AR, V1-V30, or VE that indicates the water surface elevation resulting from the flood that has a 1% chance of equaling or exceeding that level in any given year - also called the base flood.

Basement. Any area of the building having its floor subgrade (below ground level) on all sides.

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.

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.

Development. Any manmade 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.

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.

Existing construction. 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.

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.

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).

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.

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.

Flood insurance study (FIS). See flood elevation study.

Flood or flooding. A general and temporary condition of partial or complete inundation of normally dry land areas from:

- (1) The overflow of inland or tidal waters.
- (2) The unusual and rapid accumulation or runoff of surface waters from any source.

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.

Floodplain administrator. The city manager or his designee.

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.

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.

Floodplain or floodprone area. Any land area susceptible to being inundated by water from any source (see definition of flooding).

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.

Floodway. See regulatory floodway.

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.

Highest adjacent grade. The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

Historic structure. Any structure that is:

- (1) Listed individually in the National Register of Historic Places (a listing maintained by the Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- (2) 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 [of the Interior] to qualify as a registered historic district;
- (3) 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
- (4) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 - (A) By an approved state program as determined by the Secretary of the Interior; or
 - (B) Directly by the Secretary of the interior in states without approved programs.

Levee. A manmade 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.

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.

Lowest floor. The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of 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.

Manufactured home. A structure transportable in one or more sections, which is built on a permanent

chassis and is designed for use with or without a permanent foundation when connected to the required utilities. The term manufactured home does not include a recreational vehicle.

Manufactured home park or subdivision. A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

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.

New construction. 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.

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.

Recreational vehicle. A vehicle which is:

- (1) Built on a single chassis;
- (2) 400 square feet or less when measured at the largest horizontal projections;
- (3) Designed to be self-propelled or permanently towable by a light duty truck; and
- (4) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

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.

Riverine. Relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

Special flood hazard area. See area of special flood hazard.

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 tilling; 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.

Structure. For floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally aboveground, as well as a manufactured home.

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.

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.

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.)

Violation. The failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in section 60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4), or (e)(5) [of the National Flood Insurance Program regulations] is presumed to be in violation until such time as that documentation is provided.

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.

(Ordinance 2009-04-00646 adopted 4/16/09)

§ 3.14.006. Lands to which this article applies.

This article shall apply to all areas of special flood hazard within the jurisdiction of the city.

(Ordinance 2009-04-00646 adopted 4/16/09)

§ 3.14.007. Basis for establishing areas of special flood hazard.

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 Collin County, Texas And Incorporated Areas," dated June 2, 2009, with accompanying flood insurance rate maps dated June 2, 2009, and any revisions thereto are hereby adopted by reference and declared to be a part of this article, with said copies on file and maintained by the city secretary.

(Ordinance 2009-04-00646 adopted 4/16/09)

§ 3.14.008. Development permit required.

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

(Ordinance 2009-04-00646 adopted 4/16/09)

§ 3.14.009. Compliance.

No structure or land shall hereafter be located, altered, or have its use changed without full compliance with the terms of this article and other applicable regulations.

(Ordinance 2009-04-00646 adopted 4/16/09)

§ 3.14.010. Abrogation and greater restrictions.

This article is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this article and another ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

(Ordinance 2009-04-00646 adopted 4/16/09)

§ 3.14.011. Interpretation.

In the interpretation and application of this article, all provisions shall be:

- (1) Considered as minimum requirements;
- (2) Liberally construed in favor of the governing body; and
- (3) Deemed neither to limit nor repeal any other powers granted under state statutes.

(Ordinance 2009-04-00646 adopted 4/16/09)

§ 3.14.012. Warning and disclaimer of liability.

The degree of flood protection required by this article 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 manmade or natural causes. This article 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 article 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 article or any administrative decision lawfully made hereunder.

(Ordinance 2009-04-00646 adopted 4/16/09)

§ 3.14.013. through § 3.14.030. (Reserved)

DIVISION 2
Administration

§ 3.14.031. Designation of floodplain administrator.

The city manager or his designee is hereby appointed the floodplain administrator to administer and implement the provisions of this article and other appropriate sections of 44 CFR (Emergency Management and Assistance - National Flood Insurance Program regulations) pertaining to floodplain management. (Ordinance 2009-04-00646 adopted 4/16/09)

§ 3.14.032. Duties of floodplain administrator.

Duties and responsibilities of the floodplain administrator shall include, but not be limited to, the following:

- (1) Maintain and hold open for public inspection all records pertaining to the provisions of this article.
- (2) 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.
- (3) Review, approve or deny all applications for development permits required by adoption of this article.
- (4) 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.
- (5) 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.
- (6) 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.
- (7) Assure that the flood carrying capacity within the altered or relocated portion of any watercourse is maintained.
- (8) When the flood elevation data has not been provided in accordance with section 3.14.007, the floodplain administrator shall obtain, review and reasonably utilize any base flood elevation data and floodway data available from a federal, state or other source, in order to administer the provisions of this article.
- (9) When a regulatory floodway has not been designated, the floodplain administrator must require that no new construction, substantial improvements, or other development (including fill) shall be permitted within zones A1-30 and AE on the community's FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.
- (10) Under the provisions of 44 CFR chapter 1, section 65.12, of the National Flood Insurance Program regulations, a community may approve certain development in zones A1-30, AE, AH, on the community's FIRM which increases the water surface elevation of the base flood by more than 1 foot,

provided that the community first completes all of the provisions required by section 65.12.
(Ordinance 2009-04-00646 adopted 4/16/09)

§ 3.14.033. 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:
- (1) Elevation (in relation to mean sea level), of the lowest floor (including basement) of all new and substantially improved structures;
 - (2) Elevation in relation to mean sea level to which any nonresidential structure shall be floodproofed;
 - (3) A certificate from a registered professional engineer or architect that the nonresidential floodproofed structure shall meet the floodproofing criteria of section 3.14.062(2);
 - (4) Description of the extent to which any watercourse or natural drainage will be altered or relocated as a result of proposed development; and
 - (5) Maintain a record of all such information in accordance with section 3.14.032(1);
- (b) Approval or denial of a floodplain development permit by the floodplain administrator shall be based on all of the provisions of this article and the following relevant factors:
- (1) The danger to life and property due to flooding or erosion damage;
 - (2) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
 - (3) The danger that materials may be swept onto other lands to the injury of others;
 - (4) The compatibility of the proposed use with existing and anticipated development;
 - (5) The safety of access to the property in times of flood for ordinary and emergency vehicles;
 - (6) 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;
 - (7) 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;
 - (8) The necessity to the facility of a waterfront location, where applicable; and
 - (9) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use.

(Ordinance 2009-04-00646 adopted 4/16/09)

§ 3.14.034. Variances.

- (a) The zoning board of adjustment shall be the appeal board which shall hear and render judgment on requests for variances from the requirements of this article.
- (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 article.
- (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 article.
- (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 3.14.033(b) 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 article, the appeal board may attach such conditions to the granting of variances as it deems necessary to further the purpose and objectives of this article (section 3.14.003).
- (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:
 - (1) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
 - (2) 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, use fraud on or victimization of the public, or conflict with existing local laws or ordinances.
 - (3) 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:

(1) The criteria outlined in subsections (a)–(i) of this section are met; and

(2) 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.

(Ordinance 2009-04-00646 adopted 4/16/09)

§ 3.14.035. through § 3.14.060. (Reserved)

DIVISION 3

Provisions for Flood Hazard Reduction**§ 3.14.061. General standards.**

In all areas of special flood hazards the following provisions are required for all new construction and substantial improvements:

- (1) 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;
- (2) All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damage;
- (3) All new construction or substantial improvements shall be constructed with materials resistant to flood damage;
- (4) 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;
- (5) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system;
- (6) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the system and discharge from the systems into floodwaters; and
- (7) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

(Ordinance 2009-04-00646 adopted 4/16/09)

§ 3.14.062. Specific standards.

In all areas of special flood hazards where base flood elevation data has been provided as set forth in section 3.14.007, section 3.14.032(8), or section 3.14.063(c), the following provisions are required:

- (1) Residential construction. New construction and substantial improvement of any residential structure shall have the lowest floor (including basement), elevated to two (2) 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 as proposed in section 3.14.033(a)(1) is satisfied.
- (2) Nonresidential construction. New construction and substantial improvements of any commercial, industrial or other nonresidential structure shall either have the lowest floor (including basement) elevated to two (2) feet 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 floodproofed shall be maintained by the floodplain administrator.

- (3) 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 1 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.
- (4) 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 round 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 A1-30, 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 two (2) feet 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 within zones A1-30, AH and AE on the community's FIRM that are not subject to the provisions of subsections (4)(A) and (4)(B) of this section be elevated so that either:
 - (i) The lowest floor of the manufactured home is at two (2) feet 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.

- (5) Recreational vehicles. Require that recreational vehicles placed on sites within zones A1-30, AH, and AE on the community's FIRM either: (A) be on the site for fewer than 180 consecutive days; or (B) be fully licensed and ready for highway use; or (C) meet the permit requirements of section 3.14.033(a), and the elevation and anchoring requirements for manufactured homes in subsection (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.

(Ordinance 2009-04-00646 adopted 4/16/09)

§ 3.14.063. Standards for subdivision proposals.

- (a) All subdivision proposals including the placement of manufactured home parks and subdivisions shall be consistent with sections 3.14.002, 3.14.003, and 3.14.004 of this article.
- (b) All proposals for the development of subdivisions including the placement of manufactured home parks and subdivisions shall meet floodplain development permit requirements of section 3.14.008 and section 3.14.033 and the provisions of this division.
- (c) Base flood elevation data shall be generated for subdivision proposals and other proposed development including the placement of manufactured home parks and subdivisions which is greater than 50 lots or 5 acres, whichever is lesser, if not otherwise provided pursuant to section 3.14.007 or section 3.14.032(8) of this article.
- (d) Base flood elevation data shall be generated by a detailed engineering study for all zone A areas, within 100 feet of the contour lines of zone A areas, and other streams not mapped by FEMA, as indicated on the community's FIRM.
- (e) All subdivision proposals including the placement of manufactured home parks and subdivisions shall have adequate drainage provided to reduce exposure to flood hazards.
- (f) 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.

(Ordinance 2009-04-00646 adopted 4/16/09)

§ 3.14.064. Standards for areas of shallow flooding (AO/AH zones).

Located within the areas of special flood hazard established in section 3.14.007, are areas designated as shallow flooding. These areas have special flood hazards associated with flood depths of 1 to 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; therefore, the following provisions apply:

- (1) All new construction and substantial improvements of residential structures have the lowest floor (including basement) elevated to two (2) feet above the base flood elevation 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).
- (2) All new construction and substantial improvements of nonresidential structures:
- (A) Have the lowest floor (including basement) elevated to two (2) feet above the base flood elevation 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

- (B) 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.
 - (3) A registered professional engineer or architect shall submit a certification to the floodplain administrator that the standards of this section, as proposed in section 3.14.033(a)(1) are satisfied.
 - (4) Require within zones AH or AO adequate drainage paths around structures on slopes, to guide floodwaters around and away from proposed structures.
- (Ordinance 2009-04-00646 adopted 4/16/09)

§ 3.14.065. Floodways.

Floodways located within areas of special flood hazard established in section 3.14.007, are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of floodwaters which carry debris, potential projectiles and erosion potential, the following provisions shall apply:

- (1) Encroachments are prohibited, including fill, new construction, substantial improvements and other development within the adopted regulatory floodway unless it has been demonstrated through hydrologic and hydraulic analysis performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in flood levels within the community during the occurrence of the base flood discharge.
- (2) If subsection (1) above is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of this division.
- (3) 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.

(Ordinance 2009-04-00646 adopted 4/16/09)

ARTICLE 3.15
IRRIGATION SYSTEMS

§ 3.15.001. Rain and freeze shutoff devices.

- (a) Any new irrigation system installed within the city on or after January 1, 2006, must be equipped with rain and freeze shutoff devices.
- (b) Any irrigation system installed before January 1, 2006, may not be operated after July 1, 2007, without being equipped with rain and freeze shutoff devices.
- (c) A person commits an offense on property owned, leased, occupied, controlled, or managed by that person, if the person:
 - (1) Installs or allows the installation of a new irrigation system in violation of subsection (a) or (b); or
 - (2) Operates or allows the operation of an irrigation system that does not comply with subsection (a) or (b).

(Ordinance 2005-11-000540.1, sec. 1, adopted 11/7/05)

ARTICLE 3.16
SIGNS**§ 3.16.001. Purpose.**

The purpose of this article is to regulate the location, size, construction, erection, duration, use and maintenance of all signs within the jurisdiction of the city. The general objectives of these regulations are to promote safety, convenience, and a sense of community, and support the objectives of individual zoning districts while preserving the city's unique country appearance and atmosphere. Objectives to be pursued in applying specific standards are as follows:

- (1) Safety. To promote the safety of persons and property by providing that signs:
 - (A) Do not create a hazard due to collapse, fire, decay or abandonment;
 - (B) Do not obstruct firefighting or police surveillance; and
 - (C) Do not create traffic hazards by confusing or distracting motorists, or by impairing the driver's ability to see pedestrians, obstacles or other vehicles or to read traffic signs.
- (2) Communications efficiency. To promote the efficient transfer of information in sign messages so as to identify individual businesses and residential and public uses without creating confusion or unsightliness.
- (3) Landscape quality and preservation. To protect the appearance and economic value of the landscape by providing that:
 - (A) All signs in terms of size, scale, height, and location are properly related to the overall adjacent land use, character and development lot size;
 - (B) All signs, sign supports and sign bases shall be so constructed and designed to provide for design compatibility with surrounding land use. The materials used, form, color, lighting and style should be similar to the materials used in the surrounding land uses;
 - (C) Signs do not interfere with scenic views;
 - (D) Signs do not create a nuisance to persons using the public rights-of-way;
 - (E) Signs do not constitute a nuisance to occupancy of adjacent and contiguous property by their brightness, size, or height;
 - (F) Signs are not detrimental to land or property values; and
 - (G) Signs contribute to the special character of the particular areas or districts within the city, helping the observer to understand the city and orient himself within it.

(Ordinance 2007-08-00596 adopted 8/2/07)

§ 3.16.002. Definitions.

Unless the context clearly indicates otherwise, for the purpose of this article, the following words and phrases have the meanings respectively ascribed to them by this section:

Advertise. To attract, or to attempt to attract, the attention of any person to any business, accommodations, goods, services, property, or commercial activity.

Advertising. Any promotion of commodities or services.

Agricultural sign. Any sign identifying the farm or ranch on which it is placed and advertising the produce, crops, animals or poultry raised or quartered thereon.

Animated. Copy or other images that flash or move or otherwise change.

Area. The area of a sign measured as follows:

- (1) Square or rectangular signs: Length times height of the sign;
- (2) Irregular shaped signs: Area of rectangles necessary to enclose the sign face; and
- (3) Signs composed of individual letters mounted or painted on a natural or existing finish of a building surface: Sum of area of rectangle necessary to enclose total copy.

Attached sign. Any sign attached to, applied on, or supported by any part of a building (such as a wall, roof, window, canopy, awning, arcade, or marquee) that encloses or covers usable space.

Banner. A temporary sign containing a worded message or graphic image composed of lightweight material secured or mounted so as to allow movement caused by wind.

Board of adjustments. The board of adjustments of the city.

Building. A structure which has a roof supported by columns, walls, or air for the shelter, support, or enclosure of persons, animals or chattel.

Building official or designee. The individual, or his subordinates, designated by the city and charged with code and ordinance enforcement.

Changeable electronic variable message signs (CEVMS). A sign which permits light to be turned on or off intermittently or which is operated in a way whereby light is turned on or off intermittently, including an illuminated sign on which such illumination is not kept stationary or constant in intensity and color at all times when such sign is in use, including an LED (light emitting diode) or digital sign, and which varies in intensity or color. A CEVMS sign does not include a sign located within the right-of-way that functions as a traffic-control device and that is described and identified in the Manual on Uniform Traffic-Control Devices (MUTCD) approved by the Federal Highway Administrator as the National Standard.

Character. Any letter of the alphabet or numeral.

Commercial message. A message placed or caused to be placed before the public by a person or business enterprise directly involved in the manufacture or sale of the products, property, accommodations, services, attractions, or activities or possible substitutes for those things which are the subject of the message and that:

- (1) Refers to the offer for sale or existence for sale of products, property, accommodations, services, attractions, or activities; or
- (2) Attracts attention to a business or to products, property, accommodations, services, attractions, or activities that are offered or exist for sale or for hire.

Construction sign. A temporary sign identifying the property owner, decorator, architect, engineer, contractor, subcontractor and/or financier engaged in the design, construction or improvement of the premises on which the sign is located.

Copy. Letters, characters, illustrations, logos, graphics, symbols, writing or combination thereof designed to communicate information of any kind or to advertise, announce the purpose of, or identify the purpose of a person or entity, or to identify or advertise a business or business product, or to advertise the sale or

lease of premises.

Directional sign. A temporary sign which is limited, exclusively, to the identification of a specific premises, occupancy, or owner of said premises located elsewhere, and which tells the location of and/or route to said premises or occupancy.

Erect. To build, attach, hang, place, suspend, fasten, affix, maintain, paint, draw, or otherwise construct.

Face or surface. The surface of the sign upon, against, or through which the message is displayed or illustrated on the sign.

Freestanding sign. Any self-supporting sign connected to the ground that is not attached to a building or structure for reasons of support.

Garage sale, estate sale, yard sale, rummage sale or similar sale signs. The occasional sale of tangible personal property.

Government sign. A flag, insignia, legal notice, or informational, directional, traffic, or safe school zone sign which is legally required or necessary to the essential functions of government agencies.

Height. As applied to a sign, means the vertical distance measured from an average elevation of the finished grade along the area of sign installation, excluding any artificial berming, to the highest part of the sign or its supporting structure, whichever is higher.

Identification sign. A sign that includes as copy only the name of the business, place, organization, building, or person it identifies.

Illuminated sign. Any sign which is directly lighted by an electrical or artificial light source, internal or external. This definition does not include signs that are illuminated by streetlights or other light sources owned by any public agency or light sources that are specifically operated for the purpose of lighting the area in which the sign is located rather than the sign itself.

Intersection. The junctions of the centerlines of any two public rights-of-way other than alleyways, crossing at grade, or, where the crossing is separated at grade, the intersection is the point where expressway travel pavements converge or diverge, or the point where any expressway interchange ramp intersects the expressway travel pavement.

Logo. Any formalized design or insignia of a company, service or product which is commonly used in advertising to identify that company, service or product.

Marketing sign. A temporary sign identifying the subdivision or manufactured home park name, and may include the name and telephone number of the home builders or sales contacts for the property, the price point, the city name and logo, and the school district name.

Noncommercial message. Any message that is not a commercial message.

Occupancy. The purpose for which a building is used or intended to be used. The term also includes the building or room housing such use.

Off-premises sign. A sign that pertains to a business, person, organization, activity, event, place, service, or product not principally located or primarily manufactured or sold on the premises on which the sign is located.

On-premises sign. A freestanding sign identifying or advertising a business, person, or activity, and installed and maintained on the same premises as the business, person, or activity.

Permanent. A sign intended to be used for a period of longer than six (6) months.

Person. An individual, corporation, sole proprietorship, government or governmental subdivision or

agency, trust, partnership, or two (2) or more persons having a joint or common economic interest.

Political sign. Any type of sign which refers only to the issues, political parties or candidates involved in a political election.

Portable sign. Any sign that is not securely connected to the ground in such a way that it cannot easily be moved from one location to another, including signs which are mounted on skids, trailers, wheels, legs or stakes, and that is not an attached sign, vehicular sign, political sign, or a sign that refers solely to the sale or lease of the premises.

Premises. A lot or unplatted tract that is reflected in the plat books of the building inspection division of the city.

Protective sign. Any sign which is commonly associated with safeguarding the permitted uses of the occupancy, including but not limited to “bad dog,” “beware of dog,” “electric fence,” “no trespassing,” and “no solicitors.”

Residential subdivision sign. A sign used to identify the name of a specific residential subdivision.

Roofline. The uppermost part of the main structure of the building, excluding appurtenances such as air conditioners, chimneys, vents, etc.

Scoreboard. A sign displaying scores, statistics and general information for an athletic event during the course of play. Scoreboards shall be permissible only on public property or on property to which a substantial group of the public has access, owned, controlled or operated by the state, an instrumentality of the state, a school, or a municipality. Any commercial advertising or commercial messages shall be limited to no more than ten percent (10%) of the surface area of the front of the sign with no commercial message on the reverse side. When permitted, there shall be allowed no more than one scoreboard per playing field. A scoreboard shall not exceed a height of twenty-five feet (25') and shall not exceed a width of thirty feet (30'). Scoreboards shall conform to all sign requirements set forth in this article.

Setback. The distance between a sign and the nearest existing public right-of-way line or planned future right-of-way line as proposed on the city's thoroughfare plan, whichever is greater. An alley is not considered to be public right-of-way for the purpose of calculating a setback. Where a public way crosses a railroad right-of-way, the setback is measured from the public right-of-way line extended across the railroad right-of-way.

Sign. An outdoor structure, sign, display, light device, figure, painting, drawing, message, plaque, poster, billboard, or other thing that is designed, intended, or used to advertise or inform.

Special event sign. Signs for the advertisement of temporary events in the nature of religious or community gatherings, carnivals and Christmas tree sales and those other events likely of interest to the entire community of the city.

Support. Any pole, post, strut, cable, or other structural fixture or framework necessary to hold and secure a sign, providing that said fixture or framework is not imprinted with any picture, symbol or word using characters in excess of one inch in height, nor is internally or decoratively illuminated.

Vehicular sign. Any sign on a vehicle moving along the ground or on any vehicle parked, incidental to its principal use for transportation. This definition does not include signs which are being transported to a permanent site.

Visibility triangle. A triangle sight area, at all intersections, which shall include that portion of the public right-of-way and any corner lot within the adjacent curb lines and a diagonal line intersecting such curb lines at points fifty feet (50') back from their intersection.

(Ordinance 2007-08-00596 adopted 8/2/07; Ordinance 2008-07-00621 adopted 7/17/08)

§ 3.16.003. Penalty.

Any person, firm or corporation violating any of the provisions of this article shall be deemed guilty of a misdemeanor and, upon conviction, shall be punished by a penalty or fine as provided in section 1.01.009(a) of this code for each offense, and every day such offense is continued shall constitute a new and separate offense.

(Ordinance 2007-08-00596 adopted 8/2/07)

§ 3.16.004. Administration.

The duties and responsibilities of administering this article shall be vested in the building official or designee of the city or such other person as may be designated from time to time by the city administrator.

(Ordinance 2007-08-00596 adopted 8/2/07)

§ 3.16.005. General provisions.

- (a) Signs shall be in harmony and consistent with the architecture of the building and relate to the features of the building in terms of location, scale, color, lettering materials, texture and depth. Signs shall not be dominant but shall be proportionate and shall complement the building, existing signs and surroundings.
- (b) There shall be consistent sign design throughout a particular development, whether residential or commercial. The design elements include style of lettering, construction material, size and illumination.
- (c) Freestanding signs shall be integrated with the landscaping on site.
- (d) No electric wiring associated with a sign shall be visible to public view.
- (e) Illuminated signs.
 - (1) Sources of sign illumination shall be completely shielded from the view of vehicular traffic and shall not be visible from any residential district.
 - (2) External lights used for the illumination of any sign on a building, whether or not such lights are attached to or separate from the building, shall not project above the highest elevation of the front wall of the building or more than eighteen feet (18') above the street level of the premises, whichever is less.
 - (3) Sources of sign illumination shall be extinguished by 10:00 p.m., and shall remain extinguished until dawn or one-half hour before the business opens, whichever is earlier.
- (f) There shall be no minimum setback requirement for freestanding signs; provided, however, that freestanding signs shall not be placed or erected within any public right-of-way, are not erected within the visibility triangle, and comply with the provisions of this article.
- (g) Signs within the visibility triangle are prohibited.
- (h) Signs in which electrical wiring and connections are used shall comply with the requirements of the city's electrical code.
- (i) Every sign in the city, regardless of whether any permit is required for such sign, shall be maintained in a safe, presentable and sound structural and operational condition at all times, including the replacement of nonfunctioning, broken, defective, or missing parts, painting, repainting, cleaning and

any other acts required for the maintenance of such sign. All signs and sign supports, brackets and frames shall be kept painted or otherwise treated to prevent rust, rot or deterioration. If, upon inspection by the building official or designee, a sign is found to violate this section, written notice shall be given to the owner, giving the owner sixty (60) days to either put the sign in acceptable condition or remove the sign. Otherwise, the building official or designee is hereby authorized to cause the removal of the sign at the expense of the owner.

- (j) Banners shall be permissible for a period not exceeding thirty (30) calendar days in a year and are subject to permitting. The thirty (30) days can be during one (1) time period, four (4) one-week periods or two (2) two-week periods.

(Ordinance 2007-08-00596 adopted 8/2/07)

§ 3.16.006. Noncommercial messages.

Notwithstanding any other provision of this article to the contrary, any noncommercial message may be substituted for the message on any commercial sign allowed by this article, and any other noncommercial message may be substituted for any noncommercial message on any sign allowed by this article.

(Ordinance 2007-08-00596 adopted 8/2/07)

§ 3.16.007. Exempt signs.

Exempt signs as designated under this section are allowed without a permit in all zoning districts in accordance with this article.

- (1) City governmental signs for control of traffic or other regulatory purposes, street signs, danger signs, railroad crossing signs and signs of public service companies indicating danger and/or aids to service or safety which are erected by or on approval of the city.
- (2) The flag, pennant or insignia of any nation, organization of nations, state, county or city, of any religious, civic or fraternal organization, or of any educational institution, provided such flags are no larger than sixty (60) square feet, are flown on a pole no higher than thirty-five feet (35'), are flown at a height no greater than thirty-five feet (35') if attached to a building, and are not illuminated, and provided such flags are not used in connection with a commercial promotion or as an advertising device.
- (3) Signs that contain primarily a political message and are located on private real property with the consent of the property owner and:
 - (A) Do not have an effective area greater than thirty-six (36) feet;
 - (B) Are not more than eight (8) feet high;
 - (C) Are not illuminated; or
 - (D) Do not have any moving elements.
- (4) Special event signs on public property designated by the city for such signage, provided that they are not illuminated and provided they are not erected more than thirty (30) days prior to the event to which they apply and are removed within seven (7) days after the event to which they apply. Special event signs must not exceed six (6) feet in height, and shall be no larger than sixty-four (64) square feet in area.
- (5) Temporary holiday lights and decorations which do not contain advertising and are not used as such,

clearly incidental and customarily and commonly associated with any national, local or religious holiday.

- (6) Two (2) nonilluminated attached identification signs including only the address and/or name of the occupant per lot or parcel, whichever is greater, not to exceed two (2) square feet in area.
 - (7) A maximum of two (2) protective signs per acre, in accordance with the following provisions:
 - (A) Each sign must not exceed one-and-one-half (1-1/2) square feet in area.
 - (B) Detached signs must not exceed two (2) feet in height.
 - (C) Letters must not exceed six inches (6") in height.
 - (D) Such signs shall be nonilluminated.
 - (8) One (1) temporary nonilluminated sign shall be allowed on each lot or parcel of real estate, whichever is larger, to advertise the leasing, rental or sale of such lot or parcel, provided that it does not exceed six (6) square feet in total area and no part of such sign shall extend more than four feet (4') above the surface of the ground on which it is erected.
 - (9) Temporary resident information signs on matters of local interest such as garage, estate, yard or similar sales, provided such signs are not illuminated and do not exceed four-and-one-half (4-1/2) square feet in area. Each sign must have the name of the resident erecting the sign and the date of the posting and must be removed within twenty-four (24) hours following the conclusion of the event.
 - (10) Nonilluminated temporary signs for the seasonal sale of agricultural products such as hay, grain, fruits and vegetables, not to exceed thirty-two (32) square feet in area, and provided that the products are produced within the city or extraterritorial jurisdiction of the city.
 - (11) Any wrought iron or pipe fencing which forms a name, address or logo as an ornamental part of the fencing, gate, or entrance to premises.
 - (12) Any landscaping, including plants, flowers, rocks, seashells or wood mulch, which is grown, trimmed or manipulated in such a way as to form sign copy.
 - (13) Temporary resident information signs on matters of local interest such as lost and found pet notices, free pets, and neighborhood gatherings, provided such signs are not illuminated and do not exceed four-and-one-half (4-1/2) square feet in area. Each sign must have the name of the resident erecting the sign and the date of the posting and must be removed within seven days of the date of the posting.
 - (14) Construction signs shall conform to the following requirements:
 - (A) The sign area shall not exceed twelve (12) square feet.
 - (B) Construction signs may not be illuminated.
 - (C) Signs shall not be placed more than seven (7) days in advance of the project, and must be removed within seven (7) days of completion of the project.
 - (D) Only one construction sign per street frontage, per property is permitted.
- (Ordinance 2007-08-00596 adopted 8/2/07; Ordinance 2012-10-00742 adopted 10/18/12; Ordinance 2013-02-00751 adopted 2/7/13; Ordinance 2014-02-00774 adopted 2/20/14)

§ 3.16.008. Prohibited signs.

- (a) Signs using any combination of forms, words, colors, or lights which imitate standard public traffic regulatory or emergency signs or signals are prohibited. No sign shall make use of the word “stop,” “go,” “look,” “slow,” “danger,” or any other similar word, phrase, symbol or character or employ any red, yellow, orange, green or other colors or light in such a manner as to interfere with, mislead or confuse vehicular or pedestrian traffic.
- (b) No sign shall be erected, relocated or maintained so as to prevent free ingress to or egress from any door, window, or fire escape. No sign of any kind shall be attached to a standpipe or fire escape except signs relating directly to a standpipe or fire escape.
- (c) Animated signs, including but not limited to those signs or sign parts which flash, reflect, blink, or effect changes in hue or intensity or illumination, are prohibited. Signs or sign parts illuminated to such intensity or in such a manner as to cause glare or brightness to a degree that they constitute hazards or nuisances are prohibited, including searchlights and beacons. Signs which employ the use of luminescent inert gases, including but not limited to neon, argon and krypton, and which are visible from the exterior of structures, are specifically prohibited.
- (d) Moving signs, including but not limited to signs which rotate, move or reflect, pennants, banners, streamers, flags (except as specifically permitted under section 3.16.007(4)), and generally, signs having parts which may be set in motion by mechanical, electrical or atmospheric means.
- (e) Signs which emit sound, odor or visible matter are prohibited.
- (f) A sign shall not project above the top of the second floor or the roofline, whichever is lower, of the building to which it is affixed.
- (g) Off-premises signs, including but not limited to temporary real estate directional signs and billboards are prohibited unless specifically authorized by another section of this article.
- (h) Portable signs are specifically prohibited.
- (i) Signs attached to or upon any vehicle where any such vehicle is allowed to remain parked in the same location or in the same vicinity, at frequent or extended periods of time, where the intent is apparent to be using the vehicle and signs for purposes of advertising an establishment, service or product, are prohibited.
- (j) No person shall attach or maintain any sign upon any public utility pole or tree.
- (k) Freestanding signs that exceed forty (40) square feet in area or six (6) feet in height are prohibited unless specifically authorized by another section in this article.
- (l) It shall be unlawful for any person to display upon any sign any obscene, indecent or immoral matter.
- (m) Changeable electronic variable message signs and other moving, flashing, intermittently lighted, changing color, beacons, revolving or similarly constructed signs shall not be allowed.
(Ordinance 2007-08-00596 adopted 8/2/07; Ordinance 2008-07-00621 adopted 7/17/08)

§ 3.16.009. Signs allowed in specific zoning districts.

The following signs, in the use district where permitted, require the issuance of a sign permit prior to the erection of such signs:

- (1) AO agricultural district.

- (A) One (1) nonilluminated freestanding sign used for identification and containing information relating specifically to operations on the premises, not to exceed forty (40) square feet in area and not to exceed five feet (5') in height, and the characters comprising the sign shall not be less than six inches (6") in height.
 - (B) One (1) nonilluminated attached sign not to exceed forty (40) square feet in area. The characters comprising the sign shall be between seven inches (7") and thirty inches (30") in height.
- (2) R2, R1.5, R1, and MHD single-family residential districts.
- (A) Residential subdivisions and manufactured home parks.
 - (i) Signage identifying a given subdivision or manufactured home park may be erected at one (1) entrance only. One (1) permanent identification sign may be erected on each side of said entrance not to exceed five feet (5') in height.
 - (ii) One (1) nonilluminated marketing sign, not to exceed twenty-four (24) square feet in area and not to exceed eight feet (8') in height, and provided that such sign is located on the premises where home or lot sales will be occurring. Only one marketing sign shall be erected for each subdivision or manufactured home park and is to be removed no later than three (3) years after the city grants substantial completion, twelve (12) months after the subdivision or manufactured home park has 95% of the lots or homes sold or transferred, or upon issuance of the last certificate of occupancy, whichever event is first occurring. The erection of a marketing sign may occur for each individual phase of the subdivision or manufactured home park sequentially, but in no instance shall there be the allowance of more than one marketing sign for the subdivision or manufactured home park at one time. No copy on any marketing sign may refer to other existing or future subdivisions or manufactured home parks.
 - (B) Nonresidential uses.
 - (i) One (1) nonilluminated attached sign not to exceed forty (40) square feet in area. The characters comprising the sign shall be between seven inches (7") and thirty inches (30") in height.
 - (ii) One (1) nonilluminated freestanding sign not to exceed thirty-two (32) square feet in area and not to exceed four (4) feet in height.
- (3) C commercial district; LI light industrial district; VC village center district.
- (A) Plans to be submitted by applicant. All applications for sign permits must include a dimensioned drawing illustrating the design of the sign, the height, base, frame materials, color schemes, and letter size to be contained within the sign. If the sign is an electrical sign, electrical plans and specifications, and a site plan showing the location of the sign is also required. When requested by the chief building official, more detailed plans may be required and such plans may be required to be prepared by a registered professional engineer or architect.
 - (B) Specific criteria for certain signs.
 - (i) Monument signs.
 - a. Location. Signs shall not be placed in that portion of any corner lot in the city which

portion is included in a triangle of the street corner of the lot formed by a diagonal line intersecting the curb line, at points twenty (50) [sic] feet from the street corner intersection of the curb line.

- b. Height. The maximum allowable overall height of the sign including the base, measured from existing grade or ground level is 6 feet. Creating a grade by berming or adding fill to increase the height of the sign is prohibited.
 - c. Sign area. The sign area illustrating the business name must not exceed forty (40) square feet. The overall sign area, including the base and/or supporting frame, may be no more than eighty (60) [sic] square feet.
 - d. Sign base. Monument bases must be a minimum of two (2) feet in height for signs 6 feet or less in total height. All bases must have a minimum width of one (1) foot, and the entire base utilized for construction of the monument base and sign frame shall be compatible in materials and color with building materials selected for use on the main building of the lot.
 - e. Setback. There shall be no minimum setback requirement for freestanding signs; provided, however, that freestanding signs shall not be placed or erected within any public right-of-way, are not erected within the visibility triangle, and comply with the provisions of this article.
 - f. Lighting. Single-faced or double-faced signage is allowed. Lighting is permissible by back fluorescent or accent lighting.
 - g. Sources of illumination for signs in any district are to be extinguished by 10:00 p.m.
 - h. Distance between signs. The minimum distance between business signs is one hundred (100) feet.
- (ii) Signs for multiple buildings located on a single premises. Signs located in the front yard of lots containing multiple main buildings which are separate and independent buildings must adhere to the following guidelines:
- a. Wall signs are allowed.
 - b. Monument signs are allowed if the main building exceeds two thousand five hundred (2,500) square feet.
 - c. No monument sign may be spaced closer than one hundred (100) feet along the street frontage for any one (1) lot or development.
 - d. The monument sign criteria contained in subsection (B)(i) of this section applies.
- (iii) Menu boards.
- a. Location. Signs shall not be placed in that portion of any corner lot in the city which portion is included in a triangle of the street corner of the lot formed by a diagonal line intersecting the curb line, at points twenty (20) feet from the street corner intersection of the curb line.
 - b. Height. The maximum allowable height measured from existing grade or ground level is seven (6) [sic] feet. Creating a grade by berming or adding fill to increase

the height of the sign is prohibited.

- c. Sign area. The overall sign area may not exceed forty (40) square feet.
- d. Appearance. To avoid distractions that could constitute a traffic hazard, menu boards must be compatible with the architecture of the main building.

(iv) Wall signs.

- a. Location. One (1) wall sign is allowed on the front facade of the building. Additional wall signs may be placed on any other facade of the building if such facade faces an abutting street.
- b. Sign area. A wall sign may be up to ten (10) percent of the front facade or 100 square feet maximum.

- (v) Construction sign. One (1) nonilluminated construction sign, not to exceed twenty-four (24) square feet in area and not to exceed six feet (6') in height and provided that such signs are located on the premises where construction will be occurring. Only one construction sign may be erected for each commercial establishment and is to be removed upon completion of a permanent identification sign or issuance of certificate of occupancy, whichever is sooner.

(4) Lakeside development district.

- (A) One (1) attached sign not to exceed forty (40) square feet in area. The characters comprising the sign shall be between seven inches (7") and thirty inches (30") in height.
- (B) One (1) freestanding sign not to exceed forty (40) square feet in area and not to exceed six (6) feet in height. The characters comprising the sign shall be between seven inches (7") and thirty inches (30") in height.
- (C) One (1) nonilluminated construction sign, not to exceed twenty-four (24) square feet in area and not to exceed six feet (6') in height, and provided that such signs are located on the premises where construction will be occurring. Only one construction sign may be erected for each commercial establishment and is to be removed upon completion of a permanent identification sign or issuance of certificate of occupancy, whichever is sooner.

(5) OS open space district; ED estate development district.

- (A) One (1) nonilluminated freestanding sign, not to exceed twenty-four (24) square feet in area nor three feet (3') in height, and having characters no less than six inches (6") in height.
- (B) One (1) nonilluminated attached sign not to exceed forty (40) square feet in area. The characters comprising the sign shall be between seven inches (7") and thirty inches (30") in height.

(Ordinance 2007-08-00596 adopted 8/2/07)

§ 3.16.010. Permits; inspections.

- (a) Except as otherwise provided for in section 3.16.007 (Exempt signs), it shall be unlawful for any person to erect, place, display, alter or relocate a sign without first obtaining a permit or permits from the city.
- (b) It shall be the duty of the building official or designee, upon the filing of an application for a sign

permit, to examine the plans, specifications and other data, including the premises upon which the sign is to be erected, relocated, or repaired, including the following information:

- (1) Name, address, and telephone number of the owner of the property.
 - (2) Size of the sign (i.e., height, length, area, thickness, number of faces).
 - (3) Letter style and size.
 - (4) Illumination.
 - (5) Colors (i.e., background, letters, trim).
 - (6) Construction, materials, structural integrity and installation details.
 - (7) Location (i.e., height above grade, distance from roofline, building width, location from lot lines).
- (c) If the proposed structure is in compliance with all the requirements of this article, the building code and all other applicable laws and ordinances of the city, the city shall then issue the sign permit. If the work authorized under a sign permit has not been completed within ninety (90) days after the date of issuance, the permit shall become null and void unless renewed by the city.
- (d) The building official or designee may, in writing, suspend or revoke a permit issued under provisions of this article whenever the permit is issued on the basis of a material omission or misstatement of fact, or in violation of this article or this code or the laws of this state or the federal government.
- (e) Sign permits for new or additional signs shall not be issued for a specific occupancy if such occupancy displays unlawful or nonconforming signs. A sign permit may be issued for a specific occupancy provided the terms thereof specify modification or removal of nonconforming signs resulting in conformity with the provisions of this article.
- (f) On application for any sign permit required by this article, the city shall collect a fee in accordance with the fee schedule of the city, as amended from time to time.
- (g) Each sign requiring a permit shall be inspected by the building official or designee in January of each year so as to determine compliance with the approved application and permit issued. The building official or designee shall communicate in writing to the owner of any sign found not in compliance and said sign shall be subject to the conditions outlined in section 3.16.005(i) of the general provisions of this article. For this inspection, the city shall collect an annual fee in accordance with the fee schedule of the city, as amended from time to time.

(Ordinance 2007-08-00596 adopted 8/2/07)

§ 3.16.011. Nonconforming signs.

- (a) Existing signs in conflict with this article shall be classified as nonconforming.
- (b) A nonconforming sign shall not be altered, rebuilt, enlarged, extended, or relocated.
- (c) A nonconforming sign shall not be permitted to remain after cessation or change of the business or activity to which the sign pertains.
- (d) A nonconforming sign shall not be reestablished, repaired, or rebuilt if the sign is allowed to deteriorate, or is damaged or destroyed by any means, to an extent that the cost of repair or

reconstruction is 50% or more of the replacement cost.

- (e) A nonconforming sign shall not be converted to another nonconforming sign by changing copy, except as follows: Any existing sign which is designed for changing copy, such as a bulletin or message board, joint identification tenant sign, or gasoline pricing sign, may be changed where individual letters, numerals, or name panels are readily interchangeable.
- (f) A nonconforming off-premises sign (billboard) located on any lot shall be removed prior to the issuance of any building permit, or prior to any variance, use permit, replatting, or zoning change becoming effective for that lot, and shall not be reconstructed at any later time.
- (g) A lot may not be divided, or created, for the express or implied purpose of preserving the nonconforming status of any off-premises/off-site sign (billboard).
- (h) On premises where there exists a nonconforming sign, no new sign of any type otherwise permitted in this article shall be erected or placed on such premises, permanently or temporarily, until such existing legal nonconforming sign is brought into compliance with this article or otherwise removed.
- (i) Signs rendered discontinued:
 - (1) The use of any sign which is located on property which becomes vacant and unoccupied for a period exceeding twelve (12) months shall be deemed to have been discontinued. Any sign whose use has been discontinued is prohibited and shall be removed.
 - (2) Sign structures which remain vacant for a period exceeding ninety (90) days, devoid of any message of permitted or legal nonconforming use for ninety (90) days, or display a message pertaining to a time, event, or purpose that no longer applies for a period exceeding ninety (90) days, shall be deemed to be discontinued. Any sign whose use has been discontinued is prohibited and shall be removed.

(Ordinance 2007-08-00596 adopted 8/2/07)

§ 3.16.012. Variances.

The board of adjustments shall have authority to grant special variance exceptions from the provisions of this article on proper application. Special exceptions may be granted when circumstances permit and when the proposed exception does not violate the spirit or intent of this article, on such conditions and requirements as may reasonably be required by the board.

(Ordinance 2007-08-00596 adopted 8/2/07)

§ 3.16.013. Compensation for signs required to be relocated, reconstructed or removed.

- (a) Generally. Subject to the requirements of chapter 216, Local Government Code, the city may require the relocation, reconstruction, or removal of any sign within its corporate limits or extraterritorial jurisdiction. In lieu of compensation for a sign that is required to be relocated, reconstructed, or removed, the city may exempt from required relocation, reconstruction, or removal those signs lawfully in place on the effective date of the requirement.
- (b) Sign board. Before requiring the relocation, reconstruction, or removal of any sign within the city's corporate limits or extraterritorial jurisdiction, the mayor shall first appoint a city board on sign control. Members of this board shall be appointed for a term of two (2) years. The sign board shall be composed of:
 - (1) Two (2) real estate appraisers, each of whom must be a member in good standing of a nationally

- recognized professional appraiser society or trade organization that has an established code of ethics, educational program, and professional certification program;
- (2) One (1) person engaged in the sign business in the municipality;
 - (3) One (1) employee of the state department of transportation who is familiar with real estate valuations in eminent domain proceedings; and
 - (4) One (1) architect or landscape architect licensed by this state. Members are appointed for a term of two (2) years.
- (c) Determination of amount of compensation. The board shall first determine the amount of compensation due the owner of a sign that is required to be relocated, reconstructed, or removed. The determination shall be made after the owner of the sign is given the opportunity for a hearing before the board about the issues involved in the matter.
- (d) Compensation for relocated sign. The compensable costs for a sign that is required to be relocated include the expenses of dismantling the sign, transporting it to another site, and re-erecting it. The board shall determine the compensable costs according to the standards applicable in a proceeding under chapter 21, Texas Property Code. In addition, the city shall issue to the owner of the sign an appropriate permit or other authority to operate a substitute sign of the same type at an alternative site of substantially equivalent value. Whether an alternative site is of substantially equivalent value is determined by standards generally accepted in the outdoor advertising industry, including visibility, traffic count, and demographic factors. The city shall compensate the owner for any increased operating costs, including increased rent, at the new location. The owner is responsible for designating an alternative site where the erection of the sign would be in compliance with this article.
- (e) Compensation for reconstructed sign. The compensable costs for a sign that is required to be reconstructed include expenses of labor and materials and any loss in the value of the sign due to the reconstruction in excess of fifteen percent (15%) of that value. The board shall determine the compensable costs according to standards applicable in a proceeding under chapter 21, Property Code.
- (f) Compensation for removal of off-premises sign.
- (1) For an off-premises sign that is required to be removed, the compensable cost is an amount computed by determining the average annual gross revenue received by the owner from the sign during the two (2) years preceding September 1, 1985, or the two years preceding the month in which the removal date of the sign occurs, whichever is less, and by multiplying that amount by three (3). If the sign has not been in existence for all of either two-year periods, the average annual gross revenue for that period, for the purpose of this computation, is an amount computed by dividing twelve (12) by the number of months that the sign has been in existence, and multiplying that result by the total amount of the gross revenue received for the period that the sign has been in existence. However, if the sign did not generate revenue for at least one month preceding September 1, 1985, this computation of compensable costs is to be made using only the average annual gross revenue received during the two years preceding the month in which the removal date of the sign occurs, and by multiplying that amount by three. In determining the amounts under this subsection, a sign is treated as if it were in existence for the entire month if it was in existence for more than fifteen (15) days of the month and is treated as if it were not in existence for any part of the month if it was in existence for fifteen (15) or fewer days of the month.

- (2) The owner of the real property on which the sign was located is entitled to be compensated for any decrease in the value of the real property. The compensable cost is to be determined by the board according to standards applicable in a proceeding under chapter 21, Texas Property Code.
- (g) Compensation for removal of on-premises sign. For an on-premises sign that is required to be removed, the compensable cost is an amount computed by determining a reasonable balance between the original cost of the sign, less depreciation, and the current replacement cost of the sign, less an adjustment for the present age and condition of the sign.
- (h) Method of compensation.
- (1) To pay the compensable costs required under this article, the city may use only a method, or a combination of the methods, prescribed by this section.
- (2) If a sign is required to be relocated or reconstructed, the city, acting pursuant to the Property Redevelopment and Tax Abatement Act (chapter 312, Tax Code), may abate municipal property taxes that otherwise would be owed by the owner of the sign. The abated taxes may be on any real or personal property owned by the owner of the sign except residential property. The right to the abatement of taxes is assignable by the holder, and the assignee may use the right to abatement with respect to taxes on any nonresidential property in the same taxing jurisdiction. If tax abatement is used to pay compensable costs, the costs include reasonable interest and the abatement period may not exceed five (5) years.
- (3) The city may allocate to a special fund in the municipal treasury, to be known as the “sign abatement and community beautification fund,” all or any part of the municipal property taxes paid on signs, on the real property on which the signs are located, or on other real or personal property owned by the owner of the sign. The city may make payments from that fund to reimburse compensable costs to owners of signs required to be relocated, reconstructed, or removed.
- (4) The city may provide for the issuance of sign abatement revenue bonds and use the proceeds to make payments to reimburse costs to the owners of signs within its corporate limits that are required to be relocated, reconstructed, or removed.
- (5) The city may pay compensable costs in cash.
- (i) Tax appraisal of property with nonconforming sign. For each nonconforming sign, the board shall file with the appropriate property tax appraisal office the board’s compensable costs value appraisal of the sign. The appraisal office shall consider the board’s appraisal when the office, for property tax purposes, determines the appraised value of the real property to which the sign is attached.
- (j) Exceptions.
- (1) The requirements of this section do not apply to a sign that was erected in violation of local ordinances, laws, or regulations applicable at the time of its erection.
- (2) The requirements of this section do not apply to a sign that, having been permitted to remain in place as a nonconforming use, is required to be removed by the city because the sign, or a substantial part of it, is blown down or otherwise destroyed or dismantled for any purpose other than maintenance operations or for changing the letters, symbols, or other matter on the sign.
- (3) For purposes of subsection (2) above, a sign or substantial part of it is considered to have been destroyed only if the cost of repairing the sign is more than sixty percent (60%) of the cost of

erecting a new sign of the same type at the same location.
(Ordinance 2007-08-00596 adopted 8/2/07)

ARTICLE 3.17
RIGHT-OF-WAY USE

§ 3.17.001. Definitions.

For the purposes of this article, the following terms shall have the following meanings:

City. The city or its city administrator or his designee.

Construction or construction work. Any of the following activities performed by any person within a public right-of-way:

- (1) Installation, excavation, laying, placement, repair, upgrade, maintenance, or relocation of facilities or other improvements, whether temporary or permanent.
- (2) Modification or alteration to any surface, subsurface, or aerial space within the boundaries of the public right-of-way.
- (3) Performance, restoration, or repair of pavement cuts or excavations.
- (4) Reconstruction of any of the work described in this definition.
- (5) Other similar construction work.

Emergency. A condition that:

- (1) Poses a clear and immediate danger to life or health, or an immediate and significant loss of property; or
- (2) Requires immediate repair or replacement of facilities in order to restore service to a customer.

Facility or facilities. Includes, but shall not be limited to, any and all plant, equipment, buildings, fixtures, cables, pipelines, splice boxes, tracks, tunnels, utilities, vaults, and other appurtenances or tangible things owned, leased, operated, used, or licensed by any person, that are located or are proposed to be located in any public right-of-way for the purpose of the provision of any utility service to any customer.

Owner. Any person who owns any facility or facilities that are or are proposed to be installed or maintained in a public right-of-way. The term shall include a contractor, subcontractor, agent or authorized representative of the owner.

Person. A natural person, a corporation, a service provider, a governmental entity or agency (including the city), a limited liability company, a joint venture, a business trust, an estate, a trust, a partnership, an association, or any other legal entity.

Project. Any construction or placement of any structure or thing within any public right-of-way.

Public right-of-way. Any area of land within the city that is acquired by, dedicated to, or claimed by the city in fee simple, by easement, or by prescriptive right and that is expressly or impliedly accepted or used in fact or by operation of law as a public roadway, highway, street, sidewalk, alley, utility easement, or utility access easement. The term includes the area on, below, and above the surface of the public right-of-way. The term applies regardless of whether the public right-of-way is paved or unpaved. The term does not include airwaves above the public right-of-way used for wireless telecommunications.

Restore or restoration. The process by which a public right-of-way is returned to a condition that is at least equal to or better than the condition that existed before construction.

(Ordinance 2005-01-00516, sec. 1, adopted 1/3/05)

§ 3.17.002. Penalty.

Any person, firm or corporation violating any of the provisions or terms of this article shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined as provided in section 1.01.009 of this code for each violation, and each day that such violation shall continue to exist constitutes a separate offense.

(Ordinance 2005-01-00516, sec. 1, adopted 1/3/05; Ordinance adopting Code)

§ 3.17.003. Authorization required.

- (a) Any person, prior to constructing facilities in, on or over the public rights-of-way, must first obtain a permit from the city.
- (b) This article does not constitute or create authority to place, reconstruct, or alter facilities in, on or over the rights-of-way nor to engage in construction, excavation, encroachments, or work activity within or upon any public right-of-way, and said authority must be obtained in accordance with the terms of this article.
- (c) Any person with a current, unexpired franchise, license, right-of-way use agreement or other authorization from the city or state to use the public right-of-way that is in effect on the effective date of this article (ordinance adopted January 3, 2005) may continue to operate under and comply with that authorization, and, in the event this article conflicts with existing authorization, the more restrictive provision shall apply.

(Ordinance 2005-01-00516, sec. 1, adopted 1/3/05)

§ 3.17.004. Registration.

- (a) In order to protect the public health, safety and welfare, all persons owning, installing, maintaining, repairing, or using facilities in a right-of-way will register with the city. Registrations and permits will be issued in the name of the person who owns the facilities. Registration must be renewed on or before January 31 of each year. The city shall provide written notification of this renewal requirement. If a registration is not renewed, and subject to sixty-day notification to the owner, the facilities will be deemed to have been abandoned. When any information provided for the registration changes, the registrant shall inform the city of the change no more than thirty (30) days after the date the change is made. Registration shall be on a form provided by the city and must contain, at a minimum, the following information:
 - (1) The name, address(es) and telephone number(s) of the owner;
 - (2) The names, address(es) and telephone number(s) of the contact person(s) for the owner;
 - (3) The name(s), address(es) and telephone number(s) of any contractor(s) or subcontractor(s) who will be working in the right-of-way on behalf of the owner. If the names of contractors and subcontractors are not available at the time of permit application, they must be submitted to the city prior to permit issuance;
 - (4) The name(s) and telephone number(s) of an emergency contact who shall be available twenty-four (24) hours a day;
 - (5) The source of the owner's municipal authorization (e.g., franchise, state law, etc.). If the owner is a certificated telecommunications provider, the certificate number issued by the state public utility commission;

- (6) The owner shall submit two-year projections of their plans for the construction of facilities in the city at the time of registration renewal; and
 - (7) Registration shall be a prerequisite to issuance of a construction permit.
- (b) Each owner shall update and keep current its registration with the city at all times.
(Ordinance 2005-01-00516, sec. 1, adopted 1/3/05)

§ 3.17.005. Construction permits.

(a) Generally.

- (1) No owner or person shall perform any construction or installation of facilities in the right-of-way without first obtaining a construction permit, except as provided herein. Permit applications are required for construction of new, replacement or upgrades of facilities in the right-of-way, whether aerial or underground.
- (2) Emergency responses related to existing facilities may be undertaken without first obtaining a permit; however, the city shall be notified in writing within two (2) business days of any emergency-related construction, including a reasonably detailed description of the work performed in the right-of-way. An updated map of any facilities that were relocated, if applicable, shall be provided within 90 days.
- (3) A permit is not required under this section if the activity in the public right-of-way consists exclusively of:
 - (A) A residential service connection on the same side of the public right-of-way if the connection does not require a pavement cut; or
 - (B) The replacement of a single damaged aboveground pole for aerial wires.
- (4) Unless approved by the city engineer, the owner and any person acting by, for or through the owner shall not close any traffic lanes or otherwise impede rush hour traffic on major thoroughfares on weekdays during the hours of 7:00 a.m. to 9:00 a.m. or 3:30 p.m. to 6:30 p.m. Any closure of a traffic lane for more than four hours during any non-peak traffic period shall also require a permit, unless waived by the city.
- (5) All construction and installation in the right-of-way shall be in accordance with the permit. The city shall be provided access to the work and to such further information as it may reasonably require to ensure compliance with the permit.
- (6) A copy of the permit and approved engineering plans shall be maintained at the construction site and made available for inspection by the city at all times when construction work is occurring.
- (7) All construction work authorized by permit must be completed in the time specified in the permit. If the work cannot be completed in the specified time periods, the owner may request an extension of the time period from the city. The city will use its best efforts to approve or disapprove a request for permit as soon as possible. If the request for the extension is made prior to the expiration of the permit, work may continue while the request is pending.
- (8) Construction, excavation, or work area. No owner or any person acting by, for or through the owner shall perform construction, excavation, or work in an area larger or at a location different

than that specified in the permit or permit application. If, after construction, excavation, or work is commenced under an approved permit, it becomes necessary to perform construction, excavation, or work in a larger or different area than originally requested under the application, the owner shall notify the city immediately and, within 24 hours, shall file a supplementary application for the additional construction, excavation, or work.

- (9) A copy of any permit or approval issued by federal or state authorities for work in a federal or state right-of-way located in the city shall be provided if requested by the city.

(b) Application; approval; conditions.

- (1) The permit shall state to whom it is issued, location of work, location of facilities, dates and times work is to take place and any other conditions set out by the city. If the owner fails to act upon any permit and begin construction within 90 calendar days of issuance, the permit shall become invalid, and the owner will be required to obtain another permit. No permit shall be transferable.
- (2) The permit will be in the name of the person who will own the facilities to be constructed. The permit application must be completed and signed by an authorized representative of the owner of the facilities to be constructed.
- (3) Any person requesting a permit will provide the city with documentation in the format specified by the city, at the time of permit submittal, describing:
 - (A) The proposed location and route of all facilities to be constructed or installed and the owner's plan for right-of-way construction.
 - (B) Three (3) set of engineering plans, including plan and profile, which will be on a reasonable scale, acceptable to the city, unless waived by the city. When required by the Texas Engineering Practice Act, chapter 1001, Texas Occupations Code, as amended, the plans must be sealed by a professional engineer licensed to practice in the state.
 - (C) Detail of the location of all right-of-way and utility easements that the owner plans to use.
 - (D) Detail of existing utilities located in the right-of-way, including the city's utilities, in relationship to the owner's proposed route.
 - (E) Detail of what the owner proposes to construct, including size of facilities and materials used, such as pipe size, number of ducts, valves, etc.
 - (F) Detail of plans to remove and replace asphalt or concrete in streets, alleys, sidewalks or other rights-of-way.
 - (G) Drawings of any bores, trenches, handholes, manholes, switch gear, transformers, pedestals, etc., including depth located in public rights-of-way.
 - (H) Typical details of manholes and/or handholes the owner plans to use for access.
 - (I) Complete legend of drawings submitted by the owner, which may be provided by reference to previously submitted documents acceptable to the city.
 - (J) The construction methods to be employed for the protection of existing structures, fixtures, and facilities within or adjacent to the right-of-way, and the dates and times work will occur, all of which (methods, dates, times, etc.) are subject to approval of the city.

(K) Proof of insurance and bonds as required in this article.

- (4) A request for a permit must be submitted at least fifteen (15) business days before the proposed commencement of work identified in the request, unless waived by the city.
- (5) Requests for permits will be approved or disapproved by the city within a reasonable time of receiving all the necessary information. The city will use its best efforts to approve or disapprove a request for permit as soon as possible. The city will consider all information submitted by the applicant, including a review of the availability of space in the right-of-way based on the applicant's proposed route and location. The city will provide a written notification of denial for rejected permits.

(6) The city or the owner can request a preconstruction meeting with the construction contractor.
(Ordinance 2005-01-00516, sec. 1, adopted 1/3/05)

§ 3.17.006. Construction standards; public notification of work.

- (a) All construction shall be in conformance with all city codes and applicable local, state and federal laws.
- (b) The city must be notified two (2) business days in advance that construction is ready to proceed by either the owner or its contractor or representative. The name, address and phone numbers of the contractor or subcontractor who will perform the actual construction, including the name and telephone number of an individual with the contractor who will be available at all times during construction[, shall be provided]. Such information shall be required prior to the commencement of any work.
- (c) Public notification of work to be performed.
 - (1) For any closure of a traffic lane or blocking of a sidewalk or alley lasting six days or less, the permittee shall conspicuously mark its vehicles with the permittee's name and telephone number.
 - (2) For projects scheduled to last more than seven (7) calendar days, a three-foot by three-foot (3' x 3') informational sign stating the identity of the person doing the work, a local telephone number and the owner's identity shall be placed at the location where construction is to occur forty-eight (48) hours prior to the beginning of work in the right-of-way and shall continue to be posted at the location during the entire time the work is occurring. The informational sign will be posted on public right-of-way one hundred (100) feet before the construction location commences, unless other posting arrangements are approved or required by the city.
 - (3) When projects last more than seven (7) calendar days, the owner shall also provide written notification to all adjacent property occupants forty-eight (48) hours prior to the beginning of construction. Informational fliers shall include the person doing the work, a local telephone number, the owner's identity, and proposed schedule.
- (d) Erosion control measures (e.g., silt fence) and advance warning signs, markers, cones and barricades must be in place before work begins.
- (e) Lane closures on major thoroughfares will be limited to one lane between 9:00 a.m. and 3:30 p.m. unless the city grants prior approval. Arrow boards will be required for lane closures on all arterials and collectors, with all barricades, advance warning signs and thirty-six-inch reflector cones placed according to the Texas Manual on Uniform Traffic Control Devices.

- (f) Without affecting the legal relationship between the owner and its contractor, owners are responsible for the workmanship of, and any damages by, their contractors or subcontractors. A responsible representative of the owner will be available to the city at all times during construction.
- (g) The owner shall be responsible for stormwater management, erosion control and excavation safety measures that comply with city, state and federal guidelines. Requirements shall include, but not be limited to, construction fencing around any excavation that will be left overnight, silt fencing in erosion areas until reasonable vegetation is established, and barricade fencing around open holes, and high-erosion areas will require wire-backed silt fencing. Upon request, the owner may be required to furnish documentation submitted to or received from the federal or state government.
- (h) The owner or contractor or subcontractor will notify the city immediately of any damage to other utilities, either city or privately owned.
- (i) It is the city's policy not to cut streets or sidewalks; however, except in case of emergency when a street or sidewalk cut is required, prior approval must be obtained from the city and all requirements of the city shall be followed in all street and sidewalk cuts. Repair of all street and sidewalk removals must be made promptly to avoid safety hazards to vehicle and pedestrian traffic, and shall be in accordance with any guidelines, standards or rules adopted by the city.
- (j) Installation of facilities must not interfere with city utilities, in particular gravity-dependent facilities. Facilities shall not be located over or within three (3) feet, horizontally or vertically, of any water or sanitary sewer mains unless approved by the city.
- (k) New facilities must be installed to a minimum depth required by state and federal codes and standards.
- (l) All directional boring shall have a locator place bore marks and depths while the bore is in progress. The locator shall place a mark at each stem with a paint dot and depth at least every other stem.
- (m) No directional boring zones. In the city, the public infrastructure must be maintained and protected by all owners and contractors. The public health, safety and welfare is at risk when damages to water and sewer mains occur. To protect the water and sewer system, no person, agency, or contractor will be allowed to directionally bore longitudinally with water mains that are larger than 12" and sewer mains that are 12" or larger, unless this requirement is waived in writing by the city. The installation of facilities in the public rights-of-way or easements will be installed by open excavation to assure the protection of the city's water and sewer system. The city has available mapping that identifies such mains. The owner is responsible for obtaining and using this information in the design of new facilities. However, the city cannot guarantee the accuracy of its utility location maps or the maps of any other owner of other facilities and the person performing or conducting any construction assumes all risk of interference or damage to preexisting facilities.
- (n) The working hours in the rights-of-way are 7:00 a.m. to 8:00 p.m., Monday through Friday, unless otherwise approved by the city. Any work performed on Saturday must be approved by the city by 9:00 a.m. on the Thursday prior to the proposed Saturday. No work will be done, except for emergencies, on Sundays or city holidays.
- (o) Persons working in the right-of-way are responsible for obtaining line locates from all affected utilities or others with facilities in the right-of-way prior to any excavation. Use of a geographic information system or the plans of record does not satisfy this requirement.
- (p) The owner will be responsible for verifying the location, both horizontal and vertical, of all facilities.

When required by the city, the owner shall verify locations by pot-holing, hand digging or other method approved by the city prior to any excavation or boring.

- (q) Placement of all manholes and/or handholes must be approved in advance by the city. Handholes or manholes will not be located in sidewalks, unless approved by the city.
- (r) Locate flags shall not be removed from a location while facilities are being constructed.
- (s) When construction requires pumping of water or mud, the water or mud shall be contained in accordance with federal and state law and the directives of the city.
- (t) A person shall perform operations, excavations and other construction in the public rights-of-way in accordance with all applicable city requirements, including the obligation to use trenchless technology whenever commercially economical and practical and consistent with obligations on other similar users of the public right-of-way. The city shall waive the requirements of trenchless technology if it determines that the field conditions warrant the waiver, based upon information provided to the city by the applicant. All excavations and other construction in the public rights-of-way shall be conducted so as to minimize interference with the use of public and private property. All persons shall follow all reasonable construction directions given by the city in order to minimize any such interference.
- (u) All construction shall conform to the city's tree preservation ordinance.
- (v) Excavation safety. On construction projects in which excavation will exceed a depth of five (5) feet, the owner must have detailed plans and specifications for excavation safety systems. The term "excavation" includes trenches, structural or any construction that has earthen excavation subject to collapse. The excavation safety plan shall be designed in conformance with state law and Occupational Safety and Health Administration (OSHA) standards and regulations.

(Ordinance 2005-01-00516, sec. 1, adopted 1/3/05)

§ 3.17.007. As-built plans.

- (a) Right-of-way users will provide the city with as-built plans within ninety (90) days of completion of facilities in the right-of-way. The plans shall be provided to the city with as much detail and accuracy as required by the city. All the requirements specified for the plans submitted for the initial permit, as set forth in this section, shall be submitted and updated in the as-built plans. Users which have facilities in the right-of-way existing as of the date of this article (January 3, 2005) who have not provided as-built plans shall provide one-quarter of the information concerning facilities in city rights-of-way within one (1) year after the passage of this article and one-quarter each six (6) months thereafter. The detail and accuracy will concern issues such as location, size of facilities, materials used, and any other health, safety and welfare concerns. Submittal of as-built plans shall be in digital format compatible with city hardware and software or shall be subject to a conversion fee. The owner shall include one set of plans in a paper format.
- (b) If as-built plans submitted under this section include information expressly designated by the owner as a trade secret or other confidential information protected from disclosure by state law, the city may not disclose that information to the public without the consent of the owner, unless otherwise compelled by law or by a court having jurisdiction of the matter pursuant to applicable law. This subsection may not be construed to authorize an owner to designate all matters in its as-built plans as confidential or as trade secrets.
- (c) This requirement, or portions of this requirement, may be waived by the city for good cause.

(Ordinance 2005-01-00516, sec. 1, adopted 1/3/05)

§ 3.17.008. Alteration or relocation of facilities; tree trimming; temporary moving of wires.

- (a) Whenever, by reason of widening or straightening of streets, sidewalks, water or sewer line projects, or any other city project, it shall be deemed necessary by the governing body of the city to remove, alter, change, adapt, or conform an owner's underground or overhead facilities within the right-of-way to another part of the right-of-way, such alterations shall be made by the owner of the facilities at the owner's expense (unless provided otherwise by state law, a franchise, a license or a municipal authorization until that grant expires or is otherwise terminated). The owner shall be responsible for conforming its facilities within mutually agreed-upon time limits. If no time limits can be agreed upon, the time limit shall be ninety (90) days from the day the city secures any additional right-of-way and transmits final plans and notice to make the alterations. The owner of facilities shall be responsible for any direct costs associated with project delays associated with failure to conform facilities within the mutually agreed-upon time limits. Reimbursement for all costs provided for by this subsection shall be made within thirty (30) calendar days.
- (b) An owner may trim trees in or over the public rights-of-way for the safe and reliable operation, use and maintenance of its facilities. All tree trimming shall be performed in accordance with standards promulgated by the National Arborist Association and the International Society of Arboriculture. Should the owner, its contractor or agent fail to remove such trimmings within twenty-four (24) hours, the city may remove the trimmings or have them removed, and, upon receipt of a bill from the city, the owner shall promptly reimburse the city for all costs incurred within thirty (30) calendar days.
- (c) An owner shall temporarily remove, raise or lower its aerial facilities to permit the moving of houses or other bulky structures. The owner shall temporarily remove, raise or lower its aerial facilities within fifteen (15) working days of receiving a copy of a permit issued by the city. The expense of these temporary rearrangements shall be paid by the party or parties requesting and benefiting from the temporary rearrangements. The owner may require prepayment or prior posting of a bond from the party requesting the temporary move.

(Ordinance 2005-01-00516, sec. 1, adopted 1/3/05)

§ 3.17.009. Improperly installed or maintained facilities.

- (a) Any owner doing work in the city right-of-way shall properly install, repair, upgrade and maintain facilities.
- (b) Facilities shall be considered to be improperly installed, repaired, upgraded or maintained if:
 - (1) The installation, repair, upgrade or maintenance endangers people or property;
 - (2) The facilities do not meet the applicable city codes;
 - (3) The facilities are not capable of being located using standard practices;
 - (4) The facilities are not located in the proper place at the time of construction in accordance with the directions provided by the city or the plans approved by the city.

(Ordinance 2005-01-00516, sec. 1, adopted 1/3/05)

§ 3.17.010. Restoration of property.

- (a) Owners shall restore property affected by construction of facilities to a condition that is equal to or better than the condition of the property prior to the performance of the work. Owners shall submit photographs and/or a video of the construction area at the time of the issuance of the permit. Restoration must be approved by the city.
- (b) Restoration must be made within ten (10) working days of completion of trench backfill for a length of three hundred (300) feet, or within the limits of one city block, unless otherwise approved by the city. If restoration is not satisfactory and performed in a timely manner, after written notice, then all work in progress, except that related to the problem, including all work previously permitted but not complete, may be halted and a hold may be placed on any future permits until all restoration is complete.
- (c) Upon failure of an owner to perform such restoration, and five (5) days after written notice has been given to the owner by the city, and in the event restoration has not been initiated during such five-day period, the city may repair such portion of the public rights-of-way as may have been disturbed by the owner, its contractors or agents. Upon receipt of an invoice from the city, the owner will reimburse the city for the costs so incurred within thirty (30) calendar days from the date of the city invoice.
- (d) If the city determines that the failure of an owner to properly repair or restore the public rights-of-way constitutes a safety hazard to the public, the city may undertake emergency repairs and restoration efforts, after emergency notice has been provided, to the extent reasonable under the circumstances. Upon receipt of an invoice from the city, the owner shall promptly reimburse the city for the costs incurred by the city within thirty (30) calendar days from the date of the city invoice. If payment is not received within the thirty (30) calendar days, the city shall initiate a claim for compensation with the appropriate bonding company.
- (e) Should the city reasonably determine, within two (2) years from the date of the completion of the repair work, that the surface, base, irrigation system or landscape treatment requires additional restoration work to meet the standards of this section, an owner shall perform such additional restoration work to the satisfaction of the city, subject to all city remedies as provided herein.
- (f) Restoration must be to the reasonable satisfaction of the city. The restoration shall include, but not be limited to:
 - (1) Replacing all ground cover with the type of ground cover damaged during work to a condition equal to or better either by sodding or seeding, or as directed by the city;
 - (2) Adjusting of all manholes and handholes, as required;
 - (3) Backfilling all bore pits, potholes, trenches or any other holes shall be completed daily, unless other safety requirements are approved by the city. Holes with only vertical walls shall be covered and secured to prevent entry. If bore pits, trenches or other holes are left open for the continuation of work, they shall be fenced and barricaded to secure the work site as approved by the city;
 - (4) Leveling of all trenches and backhoe lines;
 - (5) Restoration of the excavation site to city specifications;
 - (6) Restoration of all paving, sidewalks, landscaping, ground cover, trees, shrubs and irrigation systems.

- (7) Removal of all locate flags during the cleanup process by the owner or his/her contractor at the completion of the work.

(Ordinance 2005-01-00516, sec. 1, adopted 1/3/05)

§ 3.17.011. Revocation or denial of permit.

If any of the provisions of this article are not followed, a permit may be revoked by the city. If a person has not followed the terms and conditions of this article in work done pursuant to a prior permit, new permits may be denied or additional terms required. Revocation shall be effective upon the expiration of fifteen days after written notice of the violation(s), unless cured during that period, except for violations which pose a threat to public safety or health, for which the revocation will be immediate upon delivery of written notice.

(Ordinance 2005-01-00516, sec. 1, adopted 1/3/05)

§ 3.17.012. Appeals.

- (a) Applicability. Appeals may be filed pursuant to this section for decisions of the city related to the denial, suspension, or revocation of a permit. However, the appeal process provided by this section shall not be available for criminal violations of this article.
- (b) Appeal to city administrator. A permittee may appeal decisions referred to in this section by filing a written appeal with the city administrator within seven (7) working days of receipt of denial, suspension, or revocation of the permit. An appeal filed pursuant to this section shall specifically state the basis for the aggrieved party's challenge to the city's authority under this article.
- (c) Issuance of decision by city administrator. Decisions of the city administrator shall be issued within five (5) working days of receipt of the written appeal. Decisions of the city administrator shall be final.

(Ordinance 2005-01-00516, sec. 1, adopted 1/3/05)

§ 3.17.013. Indemnification of city.

- (a) Each owner placing facilities in the public rights-of-way shall promptly defend, indemnify and hold the city harmless from and against all damages, costs, losses or expenses:
- (1) For the repair, replacement, or restoration of the city's property, equipment, materials, structures and facilities which are damaged, destroyed or found to be defective as a result of the owner's acts or omissions;
- (2) From and against any and all claims, demands, suits, causes of action, and judgments for:
- (A) Damage to or loss of the property of any owner (including but not limited to the owner and its agents, officers, employees and subcontractors, the city's agents, officers and employees, and third parties); and/or
- (B) Death, bodily injury, illness, disease, loss of services, or loss of income or wages to any owner (including but not limited to the agents) arising out of, incident to, concerning or resulting from the negligent or willful act or omissions of the owner or its agents, employees, and/or subcontractors, in the performance of activities pursuant to this article.
- (b) This indemnity provision shall not apply to any liability resulting from the negligent or willful acts of the city or its officers, employees, agents, contractors, or subcontractors.

- (c) The provisions of this indemnity are solely for the benefit of the city and are not intended to create or grant any rights, contractual or otherwise, to any other owner or entity.

(Ordinance 2005-01-00516, sec. 1, adopted 1/3/05)

§ 3.17.014. Insurance.

(a) General requirements.

- (1) An owner must provide acceptable proof of insurance in the total amount required by this section for permits for construction within public rights-of-way, or make other provisions acceptable to the city.
- (2) The coverage must be on an “occurrence” basis and must include coverage for personal injury, contractual liability, premises liability, medical damages, and underground, explosion and collapse hazards.
- (3) Each policy must include a cancellation provision in which the insurance company is required to notify the city in writing not fewer than thirty (30) days before canceling, failing to renew, or reducing policy limits.
- (4) The owner shall file the required original certificate of insurance prior to the issuance of a permit. The certificate shall state the policy number; name of the insurance company; name and address of the agent or authorized representative of the insurance company; name, address and telephone number of the insured; policy expiration date; and specific coverage amounts.
- (5) The owner shall file an annual surety bond, which will be valid for one full year, from a surety company authorized to do business in the state, in the amount equal to the estimated amount of the cost to restore the right-of-way for the work anticipated to be done in that year in the event the owner leaves a job site in the right-of-way unfinished, incomplete or unsafe. The owner may make other provisions, in lieu of a bond, as acceptable to the city. The city may waive the requirement if the owner submits documentation, in a form acceptable to the city attorney, that demonstrates the owner has assets in excess of 10 million dollars.
- (6) The owner shall file a maintenance bond for twenty-five percent (25%) of the cost of restoring the right-of-way for the preceding year. Said bond shall be in force for two (2) years. The owner may make other provisions, in lieu of a bond, as acceptable to the city. The city may waive the requirement if the owner submits documentation, in a form acceptable to the city attorney, that demonstrates the owner has assets in excess of 10 million dollars.
- (7) The above requirements may be met by utilities with a current franchise, license or municipal authorization if their current franchise, license or municipal authorization adequately provides for insurance or bonds or provides an indemnity in favor of the city.
- (8) The city will accept certificates of self-insurance issued by the state or letters written by the agency in those instances where the state does not issue such letters, which provide the same coverage as required herein. However, certificates of self-insurance must be approved in advance by the city.
- (9) An insurer has no right of recovery against the city. The required insurance policies shall protect the owner or contractor and include the city as an additional insured. The insurance shall be primary coverage for losses covered by the policies.
- (10) Each policy must include a provision that requires the insurance company to notify the city in

writing at least 30 days before canceling or failing to renew the policy or before reducing policy limits or coverages.

(b) Specific requirements.

- (1) Owners. Each owner applying for a permit shall obtain, maintain, and provide proof of the each of the following types of insurance and coverage limits:

(A) Commercial general liability on an occurrence form with minimum limits of \$5,000,000 per occurrence and \$10,000,000 aggregate. This coverage shall include the following:

- (i) Products/completed operations to be maintained for one year.
- (ii) Personal and advertising injury.
- (iii) Owners and contractors protective liability.
- (iv) Explosion, collapse, or underground (XCU) hazards.

(B) Automobile liability coverage with a minimum policy limits of \$1,000,000 combined single limit. This coverage shall include all owned, hired and non-owned automobiles.

(C) Workers' compensation and employer's liability coverage. Statutory coverage limits for Coverage A and \$500,000 Coverage B employer's liability is required.

- (2) Contractors and subcontractors. Each contractor and subcontractor applying for a permit shall obtain, maintain, and provide proof of insurance for the same types of insurance coverages outlined in subsection (1) above; however, the policy limits under the general liability insurance shall be \$1,000,000 per occurrence and \$2,000,000 aggregate. All other coverage provisions outlined in this section shall apply.

- (c) Previous proof of insurance. An owner or contractor that has registered and filed proof of insurance under this article is not required to furnish separate proof of insurance under this section when obtaining a permit but must comply with all other requirements of this section.

(Ordinance 2005-01-00516, sec. 1, adopted 1/3/05)

§ 3.17.015. (Reserved)

§ 3.17.016. (Reserved)

§ 3.17.017. Fees.

- (a) Exemptions. Network providers are exempted from the following fees provided for in this article:

- (1) Permit application fee, including expedited application fee and permit expiration fee;
- (2) Additional permit fee; and
- (3) Registration fee.

(b) Network provider fees.

- (1) Annual network node rate. Network providers shall pay the city an annual network node rate for each location for which network provider has obtained permit(s) for the installation of

network nodes, regardless of whether or not a network provider installs network nodes in the public right-of-way. The amount of the annual network rate shall be set in city's fee schedule. The annual network node public right-of-way rate payment for the first year at any location ("initial annual network node payment") begins accruing when the permit is issued and is due 30 days after network provider obtains a permit to install or collocate a network node at the location. The initial annual network node payment shall be pro-rated for the months remaining in the calendar year after the permit issuance date.

- (2) Subsequent years annual network node rate due date. The annual network node public right-of-way rate for every year after the initial annual network node payment shall be paid in advance on or before September 30th of each calendar year for each network node in the public right-of-way for the next calendar year period.
- (3) Annual network node rate adjustment. The city may adjust the annual network node public right-of-way rate by an amount equal to one-half the annual change in the Consumer Price Index for All Urban Consumers for Texas, as published by the federal Bureau of Labor Statistics. The city shall provide written notice to each network provider of the new rate, and the rate shall apply to the first payment due to the municipality on or after the 60th day following that notice.
- (4) Monthly transport fee. To the extent a network provider has transport facilities permitted from the network nodes in the public right-of-way it shall pay the city a monthly transport facilities fee on a quarterly basis, in the amount set in the city's fee schedule, as adopted in appendix C of the Code of Ordinances, which begins accruing when the permit is issued. This transport facility fee is in addition to any annual network node public right-of-way rate payment required by ch. 284, Section 284.053.
- (5) Application and permit fees. A network provider shall pay the city the small cell application fee set forth in the city's master fee schedule contemporaneously with the submittal of the application for the permits.

(Ordinance 2018-12-00887 adopted 12/6/18)

§ 3.17.018. Compliance with design manual.

A network provider shall comply with the city's design manual for the installation of network nodes and node support poles, as amended. Any applications submitted for installation of network nodes, node support poles and related equipment, the plans and specifications of which do not comply with the design manual, will not be approved unless a request for alternate means or method, or a waiver, has been granted.

(Ordinance 2018-12-00887 adopted 12/6/18)

§ 3.17.019. Alternate means or method; waiver.

- (a) A person may file a request with the city manager or city manager's designee to use alternate means or methods in right-of-way construction or maintenance. In determining whether any requirement may be waived or if an alternate method or means may be used, the city manager or city manager's designee may consider all reasonable factors, including but not limited to:
 - (1) Whether the requirement or the alternate means or method or waiving the requirement would subject the person or persons or public to an unreasonable increase in risk;
 - (2) Whether the requirement or the alternate means or method or waiving the requirement would subject the person or persons or public to an unreasonable increase of service interruption;

- (3) Whether the requirement or the alternate means or method or waiving the requirement would subject the person or persons or public to an unreasonable increase in potential for liability for accidents;
 - (4) Whether the requirement or the alternate means or method or waiving the requirement would subject the person or persons or public to an unreasonable delay in construction;
 - (5) Whether the requirement or the alternate means or method or waiving the requirement would subject the person or persons or public to an unreasonable delay in availability of services; or
 - (6) To any other unreasonable technical or economic burden.
- (b) There shall be no right to receive permission to use an alternative means or method and denial by the city manager's or their designee shall be final.
- (Ordinance 2018-12-00887 adopted 12/6/18)

ARTICLE 3.18
TREE CONSERVATION AND LANDSCAPING

§ 3.18.001. Purpose and intent.

- (a) The purpose of this article is to encourage the preservation of mature trees that, once removed, can be replaced only after generations, to preserve protected trees during construction and to control the removal of protected trees when necessary. It is the intent of this article to achieve the following:
- (1) Prohibit the indiscriminate clearing of property.
 - (2) Protect and increase the value of residential and commercial properties within the city.
 - (3) Maintain and enhance a positive image for the attraction of new business enterprises to the city.
 - (4) Protect healthy quality trees and promote the natural ecological environmental and aesthetic qualities of the city.
 - (5) Help provide needed shaded areas in order to provide relief from the heat by reducing the ambient temperature.
 - (6) Help prevent erosion.
- (b) The city may issue a stop-work order for any development or construction project at any time if the tree preservation requirements within this article are not being met. Efforts will be made to allow a developer or builder to comply before the project is shut down.

(Ordinance 2007-08-00601 adopted 8/2/07)

§ 3.18.002. Definitions.

Critical root zone. The area of undisturbed natural soil around a tree defined by a concentric circle with a radius equal to the distance from the trunk to the outermost portion of the drip line.

DBH. Diameter at breast height (caliper) is tree trunk diameter measured in inches at a height of 4.5 feet above the ground. If a tree splits into multiple trunks below 4.5 feet, the tree shall be measured in two places, the narrowest point beneath the split and 1/2 the sum of the calipers of the trunks immediately above the split. Whichever is the greater measurement is to be the measurement applied. If there is no single trunk above ground level to measure, the measurement shall be the sum of the main trunk, plus 1/2 of all other branches of the calipers of the various trunks at 4.5 feet.

Drip line. A vertical line run through the outermost portion of the canopy of a tree and extending to the ground.

Governmental entity. Any political subdivision or unit of government having regulatory or supervisory authority over construction and development, including the city, independent school districts, the state, the county, and the United States of America and federal agencies.

Multitrunk tree. A tree with more than one trunk arising at or near the ground.

Protective fencing. Snow fencing, chainlink fence, barbed-wire fence, orange vinyl construction fencing or other similar fencing with a four-foot approximate height.

Replacement tree. A self-supporting woody perennial plant listed on the approved replacement trees grouping in section 3.18.019, that is the same size as the tree which is removed, or multiple trees of at least 4.5" DBH for large trees and 2" DBH for small trees, or greater, each when added together equaling

the diameter of tree removed, as approved by the planning staff. Replacement trees are designated "R" following the tree name in section 3.18.019.

Tree. A tree is a self-supporting, woody perennial with usually a solitary trunk or main stem. For the purpose of this article, a tree shall include all trees listed as trees in Shummer and Mailer's "Illustrated Flora of North Central Texas" published by the Botanical Research Institute of Texas and authored by George Diggs, Barney Lipscombe and Robert O'Kennon.

Tree, protected. A tree, the trunk of which has a DBH of 6" or larger.
(Ordinance 2007-08-00601 adopted 8/2/07)

§ 3.18.003. Penalties.

- (a) If any tree is removed in violation of these requirements, or if any tree required to be retained or replaced as a condition of these regulations dies or is removed, including any injury to a tree resulting from failure to follow required tree protection measures which causes or may reasonably be expected to cause the tree to die, the city shall have the authority to impose the following administrative and civil penalties on the violator:
 - (1) A civil monetary penalty of at least \$100.00 but not more than \$500.00 per caliper inch will be assessed by the city.
 - (2) Replacement with new tree(s) having a total tree caliper width equivalent to twice that of the removed tree(s). Such replacement tree(s) shall have a minimum caliper width of three inches DBH and shall be planted in a location(s) either within the development site or on nearby public properties as approved by the planning staff.
- (b) Any person, firm, corporation, agent or employee thereof who violates any of the provisions of this article shall be deemed guilty of a misdemeanor and upon conviction shall be fined a penalty as provided in section 1.01.009 of this code for each offense, and a separate offense shall be deemed to occur for each tree removed. The unlawful destruction or removal of each protected tree shall be considered a separate offense, and each offense subjects the violator to the maximum penalty per tree as provided in section 1.01.009 of this code for each day that the tree is not replaced.
- (c) No acceptance of public improvements shall be authorized until all fines and penalties for violations of this article have been paid to the city.
- (d) No certificate of occupancy shall be issued until all fines and administrative and civil penalties for violations of this article have been paid to the city.

(Ordinance 2007-08-00601 adopted 8/2/07)

§ 3.18.004. Applicability.

All developments for which building permits have yet to be issued as of the effective date of this article (Ordinance 2007-08-00601 adopted August 2, 2007) shall be subject to the requirements for tree protection and replacement specified herein.

(Ordinance 2007-08-00601 adopted 8/2/07)

§ 3.18.005. Exceptions.

A tree removal permit shall not be required and tree protection and replacement requirements shall not apply under any of the following circumstances:

- (1) Agricultural uses. Property zoned agricultural and being actively used for agricultural purposes shall be exempt from the requirements specified herein.
- (2) Homeowners. The owner of a residence who uses the residence as his homestead shall be exempt from the requirements of this article as it pertains to that residential property.
- (3) Right-of-way. Right-of-way owned or leased by a governmental entity.
- (4) Damaged/diseased trees. The tree is dead, diseased, damaged beyond the point of recovery, in danger of falling, or endangers the public health, welfare or safety as determined by the planning staff.
- (5) Utility service interruption. The tree has disrupted a public utility service due to a tornado, storm, flood or other act of God. Removal shall be limited to the portion of the tree reasonably necessary to reestablish and maintain reliable utility service.
- (6) Businesses. The following business ventures shall be exempt from the requirements specified herein as follows:
 - (A) Landscape nurseries. All licensed plant or tree nurseries shall be exempt from the tree protection and replacement requirements and from the tree removal permit requirements only in relation to those trees planted and growing on the premises which are so planted and growing for sale to the general public.
 - (B) Golf courses. Golf courses shall be exempt from the tree protection and replacement requirements and from the tree removal permit requirements for removal of protected trees within areas designated as tee boxes, fairways or greens. All other areas shall be subject to these requirements.

(Ordinance 2007-08-00601 adopted 8/2/07)

§ 3.18.006. Tree survey.

All development plats and site plans shall include a tree survey. The tree survey shall include the elevation of the trees, range of height and caliper of the trees, the predominant species within an area, and the general appearance of the trees with regard to health and location with regard to property lines. Individual trees which are healthy and have a DBH of 4.5" or greater for large trees or a DBH of 2" or greater for small trees or which are otherwise noteworthy because of species, age, size, or rarity shall be specifically located, as well as the protected trees that are proposed for removal through the permit process. The tree survey shall be submitted to the planning staff as part of the development/planning process. Any tree plan or survey which shows protected trees will be removed shall be accompanied by a tree removal application and a plan for replacement pursuant to the tree replacement definition. The burden shall be upon the applicant to show the necessity for all protected trees being removed.

(Ordinance 2007-08-00601 adopted 8/2/07)

§ 3.18.007. Pre-clearing conference and inspections.

- (a) After final plat approval, including amended plats, replats or site plans, but prior to any clearing, pruning or trimming, tree removal or grading, a tree protection management conference shall take place to review procedures for protection and management of all tree protection elements.
- (b) Prior to the approval of pruning, trimming or removal of any trees, the applicant shall mark clearly all trees to be preserved and notify the city of the marking(s). The city shall inspect and verify the markings, not to exceed a two-week period. All protected trees shall be marked in accordance with

signage or markings as provided herein.

- (c) Prior to the commencement of grading, all tree markings and protective fencing as described within this article must be installed by the developer and must be inspected by the city.
 - (d) Within two (2) weeks of notification by the planning staff that final acceptance of the subdivision by the city is imminent, a final inspection of the tree preservation methods must be performed.
- (Ordinance 2007-08-00601 adopted 8/2/07)

§ 3.18.008. Permit required for removal of protected trees.

Except as provided in section 3.18.005, no person, directly or indirectly, shall cut down, destroy, remove or move, or effectively destroy through damaging any protected tree situated on property regulated by this article without first obtaining a tree removal permit, unless otherwise specified in this article.

(Ordinance 2007-08-00601 adopted 8/2/07)

§ 3.18.009. Review and approval of tree removal permits and tree replacement plans.

The planning staff shall be responsible for the review and approval of all requests for tree removal permits and tree replacement plans submitted in accordance with the requirements specified herein.

(Ordinance 2007-08-00601 adopted 8/2/07)

§ 3.18.010. Issuance of tree removal permit; fee; expiration.

- (a) Administrative procedures. The planning staff shall establish administrative procedures necessary to facilitate the implementation of this section. Such administrative procedures shall be subject to approval by the city council.
- (b) Application. An application for a tree removal and site clearing permit must be submitted and approved prior to the removal of any protected tree in the city unless the tree is exempt under this article.
- (c) Fee. All tree removal permits shall be accompanied by a check made payable to the city in the amount established by resolution of the city council.
- (d) Tree location map required. All requests for tree removal permits must be accompanied by a map showing at a minimum the requirements as listed in subsection (e) below. These requirements may be modified by the planning staff as needed to administer this article and are subject to approval by the city council. Upon prior approval by the planning staff, the map exhibit may be limited only to the applicable portion of the site.
- (e) Contents of map. Maps shall show the location of all buildings, structures, pools, utilities, and other improvements intended on the lot and limits of construction lines shown if applicable; the location of tree(s) to be removed and replacement trees with dimensions from the two nearest property lines; the caliper and common name of trees to be removed; and any required replacement trees shown with caliper size and the common name of the tree.
- (f) Expiration. Permits for tree removal issued in connection with a building permit or site plan shall be valid for the period of that building permit's or site plan's validity. Permit(s) for tree removal not issued in connection with a building permit or a site plan shall become void one hundred eighty (180) days after the issue date on the permit.

(Ordinance 2007-08-00601 adopted 8/2/07)

§ 3.18.011. Granting of variances.

The planning staff shall be allowed to consider variances or exceptions to the tree removal permit and tree replacement plan where literal enforcement would result in creation of an unnecessary hardship or impractical application of the plan considering the physical characteristics of the lot or parcel of land in question, except that any variance request for the removal of three (3) protected trees or more within 90 days shall be deferred directly to the city council.

(Ordinance 2007-08-00601 adopted 8/2/07)

§ 3.18.012. Denial of permit or variance.

The planning staff or the city council, where applicable, shall deny a tree removal permit or application for variance, if it is determined that:

- (1) Removal of the tree is not necessary in order to conduct anticipated activities on the property;
- (2) A reasonable accommodation can be made to preserve the tree; or
- (3) The purpose and intent of this article is not being met or is being circumvented by the applicant.

(Ordinance 2007-08-00601 adopted 8/2/07)

§ 3.18.013. Appeals.

Any decision made by the planning staff may be appealed directly to the city council. All decisions made by the city council shall be final.

(Ordinance 2007-08-00601 adopted 8/2/07)

§ 3.18.014. Pruning of protected trees.

- (a) Generally. No protected tree shall be pruned in such a manner which significantly disfigures the tree, or in a manner that would reasonably lead to the death of a tree, except where such pruning is necessary for safety and utility reliability.
- (b) Utility companies. All utility companies shall be required to file in the office of the planning staff a set of pruning specifications (updated annually) to be followed by all pruning contractors working for the company within the city. Prior to beginning any pruning not requested by the owner of the tree, the contractor shall submit to the city an application for a pruning permit for approval. Such permit shall be effective for a one-year period. In addition, written notice of pruning must be given by the utility to the landowner at least two weeks prior to any pruning activity on or adjacent to a landowner's property. As allowed in section 3.18.005(5), utility companies may prune trees as necessary to reestablish disrupted utility service without obtaining a permit.
- (c) Standards. All pruning shall be in accordance with the most recent version of the National Arborist Association Standards for Pruning of Shade Trees, which shall be on file in the office of the planning staff, and supervised by the planning staff or private property owner as applicable. Under no circumstances shall "topping" of trees be permitted as that term is defined in Neil Sperry's books titled "Neil Sperry's Guide to Texas Gardening", 2nd edition and "1001 Most Asked Texas Gardening Questions", May 1, 1997 edition.

(Ordinance 2007-08-00601 adopted 8/2/07)

§ 3.18.015. Tree replacement requirements.

- (a) Replacement of protected trees required. In the event that it is necessary to remove a protected tree, the applicant shall be required to replace the protected tree being removed with an approved replacement tree, as defined herein.
- (b) Restrictions. Any required replacement tree shall not be planted within an area such that the mature canopy of the tree will interfere with overhead utility lines, or that the mature root zone of the tree interferes with wastewater lines, water and all other utility easements, or where the tree will obstruct sidewalks or present hazards to the safe use of the roadway by way of visual impairment.
- (c) Trees required by zoning ordinance or deed restrictions. Trees required to be added per the landscaping requirements in the zoning ordinance or by virtue of deed restrictions shall not be considered as replacement trees.
- (d) Alternate location. Should a lot or parcel of land requesting the removal of trees not be large enough to accommodate the replacement of the caliper inches removed, the planning staff may require an alternate location(s) within the city to place the total caliper inches removed.
- (e) Number of replacement trees. Trees shall be replaced 1 for 1 in measured DBH of the trees removed. (Ordinance 2007-08-00601 adopted 8/2/07)

§ 3.18.016. Tree protection during construction.

- (a) Generally. A major purpose of this article is to protect all protected trees that are not required to be removed to allow approved construction to occur. The following procedures are required in the situations noted; however, the planning staff may accommodate unique circumstances.
- (b) Prohibited activities in root zone of protected tree. The following activities shall be prohibited within the limits of the critical root zone of any protected tree subject to the requirements of this article:
 - (1) Materials storage. No materials intended for use in construction or waste materials accumulated due to construction, excavation or demolition shall be placed within the limits of the critical root zone of any protected tree.
 - (2) Equipment cleaning, liquid disposal and material storage. No equipment shall be cleaned or other potentially damaging liquids deposited or allowed to flow overland within the limits of the critical root zone of a protected tree. This would include, but not be limited to, paint, oil, petroleum products, solvents, asphalt, concrete, mortar, pesticides, herbicides, fertilizer, or other similar materials that may be toxic or harmful to trees or vegetation. Further, no equipment or other materials, including dirt, shall be stored within the critical root zone. No soil of a depth greater than 2 inches shall be placed in the critical root zone.
 - (3) Attachments to trees. No signs, wires or other attachments, other than those of a protective nature, shall be attached to any protected tree.
 - (4) Vehicular traffic. No vehicular and/or construction equipment traffic or parking shall take place within the limits of the critical root zone of any protected tree other than on an existing street pavement. This restriction does not apply to single incident access within a critical root zone for purposes of clearing underbrush, establishing the building pad and associated lot grading, vehicular traffic necessary for routine utility maintenance or emergency restoration of utility service, or routine mowing operations.
 - (5) Grade changes. No grade changes (cut or fill) shall be allowed within the limits of the critical root zone of any protected tree unless adequate construction methods are approved by the

planning staff.

- (6) Impervious paving. No paving with asphalt, concrete or other impervious materials in a manner which may reasonably be expected to kill a tree shall be placed within the limits of the critical root zone of a protected tree.
- (c) Flagging and protective devices. The following procedures shall be followed on all types of construction projects, including but not limited to residential subdivisions, commercial, multifamily, manufacturing developments, residential builders and municipal/public, utility easements, right-of-way, manufactured housing developments, road construction, and sidewalk construction:
 - (1) Tree flagging. All protected trees on the subject property within forty (40) feet of a construction area or surface improvements such as driveways, walks, etc., shall be flagged with bright fluorescent orange vinyl tape of at least 2-inch width wrapped around the main trunk at a height of four (4) feet or more such that the tape is very visible to workers operating construction equipment. This shall include the flagging of all protected trees adjacent to the right-of-way within approved residential subdivisions during the construction of the roadway. All flagging shall remain in place during the entire phase of construction at all times.
 - (2) Open space flagging. All trees or groups of trees within areas intended to be saved as open space shall be enclosed with bright fluorescent orange vinyl tape of at least 2-inch width along all areas of possible access or intrusion by construction equipment. Tape shall be supported at a maximum of 25-foot intervals by wrapping trees or other approved methods. Single incident access for the purpose of clearing underbrush is allowed. All flagging shall remain in place during the entire phase of construction at all times.
 - (3) Protective fencing. Protective fencing will be located at the drip lines of all protected trees that border the limits of construction as designated by the planning staff.
 - (4) Bark protection. In situations where a protected tree remains in the immediate area of intended construction, the tree shall be protected by enclosing the entire circumference of the tree with 2-inch by 4-inch lumber encircled with wire or by other means that do not damage the tree. The purpose is to protect the bark of the tree against incidental contact by large construction equipment.
- (d) Boring under trees; trenching and excavation.
 - (1) Boring. Boring of utilities under protected trees may be required in certain circumstances. When required, the length of the bore shall be the width of the critical root zone at a minimum and shall be a minimum depth of forty-eight (48) inches.
 - (2) Trenching. All trenching, where possible, shall be designed to avoid trenching across the critical root zone of any protected tree. This shall not inhibit the placement of necessary underground services such as electric, telephone, gas, etc. No trenches in the critical zone of a protected tree may be left open for more than 24 hours.
 - (3) Root pruning. It is required that all roots two (2) inches or larger in diameter which are exposed as a result of trenching or other excavation be cut off square with a sharp medium-tooth saw and covered with pruning compound within two hours of initial exposure.
 - (4) Rehabilitation. All post boring and trenching in the critical root zone and root pruning shall require rehabilitation treatments of watering and fertilizing with root stimulator as recommended by the city.

(Ordinance 2007-08-00601 adopted 8/2/07)

§ 3.18.017. Replacement of trees that die after completion of construction.

If any of the trees required to be retained or trees planted as a part of this article should die within a period of one (1) year after completion of the activities associated with construction, the person or entity that is required to plant the replacement tree(s) shall replace the trees within six months at a ratio of one-to-one with an approved identical size tree from the replacement protected tree/replacement list (section 3.18.019).

(Ordinance 2007-08-00601 adopted 8/2/07)

§ 3.18.018. Compliance agreement.

No building permit shall be issued unless the applicant signs an application or permit request which states that all construction activities shall meet the requirements of this article. The city administrator or designee shall make available to the applicant a copy of this article.

(Ordinance 2007-08-00601 adopted 8/2/07)

§ 3.18.019. List of protected trees.

LARGE TREES	
Box elder maple	Black willow
Bitternut hickory	Pecan (R)
Northern catalpa	Sugar hackberry
American elm	Red maple
White ash	Shumard magnolia
Green ash	Slippery elm
Texas ash	River birch
Eastern red cedar (R)	Black walnut (R)
Osage-orange (horse apple, Bois D’Arc)	Sweetgum
Southern magnolia	Red mulberry
Eastern cottonwood	Sycamore
Shumard oak (R)	Cottonless cottonwood
Magnolia	Caddo maple
Pond cypress (R)	Saucer magnolia
	Thornless honey locust (R)

SMALL TREES	
Montezuma cypress (R)	Western soapberry (R)
Texas oak (Texas red oak) (R)	Chinquapin oak (R)

SMALL TREES	
Arizona cypress (R)	Live oak (R)
Desert willow (R)	Bald cypress (R)
Vasey oak (R)	Bigtooth maple (R)
Bur oak (R)	Lacy oak (R)
Eve's necklace (R)	Golden raintree
Mexican buckeye	Mexican plum (R)
Prairie flameleaf sumac (R)	Purpleleaf plum
Redbud (R)	Roughleaf dogwood
Rusty blackhaw viburnum	Texas persimmon (R)
Texas redbud (R)	Indigo-bush amorpah
Chittamwood	Hawthorn
Eastern redbud (R)	Common persimmon (R)
Eastern wahoo	Possumhaw holly (R)
Yaupon holly (R)	Southern wax myrtle
Chickasaw plum	Carolina cherry laurel
Southern crabapple	Carolina buckthorn
Smooth sumac	Texas sophora
Toothache	Honey mesquite
Texas mesquite	Cedar elm (R)

(Ordinance 2007-08-00601 adopted 8/2/07)

§ 3.18.020. Nonresidential landscaping requirements.

- (a) This article shall apply to all nonresidential districts. Any area within a planned development district or overlay district containing landscaping standards shall be regulated by the more restrictive standards.
- (b) The regulations of this article also apply to the following:
 - (1) SUP (specific use permit).
 - (2) Churches located in residential zoning districts.
 - (3) Day-care centers located in residential zoning districts.
 - (4) Schools (public/parochial) located in residential zoning districts.
 - (5) Other Applications for building permits for construction work that:
 - (A) Increases the number of stories in a building on the lot.

- (B) Increases by more than ten (10) percent or ten thousand (10,000) square feet, whichever is less, the combined floor areas of all buildings on the lots.
 - (C) Increases the nonpermeable lot coverage by more than two thousand (2,000) square feet.
 - (c) When the regulations of this section become applicable to a lot, the requirements are binding on all current and subsequent owners of the lot.
 - (d) The city council shall, as a minimum, impose landscaping requirements that are reasonably consistent with the standards and purposes of this article as a part of any ordinance establishing or amending a planned development (PD) district, or amending a special use permit (SUP). All landscaping requirements imposed by the city council must be reflected in landscape and irrigation plans that comply in form and content with the requirements of this article.
 - (e) The planning staff may grant a special exception to the landscaping requirements of this article upon making a special finding from the evidence presented that strict compliance with this article will result in substantial financial hardship or inequity to the applicant without sufficient corresponding benefit to the city and the citizens in accomplishing the objective and purpose of this article.
- (Ordinance 2007-08-00601 adopted 8/2/07)

§ 3.18.021. Submission of landscaping and irrigation plan.

- (a) Prior to site plan review by the planning staff for zoning amendments or building permit applications where these landscaping requirements are applicable, landscape plans must be submitted to the city director of planning and community development. The plans must have a scale of one (1) inch equals thirty (30) feet or larger and be on a standard drawing sheet of a size no larger than twenty-four (24) inches by thirty-six (36) inches. A plan which cannot be drawn in its entirety on a 24-inch by 36-inch sheet must be drawn with appropriate match-lines on two (2) or more 24-inch by 36-inch sheets.
 - (b) Irrigation plans must be submitted when the building permit application is submitted with building plans to the chief building official for review.
- (Ordinance 2007-08-00601 adopted 8/2/07)

§ 3.18.022. Minimum requirements.

Landscape and irrigation plans required under this article must contain the following information, and are not complete unless all applicable information noted in this section is submitted to the planning and community development department:

- (1) The title block in the lower, righthand corner containing the following: date, scale, site location map, north arrow, and the names, addresses, and telephone numbers of both the property owners and the person preparing the plan.
- (2) The addition name, block and lot description along with business name placed in the title block in the lower righthand corner of the plan.
- (3) The property boundary dimensions of the site (bearings and distances).
- (4) All existing and proposed public and private streets and sidewalks including street and sidewalk widths.
- (5) All existing services: fire hydrants, water mains, and sewer mains within the tract and immediately adjacent to it with pipe size and location indicated.

- (6) All proposed water and sanitary sewer pipe lines with sizes indicated and valves, fire hydrants, manholes, and other appurtenances or structures shown.
- (7) All existing or proposed water, sewer and irrigation connections, meter location, and size of meters.
- (8) All existing and proposed utility and visibility easements.
- (9) All existing or proposed buildings on the property, existing structures, access points on and adjacent to the property.
- (10) Existing and proposed contours of berms in intervals of one (1) foot.
- (11) Detailed structural designs of entryway features.
- (12) Screening walls and location, type and height of screening wall, either living or masonry. (Masonry screening walls must be designed by a professional engineer registered in the state. Proposed berming is to be delineated by one-foot contours.)
- (13) The following additional information must be submitted on the landscape plan:
 - (A) Tabulations of the landscape edge in linear feet. Give the street name and the amount of frontage.
 - (i) Label streets.
 - (ii) The following information is to be provided on the landscape plan in a tabular format:
 - a. Indicate the trees/shrubs required and provided.
 - b. Indicate parking area trees required and provided.
 - c. Indicate the trees/shrubs required and provided for parking lot perimeter landscaping.
 - d. Indicate parking lot interior landscaping required and provided.
 - e. Indicate gross landscape square footage and percentage excluding the city right-of-way (i.e. the landscape provided within the landscape edge and within the interior of the lots).
 - (B) Show graphically all plant material existing/proposed.
 - (C) Distance of trees/shrubs from sidewalks, curbs, screening walls, and utilities (minimum five (5) feet).
 - (D) Spacing between trees/shrubs (varies, check growth specifications).
- (14) Complete description of plant materials shown on the plan, including common and botanical names, locations, quantities, container (five-gallon minimum for required shrubs) or caliper sizes (four-inch minimum caliper for required shade trees), heights, spread, and spacing.
- (15) Complete description of landscaping and screening to be provided in or near off-street parking and loading areas, including information as to the amount (in square feet) of landscape area compared to gross site square footage. The city right-of-way shall not be included as part of the gross site landscaping.
- (16) Size, height, location and material of any proposed seating, lighting, planters, sculptures, decorative

paving, and water features.

- (17) Landscape plans shall contain the certification and stamp of a landscape architect licensed in the state that such plans have been reviewed by such landscape architect and satisfy all requirements of this article.
- (18) Irrigation plans shall contain the certification and stamp of an irrigator licensed by the state board of irrigators that such plans were prepared by such irrigator and satisfy all requirements of this article.
- (19) Location of sprinkler heads, valves, double-check valves, water meter, automatic controller, rain and freeze sensor, wind sensor, moisture sensor or any control mechanic of whatever kind or make must be shown on all irrigation plans.

(Ordinance 2007-08-00601 adopted 8/2/07)

§ 3.18.023. Approved planting materials.

Tree planting should follow the recommended landscape street tree concept as described in the comprehensive plan's urban design section. Shade trees must be selected from the list in section 3.18.024, and must be a minimum caliper size of four (4) inches. The trees listed in section 3.18.024, are considered suitable for local soil conditions and climate. Other species may be acceptable with approval from the city's superintendent of parks and forestry. Section 3.18.024 also lists all prohibited trees.

(Ordinance 2007-08-00601 adopted 8/2/07)

§ 3.18.024. Tree and landscape materials list.

The list for tree and landscape materials shall be as follows:

TREE AND LANDSCAPE MATERIAL LIST	
Appropriate Trees and Landscaping Material *(R)	
LARGE TREES	
Box elder maple	Black willow
Bitternut hickory	Pecan (R)
Northern catalpa	Sugar hackberry
American elm	Red maple
White ash	Shumard magnolia
Texas ash	Slippery elm
Eastern red cedar (R)	River birch
Southern magnolia	Black walnut (R)
Eastern cottonwood	Sweetgum
Shumard oak (R)	Red mulberry
Magnolia	Cottonless cottonwood
Pond cypress (R)	Caddo maple
	Saucer magnolia

TREE AND LANDSCAPE MATERIAL LIST
Appropriate Trees and Landscaping Material *(R)
LARGE TREES

	Thornless honey locust (R)
--	----------------------------

SMALL TREES

Montezuma cypress (R)	Western soapberry (R)
Texas oak (Texas red oak) (R)	Chinquapin oak (R)
Arizona cypress (R)	Live oak (R)
Desert willow (R)	Bald cypress (R)
Vasey oak (R)	Bigtooth maple (R)
Bur oak (R)	Lacy oak (R)
Eve's necklace (R)	Golden raintree
Mexican buckeye	Mexican plum (R)
Prairie flameleaf sumac (R)	Purpleleaf plum
Redbud (R)	Roughleaf dogwood
Rusty blackhaw viburnum	Texas persimmon (R)
Texas redbud (R)	Indigo-bush amorpah
Chittamwood	Hawthorn
Eastern redbud (R)	Common persimmon (R)
Eastern wahoo	Possumhaw holly (R)
Yaupon holly (R)	Southern wax myrtle
Chickasaw plum	Carolina cherry laurel
Southern crabapple	Carolina buckthorn
Smooth sumac	Texas sophora
Toothache	Honey mesquite
Texas mesquite	Cedar elm (R)

SHADE TREES

American elm	Lacebark (Drake) elm
Bald cypress	Live oak
Bigtooth maple	Pecan
Black walnut	Red maple cultivars
Burr oak	Shumard red oak

SHADE TREES	
Cedar elm	Slippery elm
Chinese elm	Southern magnolia
Chinese pistache	Southern red oak
Chinquapin oak	Southern sugar maple cultivars
Deodor cedar	Texas ash
	Thornless-honeylocust

ORNAMENTAL TREES	
Aristocrat pear	Mexican plum
Arizona cypress	Possumhaw holly
Bumelia	Purpleleaf plum
Cherry laurel	Redbud
Crabapple	Rough lead dogwood
Crepe myrtle	Saucer magnolia
Desert willow	Smoketree
Elderica pine	Sweetgum
Flame leaf sumac	Texas sophora
Hawthorne	Vitex
Japanese black pine	Wax myrtle
Leyland cypress	Yaupon holly

EVERGREEN SHRUBS	
Abelia	Nandina
Arborvitae	Nellie R. Stevens
Boxwood	Oleanders
Burford holly	Pampas grass
Cherry laurel	Privet
Elaeagnus	Viburnum
Indian hawthorn	Wax myrtle
Junipers	

GROUND COVERS	
Ajuga	Liriope
Asian jasmine	Mondo grass
Boston ivy	Moneywort
Cinquefoil	Monkey grass
Duchesnia	Sedum
English ivy	Verbena
Hedra spp.	Vinca spp.
Honeysuckle	Virginia creeper

PROHIBITED PLANTS, SHRUBS, TREES	
Arizona ash	Wax leaf
Water hyacinth willow	Ligustrum
Elm Siberian	Mulberry
Eunonymus (any spp.)	Red tip photinia
Green ash	Silver maple
Hackberry	Sycamore

*(R) - See section 3.18.002, Definitions, Replacement Tree.

(Ordinance 2007-08-00601 adopted 8/2/07)

§ 3.18.025. Plant material substitutions.

Due to seasonal planting problems and a lack of plant availability, approved landscape plans may require minor revisions. Planting plans shall be accepted if there is no reduction in the quality of plant material or no significant change in size or location of plant materials, and if the new plants are of the same general category (i.e., shade, ornamental, or evergreen trees) and have the same general design characteristics (mature height, crown spread) as the materials being replaced. Proposed materials must also be compatible with the area to ensure healthy plant growth. If these criteria are not fulfilled, changes to approved plans must be resubmitted and reviewed anew by staff and the planning staff.

(Ordinance 2007-08-00601 adopted 8/2/07)

§ 3.18.026. Submittal of landscape plan.

The city administrator (or designee) shall review each landscape plan submitted to determine whether or not it complies with the requirements of this article. All landscape plans must comply with the mandatory provisions of this article.

(Ordinance 2007-08-00601 adopted 8/2/07)

§ 3.18.027. Landscaped area.

At least fifteen (15) percent of the gross lot (excludes right-of-way) shall be maintained as landscaped area for all nonresidential zoning districts, planned development districts, and SUPs (special use permits). These requirements also apply to the following uses located in residential zoning districts:

- (1) Churches;
 - (2) Day-care centers;
 - (3) Schools (parochial/public);
 - (4) Other Applications for building permits for construction work that:
 - (A) Increases the number of stories in a building on the lot.
 - (B) Increases by more than ten (10) percent or ten thousand (10,000) square feet, whichever is less, the combined floor areas of all buildings on the lots.
 - (C) Increases the nonpermeable lot coverage by more than two thousand (2,000) square feet.
- (Ordinance 2007-08-00601 adopted 8/2/07)

§ 3.18.028. Landscape edge (adjacent to all streets).

In all zoning districts, a twenty-foot landscape edge must be provided along the entire length of the portion of the perimeter of the lot where a public or private street exists, exclusive of driveways and access ways at points of ingress and egress to and from the lot:

- (1) The city right-of-way shall not be included in the twenty-foot buffer. The planning staff may reduce the width of the required landscape edge during site plan review when the reduction is required for public improvements.
- (2) Decorative paving square footage may be included in the required landscape area square footage, if approved by the city in lieu of the standard city sidewalk specification.
- (3) The minimum requirements for landscape edge landscaping shall be one (1) shade tree and eight (8) shrubs for each twenty (20) linear feet of frontage.
- (4) All required screening, parking perimeter, and interior parking landscaping shall be included in the overall fifteen (15) percent of gross site landscaping.
- (5) No tree may be planted closer than five (5) feet to the paved portion of any impermeable surface.
- (6) No parking lot tree island may be less than ten (10) feet wide in any dimension and shall not contain less than one hundred (100) square feet of continuous permeable land.

(Ordinance 2007-08-00601 adopted 8/2/07)

§ 3.18.029. Screening of off-street loading spaces.

All off-street loading spaces on a site must be screened from all public and private streets, and residentially zoned properties adjacent to that site: All screening must be at least eight (8) feet in height measured from the horizontal plane passing through the nearest point of the off-street loading space and may be provided by using either of the following two (2) methods, except where the off-street loading spaces are located adjacent to residentially zoned property (see subsection (2) of this section), subject to approval by the

director of planning and community development or designee:

- (1) Evergreen trees planted six (6) feet on center, in a double staggered row.
- (2) An ornamental iron fence, masonry wall or berm. A screen totaling fourteen (14) feet in height is required where off-street loading spaces are located adjacent to residentially zoned property. A combination of subsections (3)(B)(i) and (ii) of this section are required. When berming is used, the berms shall be sod, plugged, sprigged, hydro mulched or seeded so that complete coverage is established within a three-month period of time from planting. The grass shall be reestablished, if necessary, to ensure grass coverage of all areas.
- (3) When screening for off-street loading spaces is provided by earthen berm or evergreen plant materials, the following regulations apply:
 - (A) The berm must have a minimum side slope of three to one (3:1) and a minimum crown width of three (3) feet.
 - (B) Evergreen plant materials must be selected from the approved planting materials list (see section 3.18.024). In addition, the plant materials must:
 - (i) Be located in a bed that is at least five (5) feet wide.
 - (ii) Be placed a maximum of six (6) feet on center in staggered rows over the entire length of the bed unless the director of planning and community development or designee approves an alternative planting density as being capable of providing a solid screen within one (1) year of planting.
 - (iii) Be a minimum of eight (8) feet in height at time of planting. Provide a visual barrier of the required height within one (1) year of initial planting.

(Ordinance 2007-08-00601 adopted 8/2/07)

§ 3.18.030. Screening of parking lots.

- (a) Screening must be provided for all surface parking lots on the site from all adjacent streets. The screening must extend along the entire street frontage of the surface parking lot, exclusive of driveways and access ways at points of ingress and egress to and from the site, and visibility triangles.
- (b) The surface parking lot screening must be at least three-and-one-half (3-1/2) feet higher than the finished elevation of the adjacent parking lot. The screening may be provided by using any two (2) of the following, subject to approval by the director of planning and community development or designee:
 - (1) Evergreen shrubs planted three (3) feet on center in a double staggered row in a bed at least thirty-six (36) inches wide.
 - (2) A berm of up to three (3) feet high with a minimum side slope of three to one (3:1) is required. The minimum crown width must be three (3) feet. Berms must be covered in live vegetation. Plants used for screening on a berm must reach a minimum height of thirty (30) inches within two (2) years of installation and be at least eighteen (18) inches high when planted.
 - (3) A fence or wall constructed of materials compatible with the principle building. One-third (1/3) of any fence or wall must be screened with acceptable plant materials, as approved by the city administrator or designee.

(Ordinance 2007-08-00601 adopted 8/2/07)

§ 3.18.031. Parking lot perimeter landscaping.

- (a) The perimeter strip shall be at least five (5) feet in width.
- (b) The minimum requirement for perimeter landscaping shall be one (1) shade tree and eight (8) shrubs for each twenty (20) linear feet of perimeter.
- (c) Required perimeter landscaping between adjacent parking lots does not preclude the need to provide cross access between lots.

(Ordinance 2007-08-00601 adopted 8/2/07)

§ 3.18.032. Parking lot interior landscaping.

- (a) The required percentage of interior parking lot landscaping shall be determined based on the following sliding scale:

Total Parking Area (square feet)	Interior Planting Area
7,000 to 49,999	5 percent
50,000 to 149,999	8 percent
150,000 and larger	10 percent

- (b) To calculate the total parking area and the subsequent percentage of required interior lot planting, total the square footage of all areas within the lot's perimeter, including parking spaces, planting islands, curbed areas, corner lots, and all interior driveways and aisles (except those with no parking spaces located on either side).
- (c) Landscaped areas located outside the parking lot may not be used to meet the interior planting requirements.
- (d) Curbs or wheel stops must be provided to prevent cars from parking too close to trees or damaging shrubs and screens.
- (e) All planting islands shall be curbed with a raised six-inch concrete curb located parallel to and between parking spaces and must be at least ten (10) feet wide to prevent cars from damaging trees and shrubs.
- (f) Shade trees must be provided to each parking lot at a minimum average density of one (1) tree for each ten (10) required parking spaces on the lot.
- (g) No required parking spaces may be located further than fifty (50) feet from the trunk of a shade tree, or farther than seventy-five (75) feet from two (2) or more shade trees.

(Ordinance 2007-08-00601 adopted 8/2/07)

§ 3.18.033. Buffering of adjacent single-family or duplex zoned properties or properties with such land uses.

Whenever a nonresidential use, mobile home use, or multiple-family use is adjacent to a property used or

zoned for single-family or duplex residential use, the more intensive land use shall provide a landscaped area edge of at least ten (10) feet in width along the common property line planted with one (1) shade tree (minimum four (4) inches in caliper and sixteen (16) to eighteen (18) feet in height at time of planting) for each twenty-five (25) linear feet or portion thereof of adjacent exposure.

(Ordinance 2007-08-00601 adopted 8/2/07)

§ 3.18.034. Screening and irrigation system requirements for antennas (commercial, radio, television, relay, cellular or microwave), electrical transmission stations or similar uses.

(a) Equipment/equipment cabinets for the types of uses listed in this section shall be screened from all roadways and adjacent properties. One (1) of the following types of screening is required:

- (1) Eight-foot tall (minimum) evergreen trees planted ten (10) feet on center, in a double staggered row. The plant material must provide a solid living screen within one (1) year of planting.
- (2) Eight-foot tall (minimum) solid masonry screening wall with eight-foot tall evergreen trees planted on nine-foot centers.

(b) All plant material is required to be one hundred (100) percent irrigated by an underground automatic irrigation system.

(Ordinance 2007-08-00601 adopted 8/2/07)

§ 3.18.035. Open space irrigation and maintenance.

All required landscape open space shall be provided with adequate and inconspicuous automatic underground irrigation systems and shall be properly maintained.

(Ordinance 2007-08-00601 adopted 8/2/07)

§ 3.18.036. City maintenance.

The city shall have the power to plant, preserve, spray, trim, or remove any tree, shrub, or plant on any parkway, alley, easement or public ground belonging to the city.

(Ordinance 2007-08-00601 adopted 8/2/07)

§ 3.18.037. Protection of landscaping.

It shall be unlawful for any person to cut or break any branch of any tree or shrub or injure in any way the bark of such tree or shrub growing on public property.

(Ordinance 2007-08-00601 adopted 8/2/07)

§ 3.18.038. Natural landscape character.

The existing natural landscape character (especially native oaks, elms, and pecan trees) shall be preserved to the extent reasonable and feasible. In an area of the street frontage containing a stand of trees, the developer shall use best good faith efforts to preserve such trees.

(Ordinance 2007-08-00601 adopted 8/2/07)

§ 3.18.039. Compliance with division provisions.

In determining whether there is compliance with this article, the director of planning and community development or designee shall consider topographical constraints on design, drainage, access and egress, utilities, and other factors reasonably related to health, safety and welfare of the public which necessitate

disturbance of the existing natural landscape character, economic usefulness of the property without disturbance of its natural character, the nature and quality of the landscaping installed to replace it, and such other factors as may be relevant and proper. Indiscriminate clearing or stripping of the natural vegetation on a lot is prohibited.

(Ordinance 2007-08-00601 adopted 8/2/07)

§ 3.18.040. Conformance.

Plant materials shall conform to the requirements described in the most current edition of “American Standards for Nursery Stock” which is published by the American Association of Nurserymen.

(Ordinance 2007-08-00601 adopted 8/2/07)

§ 3.18.041. Plant measurements.

Plants shall conform to the measurements specified in the plant schedule. Caliper measurements (measured in inches) shall be taken at a height of six (6) inches above the final grade to determine the caliper size or trunk diameter of a tree. For trees over four (4) inches in caliper size, the trunk diameter/caliper size shall be measured at a height of four-and-one-half (4-1/2) feet above the ground - also referred to as the DBH, diameter-at-breast-height.

- (1) The minimum branching height for all shade trees shall be six (6) feet.
- (2) The minimum size for shade trees shall be four (4) inches in caliper size, sixteen (16) to eighteen (18) feet in height.
- (3) The minimum size for ornamental trees (e.g. Aristocrat pear) shall be three (3) inches in caliper size.
- (4) The minimum size for ornamental flowering trees (e.g. Crepe myrtle) shall be eight (8) to ten (10) feet in height.
- (5) The minimum size for evergreen trees shall be eight (8) to ten (10) feet in height.
- (6) The minimum size for shrubs shall be five (5) gallons.

(Ordinance 2007-08-00601 adopted 8/2/07)

§ 3.18.042. Shrub beds.

All shrub beds shall be edged and all plant materials mulched with a two-inch layer of bark or shredded cypress mulch.

(Ordinance 2007-08-00601 adopted 8/2/07)

§ 3.18.043. Maintenance.

Every property owner and any tenants shall keep their landscaping in a well-maintained, safe, clean, and attractive condition at all times. Such maintenance includes, but is not limited to, the following:

- (1) Landscaped areas shall be kept free of trash, litter, weeds, and other such materials or plants not a part of the landscape. All plant material shall be maintained in a healthy and growing condition, and must be replaced with plant material of similar variety and size (size not to be smaller than the minimum required by this article at the time of replacement) if diseased, damaged, destroyed, or removed.
- (2) Lawn mowing on a regular basis as determined by the planning director.

- (3) Tree and shrub pruning.
 - (4) Watering of landscaped areas on a regular basis. An automatic underground irrigation system is required for all landscaping.
 - (5) Keeping landscape lighting in working order.
 - (6) Keeping lawn and garden areas alive, free of weeds, and attractive.
 - (7) Cleaning of abutting waterways and landscaped areas lying between public right-of-way lines and the property unless such streets, waterways or landscaped areas are expressly designated to be maintained by applicable governmental authority.
- (Ordinance 2007-08-00601 adopted 8/2/07)

§ 3.18.044. Dumpster and trash compactor screening.

- (a) Dumpsters shall be enclosed on three (3) sides with six-foot walls constructed of the same materials and finishes as the buildings. A six-foot solid landscaped screen without a fence or wall may also be used. Evergreen plant material is to be used and must be a minimum height of eight (8) feet at time of planting and shall provide a solid screen within one (1) year of planting, unless the screening dumpster under this code requires smaller. All landscaping must be one hundred (100) percent irrigated by an underground automatic irrigation system.
 - (b) An eight-foot masonry screen constructed of the same materials and finishes as the buildings, shall be provided around compactors. An eight six-foot [sic] solid landscaped screen without a fence or wall may also be used. Evergreen plant material is to be required and must be a minimum height of eight (8) feet at time of planting and shall provide a solid screen within one (1) year of planting.
 - (c) Screens are not required for dumpsters in nonresidential developments when located in the service area and screened by the buildings, wing walls or screening walls from public view.
 - (d) Dumpsters shall be identified on a site plan for all nonresidential and multifamily developments. The specific screening requirements specified in this article shall be placed on the site plan.
- (Ordinance 2007-08-00601 adopted 8/2/07)

§ 3.18.045. Screening walls.

- (a) Generally. When a nonresidential zoning district abuts a residential zoning district, a solid masonry screening wall of not less than six (6) nor more than eight (8) feet in height shall be erected along the entire property line separating these districts, except where visibility triangles or easements are required. The screening wall shall be constructed by the owner/developer of the commercial property at such time as the property is developed in proportion to the entire commercial tract. In cases where the planning staff finds this requirement to be better met by an irrigated living screen, the same may be substituted for the screening wall. A wrought iron fence having a minimum height of not less than six (6) feet nor more than eight (8) feet in combination with evergreen plant material (minimum eight (8) feet in height at time of planting) is required if a living screen is proposed. The plant material must be one hundred (100) percent irrigated by an underground automatic irrigation system and provide a solid living screen within one (1) year of planting.
- (b) Solid wall.
 - (1) Design and materials. A reinforced structural rock, stone, or brick wall, having a minimum height of six (6) feet or a maximum height of eight (8) feet are required. Reinforced concrete

footings are required and shall be designed, and signed by a structural engineer licensed to practice in the state. The rock or stone wall shall be constructed of natural materials, no manmade “look-alike” substitutes. All structural walls shall be approved by the planning staff.

- (2) Engineering requirements. Plans and specifications for the wall shall be approved by the city engineer. Engineering plans for the screening wall shall be submitted with, and be part of, the site plan or preliminary plat submittal requirements. All screening walls, brick, rock or stone, shall have specifications prepared and sealed and signed by a structural engineer, licensed to practice in the state.

(c) Additional requirements.

- (1) The wall must be designed by a professional structural engineer registered in the state with his seal and signature.
- (2) Water must drain away from wall on all sides. No accumulation of water shall be allowed.
- (3) Wall to be designed with footing or pier and sized to allow for no more than one (1) inch of movement over eight (8) feet.
- (4) Where walls are aligned with residential alleys pavements, the alleys shall be a minimum of six (6) feet from face of wall or columns on walls.
- (5) Where a masonry unit wall is used, then control joints shall be a maximum of forty (40) feet on center with expansion joints a minimum of two hundred (200) feet on center.
- (6) All mortar shall be type S or better for masonry wall units.

(Ordinance 2007-08-00601 adopted 8/2/07)

§ 3.18.046. Failure of owner to fulfill responsibilities; responses by city.

If, in the opinion of the city administrator or designee, any property owner or tenants have failed in any of the foregoing duties or responsibilities, then the city may give such person written notice of such failure, and such person must within ten (10) days after receiving such notice perform the maintenance required and/or correct any violations of this article as required. Should any property owner fail to fulfill this duty and responsibility within such period, then the city shall:

- (1) Revocation of permits. Revoke any building permits, certificates of occupancy, or other approvals or permits previously issued for the premises.
- (2) Withholding of permits. Withhold approval for building permits, certificates of occupancy, or other approvals or permits relating to the premises.
- (3) City performance of care and maintenance. To the full extent permitted by law, the city shall have the right and power to enter onto the premises and perform care and maintenance. The property owner and tenants of any part of the premises on which such work is performed shall jointly and severally be liable for the actual reasonable costs including any administrative fees of such work and shall promptly reimburse the city within eighty (30) [sic] days after receipt of a statement for such work from the city, the indebtedness shall be a debt of all of such persons jointly and severally, and shall constitute a lien against the premises on which the work was performed. The lien may be evidenced by an affidavit of costs filed in the real property records.
- (4) Misdemeanor. Any person violating any of the provisions of this article shall be deemed guilty of a

misdemeanor and, upon conviction, shall be fined as provided in section 1.01.009.
(Ordinance 2007-08-00601 adopted 8/2/07)

§ 3.18.047. Bonding.

When a property owner seeks a certificate of occupancy, the director of planning and community development may, in his discretion, require a maintenance bond, letter of credit, personal undertaking, cash escrow, or other security acceptable to the director that guarantees and secures maintenance of newly installed landscape for a period not to exceed two (2) years.
(Ordinance 2007-08-00601 adopted 8/2/07)

§ 3.18.048. Deferral of planting.

In any case in which a certificate of occupancy is sought at a season of the year in which the director of planning and community development or designee determines that it would be impractical to plant trees, shrubs or grass, or to lay turf, a temporary certificate of occupancy may be issued, if a letter of agreement from the property owner is provided stating when the installation shall occur. All landscaping required by the approved landscape plan shall be installed within four (4) months of the date of issuance of the temporary certificate of occupancy or the site shall be deemed to be in violation of this article and the temporary certificate of occupancy shall be revoked.
(Ordinance 2007-08-00601 adopted 8/2/07)

§ 3.18.049. Certificate of occupancy.

It shall be unlawful to issue an occupancy permit prior to the approval and complete installation of the automatic underground irrigation system as indicated on the approved landscape and irrigation plans.
(Ordinance 2007-08-00601 adopted 8/2/07)

ARTICLE 3.19
FENCING REQUIREMENTS

§ 3.19.001. Applicability.

This article shall apply to all fences that are erected in the city for the purpose of creating a barrier and used to prevent entry and/or to confine or to mark a boundary provided such fence is greater than sixty (60) feet in length and greater than thirty-six (36) inches in height.

(Ordinance 2015-01-00808 adopted 4/2/15)

§ 3.19.002. Residential, agricultural and estate districts.

(a) Height.

(1) Maximum height of 6 feet (6') for front yards.

(2) Maximum height of 8 feet (8') for side and rear yards.

(b) Fencing located within the required front, side and rear yard setbacks shall be a minimum of 50% see through.

(c) If property is used to pasture or control livestock, for farming or other similar agricultural uses, and such uses are permitted, the fencing requirements in section 3.19.003(b) are permitted.

(d) Fencing located outside of the required, rear and side yard setbacks may be privacy-style.

(Ordinance 2015-01-00808 adopted 4/2/15)

§ 3.19.003. Prohibited fencing materials for agricultural; residential; and estate districts.

(a) Razor ribbon, plywood or other materials that are not normally used for fencing are prohibited.

(b) Electrically charged fences are permitted but cannot be charged in such a manner as to be dangerous to humans.

(Ordinance 2015-01-00808 adopted 4/2/15)

§ 3.19.004. General fencing requirements.

(a) No fences are permitted to be constructed upon or caused to protrude over any city property, including easements, except by written approval of the city engineer, or right-of-way without prior written permission from the city council.

(b) All fences must be maintained in good repair and appearance so as not to become a nuisance or hazard and shall not be out of vertical alignment greater than 20% measured from the top of the fence.

(c) Any and all broken, loose, damaged, removed or missing portions of fencing must be replaced or repaired with comparable materials of a comparable color to the remaining portions of the fence.

(d) Fences shall not obstruct proper visual clearance for vehicular traffic.

(e) Each fence must contain at least one gate not less than three feet (3') wide along the common path of travel for emergency ingress and egress.

(f) Any request for the construction of fence over eight feet (8') in height shall be considered for

approved [approval] by the board of adjustments. The board of adjustment's decision shall not require a finding of a hardship and there shall be no application fee.
(Ordinance 2015-01-00808 adopted 4/2/15)

§ 3.19.005. Permit required.

- (a) A permit shall be required prior to the construction for all new fencing. A permit fee shall be set by ordinance and is contained in the master fee schedule.
- (b) A permit shall not be required for fence repair.
- (c) Any permit issued by the city does not allow for any construction of fencing in violation of any deed restrictions for the property.

(Ordinance 2015-01-00808 adopted 4/2/15)

§ 3.19.006. Commercial business district.

All proposed fencing within the commercial business district shall be required to be approved as part of the landscape plan approval process.

(Ordinance 2015-01-00808 adopted 4/2/15)

§ 3.19.007. Light industrial district.

All proposed fencing within the light industrial district shall be required to be approved as part of the landscape plan approval process.

(Ordinance 2015-01-00808 adopted 4/2/15)

§ 3.19.008. Self and mini-storage units.

Fencing for self and mini-storage unit facilities shall require a minimum eight foot (8') masonry screen wall on all sides with wrought iron gate(s) for ingress, egress and pedestrian gates.

(Ordinance 2015-01-00808 adopted 4/2/15)

§ 3.19.009. Penalty.

Any person, firm or corporation violating any provision of this article shall be punishable by a fine in accordance with section 1.01.009 of this code.

(Ordinance 2015-01-00808 adopted 4/2/15)

ARTICLE 3.20
EXISTING BUILDING CODE

§ 3.20.001. Adopted.

The International Existing Building Code, 2015 edition, as published by the International Code Council, is hereby adopted by reference. Unless deleted, amended, expanded or otherwise changed herein, all provisions of such code shall be applicable and binding.
(Ordinance 2019-09-00900, sec. 9, adopted 9/19/19)

§ 3.20.002. Amendments.⁹

(Ordinance 2019-09-00900, sec. 9, adopted 9/19/19)

9. Editor's note-The 2015 IEBC Amendments are included as an attachment to this chapter.

ARTICLE 3.21
SWIMMING POOL AND SPA CODE

§ 3.21.001. Adopted.

The International Existing Building [Swimming Pool and Spa] Code, 2015 edition, as published by the International Code Council, is hereby adopted by reference. Unless deleted, amended, expanded or otherwise changed herein, all provisions of such code shall be applicable and binding.
(Ordinance 2019-09-00900, sec. 10, adopted 9/19/19)

§ 3.21.002. Amendments.¹⁰

(Ordinance 2019-09-00900, sec. 10, adopted 9/19/19)

10. Editor's note-The 2015 ISPS Amendments are included as an attachment to this chapter.

ARTICLE 3.22
MINIMUM MAINTENANCE STANDARDS

§ 3.22.001. Chapter construction.

This article shall be construed to secure its intent to ensure public health, safety and welfare. It establishes minimum requirements and standards for the continued use and occupancy of all buildings regardless of the date of their construction. It is enacted pursuant to Texas Local Government code chapters 54 and 214 and is necessary to protect health, life, and property, and to preserve the good government, order, and security of the city and its inhabitants.

(Ordinance 2023-01-00967 adopted 1/19/2023)

§ 3.22.002. Compliance with article provisions.

Each owner, owner's authorized agent, occupant or other person responsible for the premises within the city shall comply with the applicable provisions of this article. The standards established in this article shall be the minimum standards for the continued use and occupancy of all structures and premises regardless of when they were constructed. Any structure or premises that is in violation of these standards is hereby declared to be in violation of this article and may be ordered to be one (1) or more of the following: Vacated, secured, repaired, removed, or demolished.

(Ordinance 2023-01-00967 adopted 1/19/2023)

§ 3.22.003. Owner's, occupants, and other responsible persons general responsibilities.

The owner, owner's authorized agent, occupant or other person responsible for the premises shall maintain the structures and premises in compliance with these minimum standards. A person shall not occupy or permit another person to occupy premises which are not in a sanitary and safe condition, and which do not comply with the requirements of this article. The standards of this article are intended to complement the requirements of any other applicable code or ordinance of the city and shall not be deemed to lower any more restrictive standard required by the codes at time of original construction or subsequent remodeling. The duty of an owner, owner's authorized agent, occupant or other person responsible to maintain premises in compliance with this article is not affected by any duty this article creates upon the occupants thereof, even if the owner or manager has, by agreement, imposed upon the occupants the duty of maintaining the premises and complying with this article.

(Ordinance 2023-01-00967 adopted 1/19/2023)

§ 3.22.004. All structures and premises.

- (a) Exterior grounds and premises. The owner, owner's authorized agent, occupant or other person responsible for the premises shall maintain all exterior grounds and premises in a clean, safe, and sanitary condition, including, but not limited to, as follows:
- (1) Maintain parking lots, fire lanes, driveways, sidewalks, porches, patios, and other paved areas free from deterioration, holes, excavations, sharp protrusions, or any other object or condition which may cause injury to a person;
 - (2) Provide and maintain legible parking and fire lane markings;
 - (3) Cover and maintain all exposed ground with pavement, stone screenings, other solid or semi-pervious material, or vegetative growth that is capable of eliminating soil erosion and dust, and that is free of holes and depressions that may injure a person or property;

- (4) Maintain wells, cesspools, cisterns, and on-site sewage facilities securely covered or closed;
- (5) Maintain trees and tree limbs in accordance with article 6.03;
- (6) Maintain fences, gates, and screening walls in good condition; and
- (7) Maintain all exterior property and premises free from garbage, junk and refuse in accordance with article 6.02.

(b) Exterior of structures.

- (1) The owner, owner's authorized agent, occupant, or other person responsible for the premises shall maintain the exterior of all structures and equipment thereon in good condition, structurally sound, and in a sanitary condition, so as not to pose a threat to the public health, safety, or welfare including, but not limited to, as follows:
 - (A) Maintain all exterior surfaces, including, but not limited to, doors, door and window frames, cornices, porches, trim, balconies, decks, and fences in good condition. Exterior wood surfaces, other than decay resistant woods, shall be protected from the elements and decay by painting or other protective covering or treatment. All siding and masonry joints as well as those between the building envelope and the perimeter of windows, doors, and skylights shall be maintained weather resistant and watertight. All metal surfaces subject to rust or corrosion shall be coated to inhibit such rust and corrosion and all surfaces with rust or corrosion shall be stabilized and coated to inhibit future rust and corrosion;
 - (B) Maintain all structural members free from deterioration, and capable of safely supporting the imposed dead and live loads;
 - (C) Maintain all foundation walls plumb and free from open cracks and breaks in such condition so as to prevent the entry of rodents and other pests and capable of safely supporting the imposed dead and live loads;
 - (D) Provide mechanical ventilation or screened cross-ventilation openings of not less than one and one-half (1-1/2) square feet for each twenty-five (25) linear feet of wall in each basement, cellar, and crawl space;
 - (E) Maintain all exterior walls free from holes, breaks, and loose or rotting materials and capable of safely supporting the imposed dead and live loads;
 - (F) Maintain all exterior walls and exposed surfaces of metal or wood to protect them from the elements and against decay or rust by periodic application of weather-coating materials, such as paint or similar surface treatment;
 - (G) Maintain the roof and flashing sound, tight and without defects that admit rain. Roof drainage shall be adequate to prevent dampness or deterioration in the walls or interior portion of the structure. Roof drains, gutters, and downspouts shall be maintained in good condition and free from obstructions. Roof water shall not be discharged in a manner that creates a public nuisance;
 - (H) Maintain all cornices, belt courses, corbels, trim, wall facings, and similar decorative features in good condition with proper anchorage and in a safe condition;
 - (I) Maintain all overhang extensions including, but not limited to, canopies, marquees, signs, metal awnings, fire escapes, standpipes, and exhaust ducts in good condition and properly

anchored so as to be kept in a sound condition. All exposed surfaces of metal or wood shall be protected from the elements and against decay or rust by periodic application of weather-coating materials, such as paint or similar surface treatment;

- (J) Maintain every exterior stairway, deck, porch, and balcony, and all appurtenances attached thereto, structurally sound, in good condition, with proper anchorage and capable of supporting the imposed loads;
 - (K) Maintain all chimneys and similar appurtenances structurally safe and sound, and in good condition;
 - (L) Maintain every window, skylight, door, and frame in sound condition, good condition, and weathertight:
 - (i) All glazing materials shall be maintained free from hazards;
 - (ii) Every window, other than a fixed window, shall be easily openable and capable of being held in position; and
 - (M) Maintain all exterior doors, door assemblies, and hardware in good condition. Hardware at all entrances to dwelling units shall secure the door.
- (2) Security devices. The owner and manager of all residential rental property shall comply with the Texas Property Code chapter 92, residential tenancies, subchapter D, security devices.
- (3) Storm drainage. The owner, owner's authorized agent, occupant or other person responsible for the premises shall provide and maintain drainage of roofs and paved areas, yards and courts, and other open areas on the premises in a way so as not to be discharged in a manner that creates a public nuisance.
- (c) Interior of structure. The owner, owner's authorized agent, occupant or other person responsible for the premises shall maintain the interior of a structure and equipment therein in good condition, structurally sound, and in a sanitary condition, including, but not limited to, as follows:
- (1) Maintain all structural members structurally sound, and capable of supporting the imposed loads;
 - (2) Maintain foundation systems firmly supported by footings and are plumb and free from open cracks and breaks, and are properly anchored with connections capable of resisting all load effects and safely supporting all dead and live loads.
 - (3) Maintain all interior surfaces, including windows and doors, in good, clean, and sanitary condition. Peeling, chipping, flaking, or abraded paint shall be repaired, removed, or covered. Cracked or loose plaster, decayed wood, and other defective surface conditions shall be corrected;
 - (4) Maintain every stair, ramp, landing, or other walking surface in sound condition and good condition;
 - (5) Every interior door shall fit reasonably well within its frame and shall be capable of being opened and closed by being properly and securely attached to jambs, headers, or tracks as intended by the manufacturer of the attachment hardware; and
 - (6) Every dwelling unit that contains a kitchen shall meet the following requirements:

- (A) Food-contact surfaces shall be smooth and easily cleanable and free from areas which are inaccessible to cleaning and inspection;
 - (B) Surfaces for equipment not intended for contact with food but which are exposed to splash or food debris or which otherwise require frequent cleaning shall be smooth, washable, readily accessible for cleaning; and constructed of such material in such repair as to be easily maintained in a clean and sanitary condition;
 - (C) Grease extracting ventilation hoods shall be provided which are readily removable and listed by a recognized testing laboratory.
- (7) Fuel burning equipment. The owner, owner's authorized agent, occupant or other person responsible for the premises shall maintain all fuel-burning equipment in accordance with article 3.10 and provide and maintain:
- (A) That fuel-burning heating and cooking devices be properly vented to the outside;
 - (B) That all fuel supply lines and fuel containers be securely installed to avoid accidental displacement;
 - (C) All required clearances to combustible materials;
 - (D) All safety controls for fuel-burning equipment be in effective operating condition; and
 - (E) A supply of air for complete combustion of the fuel and for ventilation of the space containing the fuel-burning equipment.
- (8) Mechanical. The owner, owner's authorized agent, occupant or other person responsible for the premises shall provide and maintain heating and cooling facilities in all dwellings in accordance with article 3.05 and to the following a minimum standards:
- (A) Heating facilities shall be capable of maintaining a room temperature of sixty-eight (68) degrees Fahrenheit in all habitable rooms, bathrooms, and toilet rooms at any point measured a distance of not more than three (3) feet above floor level, and not more than two (2) feet from an exterior wall;
 - (B) Cooking appliances shall not be used to provide space heating to meet the requirements of this subsection;
 - (C) All rooms, and all other enclosed spaces, shall be ventilated in a manner sufficient to keep them free of excessive heat, steam, condensation, vapors, offensive odors, smoke, and fumes; and
 - (D) Intake and exhaust air ducts shall be maintained in such a manner as to prevent the entrance of dust, dirt, and any other contaminating material.
- (9) Electrical. The owner, owner's authorized agent, occupant or other person responsible for the premises shall properly install and maintain all electrical equipment, wiring, and appliances in a safe manner and in accordance with article 3.07, which includes, but is not limited to:
- (A) The size and usage of appliances and equipment shall serve as a basis for determining the need for additional facilities in accordance with the National Electrical Code;
 - (B) Artificial light fixtures with protective shields capable of preventing broken glass from

falling in areas where food may be exposed and where equipment or utensils may be stored; and

- (C) Ground-fault circuit-interrupter protected receptacles shall be provided for the following locations:
 - (i) Bathrooms;
 - (ii) Kitchens where the receptacles are installed to serve the counter-top surfaces; and
 - (iii) Laundry, utility, and wet bar sinks where the receptacles are installed within six (6) feet of the outside edge of the sink.
- (10) Egress required. The owner, owner's authorized agent, occupant or other person responsible for the premises shall ensure that every bedroom has at least one (1) window or opening facing directly to the outdoors which is capable of being opened far enough to permit egress by any adult.
 - (A) It is an affirmative defense to this subsection that the windows conform to all applicable laws at the time of their construction and have been adequately maintained and upgraded to current building code requirements in response to any alteration, fire damage, repair, or addition.
 - (B) When an unsafe condition exists through lack of, or improper location of exits, the building official, code enforcement officer, or fire chief may require the owner and manager to install additional exits.
- (d) Handrails. The owner, owner's authorized agent, occupant or other person responsible for the premises shall provide and maintain every exterior and interior flight of stairs having more than four risers with a handrail on one side of the stair and every open portion of a stair, landing, balcony, porch, deck, ramp, or other walking surface which is more than thirty (30) inches above the floor or grade below with guards. Every handrail and guard shall be firmly fastened and capable of supporting normally imposed loads and shall be maintained in good condition.
- (e) Extermination. The owner, owner's authorized agent, occupant or other person responsible for the premises shall maintain all structures free from insect and rodent infestation.
- (f) Plumbing in all structures and premises.
 - (1) The owner, owner's authorized agent, occupant or other person responsible for a residential or commercial unit shall provide and maintain the following plumbing facilities, as applicable, connected to approved water and sewer systems in compliance with chapter 13 of this code and so as not to pose any health or sanitation hazard:
 - (A) Kitchen sink, lavatory basin, and either a bathtub or shower all of which are provided with both hot and cold water;
 - (B) Flush toilet;
 - (C) Water-heating equipment adequate to supply hot water to every kitchen sink, lavatory basin, and bathtub or shower at a temperature of not less than one hundred ten (110) degrees Fahrenheit; and
 - (D) The owner, owner's authorized agent, occupant or other person responsible for the

premises shall maintain all occupied areas and all plumbing equipment and facilities in a clean, sanitary condition at all times.

- (2) The owner, owner's authorized agent, occupant or other person responsible for the premises shall take immediate action to clear stoppages and partial blockages of all sanitary sewer systems.
 - (3) The owner, owner's authorized agent, occupant or other person responsible for the premises shall notify the code enforcement director and the public works director of sewer overflows immediately, but in no case later than twenty-four (24) hours, after the overflow.
 - (4) The owner, owner's authorized agent, occupant or other person responsible for the premises shall maintain access points (i.e., cleanouts and manholes) to sanitary sewer piping closed and tightly capped at all times. It is an affirmative defense that there is construction, cleaning, inspection, or repair actively occurring.
- (g) Fire safety. The owner, owner's authorized agent, occupant or other person responsible for the premises shall provide and maintain a safe, continuous, and unobstructed path of travel from any point in a structure to the public way. Means of egress shall comply with chapter 5 of this code and shall include but not be limited to:
- (1) At least one (1) emergency escape window or door shall be provided for each nonsprinklered bedroom;
 - (2) When an unsafe condition exists due to the provision of an insufficient means of egress system or emergency escape opening, the city may require the owner or manager to comply with this section.
- (h) Fire protection systems. The owner and manager shall provide and maintain all systems, devices, and equipment to detect a fire, smoke, or carbon monoxide, actuate an alarm, or suppress or control a fire or any combination thereof in operable condition at all times in accordance with the International Fire Code, including, but not limited to, as follows:
- (1) Smoke alarms shall be installed and maintained on the ceiling or wall outside of each separate sleeping area in the immediate vicinity of bedrooms and in each room used for sleeping purposes. It is an affirmative defense to this subsection that the bedroom or sleeping room was constructed prior to August 29, 1991; and
 - (2) Smoke alarms shall receive their primary power from the building wiring and shall be equipped with a battery backup. It is an affirmative defense to this subsection that battery backup is not required for smoke alarms legally installed prior to August 29, 1991. It is an affirmative defense to this subsection that smoke alarms are permitted to be solely battery operated if the alarm was legally installed prior to February 1, 1979.
- (i) Vacant dwelling units, structures, and land. In addition to the other requirements of this section, the owner and manager shall maintain:
- (1) All vacant units, structures, and premises thereof or vacant land in a clean, safe, secure, and sanitary condition as provided herein so as not to cause a blighting problem or adversely affect the public health or safety; and
 - (2) All vacant or unoccupied structures or parts of structures completely secure from unauthorized entry.

- (3) In the event that a structure becomes unsecure after compliance with the standards in this section, the owner and manager shall resecure immediately and maintain said building in a secure manner.

(Ordinance 2023-01-00967 adopted 1/19/2023)

§ 3.22.005. Substandard structures.

- (a) A structure does not meet the minimum standards of this article if it is in violation of any applicable law, or:
- (1) Is dilapidated, substandard, or a hazard to the public health, safety, and welfare;
 - (2) Is unfit for human habitation because of the degree to which the structure is in disrepair or lacks maintenance, is insanitary, vermin or rat infested, contains filth and contamination, or lacks ventilation, illumination, sanitary or hearing facilities, or other essential equipment requested by this article, or because the location of the structure constitutes a hazard to the occupant of the structure or to the public;
 - (3) Is unoccupied by its owners, lessees, or other invitees and unsecured from unauthorized entry to the extent that it could be entered or used by vagrants or other uninvited persons as a place of harborage or could be entered or used by children;
 - (4) Is boarded up, fenced, or secured, but:
 - (A) Constitutes a danger to the public even though secured from entry; or
 - (B) The means used to secure the building are inadequate to prevent unauthorized entry or use of the building by vagrants, children, or other uninvited persons;
 - (5) There exist conditions caused by accumulations or refuse, vegetation, or other matter that create breeding and living places for insects and rodents; or
 - (6) The condition, use, or appearance of property is in violation of the Code of Ordinances of the city.
- (b) A structure is unsafe and dangerous if its structural condition presents a substantial hazard to its occupants, adjoining property, or other persons by not providing minimum safeguards to protect or warn occupants in the event of fire, or because the structure contains unsafe equipment or is so damaged decayed, dilapidated, structurally unsafe, or of such faulty construction or unstable foundation, that partial or complete collapse is possible or that has any of the structural deficiencies listed in section 3.11.001.
- (c) The fire chief, building official, or other authorized law enforcement personnel shall be authorized to order the immediate evacuation of any structure which in his or her opinion is unsafe due to hazardous conditions that present imminent danger to the structure's occupants.
- (d) Upon failure of the owner, owner's authorized agent or person responsible to comply with the provisions requiring a substandard or dangerous structure to be repaired, demolished the code official shall post on the premises of the substandard or dangerous structure a placard bearing the word "condemned" and a statement of the penalties for occupying the premises or removing the placard.

(Ordinance 2023-01-00967 adopted 1/19/2023)



City of Lucas

City Council Agenda Request

March 20, 2025

Requester: John Whitsell

Agenda Item Request

Discuss and take possible action to approve an Interlocal Agreement between the City of Lucas and the City of Parker mutually agreeing on certain jurisdictional boundaries.

Background Information

The City of Lucas and the City of Parker entered into a boundary and maintenance agreement in 1998 that addressed West Lucas Road, Parker Road, and Lewis Lane. The maintenance of Lewis Lane has been a hot topic as of late. Several weeks ago, city staff and Mayor Kuykendall met with Mayor Pettie of Parker, her staff, and attorney. At that meeting, an agreement was reached on a new boundary similar to the 1998 agreement. Our attorneys drafted a new ILA to depict this agreement. To date, Parker has not approved the ILA.

Attachments/Supporting Documentation

1. ILA
2. 1998 Agreement

Budget/Financial Impact

N/A

Recommendation

Approve as presented.

Motion

I make a motion to approve/deny an Interlocal Agreement between the City of Lucas and the City of Parker mutually agreeing on certain jurisdictional boundaries.

INTERLOCAL AGREEMENT BETWEEN CITY OF LUCAS AND CITY OF PARKER

This Interlocal Agreement ("Agreement") is made by and between the City of Lucas, Texas ("Lucas"), a Texas home-rule municipality and governmental entity, and the City of Parker, Texas, a Texas type A general law municipality and a governmental entity, ("Parker"), with each Party acting by and through their duly authorized agents. Collectively, Lucas and Parker may be referred to as the "Parties" or individually as the "Party".

RECITALS

WHEREAS, this Agreement is made pursuant to the authority of Texas Government Code Chapter 791, "Interlocal Cooperation Agreements"; and

WHEREAS, on November 4, 1974, the Lucas City Council adopted Ordinance Number 9742 [New Ordinance Number 1974-11-00038] and on _____ the Parker City Council adopted Ordinance Number _____ establishing a common extraterritorial jurisdiction boundary line ("ETJ Line") between the cities of Lucas and Parker; and

WHEREAS, the City of Lucas ("Lucas") and the City of Parker ("Parker") have annexed territories into their respective territorial jurisdictions that make management, maintenance and repair of West Lucas Road and Lewis Lane more complicated, expensive, less efficient and effective; and

WHEREAS, Lucas and Parker have determined that it is in the best interest of the Parties to mutually agree to certain jurisdictional boundaries to reduce the cost and increase the effectiveness and efficiency of maintenance and repair of West Lucas Road and Lewis Lane.

NOW THEREFORE, in consideration of the foregoing and the terms and conditions hereinafter set forth, and for other valuable considerations, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

I. Purpose

Subject to the terms and conditions of this Agreement, Lucas and Parker agree to certain operation, maintenance and repair responsibilities with respect to Lewis Lane and a portion of West Lucas Road.

II. Responsibilities

- A. Roadway Construction, Maintenance, and Repair – West Lucas Road. Lucas shall be responsible for roadway construction, maintenance, and repair for West Lucas Road beginning the intersection of Angel Parkway/Dillehay Drive and continuing east to Lewis Lane. To avoid confusion regarding Lucas's responsibility herein:

1. Parker shall disannex the portion of West Lucas Road adjacent to Kings Crossing and described in Parker Ordinance No. 681.
 2. Lucas shall annex the portion of West Lucas Road disannexed by Parker.
- B. Roadway Construction, Maintenance and Repair – Lewis Lane. In accordance with the common ETJ boundary between Lucas and Parker described herein:
1. Lucas shall construct, maintain, and repair Lewis Lane beginning at the intersection of West Lucas Road and continuing south along the west right-of-way line of Lewis Lane, as it may exist by future dedications, or as it presently exists along the described courses in Exhibit “B,” to the northwestern corner of the Newman Tract, as such tract was described in the City of Parker Ordinance No. 615 in which the Newman Tract was annexed into the City of Parker. To avoid confusion regarding Lucas’s responsibility herein:
 - i. Parker shall disannex the portion of Lewis Lane adjacent to Kings Crossing and described in Parker Ordinance No. 681 and Ordinance No. 749 to the Northwestern corner of the Newman Tract.
 - ii. Lucas shall annex the portion of Lewis Lane disannexed by Parker.
 2. Parker shall construct, maintain, and repair Lewis Lane beginning at the northwestern corner of the Newman Tract, as such tract was described in the City of Parker Ordinance #615 in which the Newman Tract was annexed into the City of Parker and continuing south along the east right-of-way line of Lewis Lane, as it may exist by future dedications, or as it presently exists along the described courses in Exhibit “B,” to the intersection of Lewis Lane and Parker Road. To avoid confusion regarding Parker’s responsibility herein:
 - i. Lucas shall disannex the portion of Lewis Lane adjacent to the Umphy and Lewis annexations described in Lucas Ordinance No. 2013-05-00755 and 2013-05-00754.
 - ii. Parker shall annex the portion of Lewis Lane disannexed by Lucas.
- C. Parker Road. This agreement shall not change or alter the Parties responsibilities regarding Parker Road. For clarity, TxDOT is responsible for all maintenance of Parker Road.

III. Specifications for Lewis Lane

The Parties agree that with respect to the entire length of the improved roadway of Lewis Lane:

1. The load rating shall be 26,000lbs GVWR.
2. The speed limit shall be 40mph for the entire length of the roadway.

III. Term

This Agreement will become effective on the date last signed (“Effective Date”) and will remain in effect in perpetuity.

IV. General Terms and Conditions

- A. **Modification.** This Agreement may be revised or modified only by mutual agreement and written amendment signed by both Parties.
- B. **Assignment.** Neither Party hereto may assign this Agreement without the prior written approval of the non-assigning party. Any Assignment attempted without such prior consent shall be null and void. Such consent shall not relieve the assignor of liability in the event of default by its assignee.
- C. **Independent Contractor.** Neither Party, its Council, Board, agents, employees, officers, subcontractors are officers, agents, or employees of the other Party. Each Party shall be solely liable for its own debt, obligations, acts, omissions, including the payment of all liabilities, and insurance premiums.
- D. **Liability.** Each Party agrees that its employees, agents, representatives, officers, directors, and volunteers are not employees, agents, representative or volunteers of the other Party, and further assumes full and exclusive responsibility and liability for the negligent acts and omissions or other tortious conduct in the course of performance of this Agreement by its employees, agents, representatives, officers, directors, and volunteers with regard to its use of the EMS Utility Cart the subject of this Agreement. Nothing in this paragraph shall be construed to create or grant any rights, contractual or otherwise, in or to any third persons or entities.
- E. **Sovereign Immunity.** This Agreement is expressly made subject to the Parties' sovereign immunity, Title 5 of the Texas Civil Practices and Remedies Code and all applicable state and federal law. The Parties expressly agree that no provision of this Agreement is in any way intended to constitute a waiver of any immunities from suit or from liability that either Party has by operation of law. Nothing in this Agreement is intended to benefit any third-party beneficiary.
- F. **Force Majeure.** Neither Party hereto shall be held responsible for any loss or damage or for any delays or failure to perform due to causes beyond its reasonable control including acts of God, strikes, epidemics, war, riots, flood, fire, sabotage, or any other circumstances of like character. Either Party shall make all reasonable efforts to remove or eliminate such a cause of delay or default and shall, upon the cessation of the cause, diligently pursue performance of its obligations under this Agreement.
- G. **Termination.** This Agreement may be terminated by mutual written consent of the Parties.
- H. **Governing Laws and Jurisdiction.** This Agreement shall be governed by and construed pursuant to the laws of the State of Texas. In the event that a dispute arises in relation to this Agreement, all Parties, agree to submit to the jurisdiction in courts of Collin County, Texas.
- I. **Signatory Warranty.** The person or persons signing and executing this Agreement on behalf of the Parties, or representing themselves as signing and executing this Agreement on behalf of the Parties, do hereby warrant and guarantee that he, she or they have been duly authorized by the Parties to execute this Agreement on behalf of the Parties and to validly and legally bind the Parties to all terms, conditions and provisions herein set forth.

- J. **Contra Proferentem.** The doctrine of contra proferentem shall not apply to this Agreement. If an ambiguity exists in this Agreement, the Agreement shall not be construed against the Party who drafted the Agreement, and such Party shall not be responsible for the language used.

CITY OF LUCAS

CITY OF PARKER

By: _____
John Whitsell, City Manager

By: _____
Lee Pettie, Mayor

Date: _____

Date: _____

ORDINANCE NO. 98-04-01New Ordinance #
1998-04-00372

AN ORDINANCE OF THE CITY OF LUCAS, COLLIN COUNTY, TEXAS, AMENDING ORDINANCE NO. 9742, REPEALING ORDINANCE NO. 98-01-05, AND ESTABLISHING A REVISED COMMON EXTRA-TERRITORIAL JURISDICTION BOUNDARY LINE BETWEEN THE CITY OF LUCAS AND THE CITY OF PARKER NORTH OF PARKER ROAD, AND PROVIDING FOR CONFLICTS, SEVERABILITY, RECORDING AND AN EFFECTIVE DATE.

WHEREAS, on November 11, 1974, the Lucas City Council adopted Ordinance No. 9742 which established a common extraterritorial jurisdiction boundary line ("the ETJ Line") between the cities of Parker and Lucas;

WHEREAS, in the last few months, development activity has occurred in the area of the ETJ Line between W. Lucas Road and Parker Road;

WHEREAS, on January 5, 1998, the Lucas City Council adopted Ordinance No. 98-01-05 that repealed Ordinance No. 9742 and adopted a new ETJ Line;

WHEREAS, the effective date of Ordinance No. 98-01-05 was contingent upon the adoption by the Parker City Council of an ordinance which adopted the same ETJ Line;

WHEREAS, the Parker City Council adopted Parker's Ordinance No. 433 that adopted the same ETJ line from Parker Road to W. Lucas Road, however, Parker's Ordinance No. 433 relates to other issues that required the adoption of this ordinance;

WHEREAS, the cities of Lucas and Parker have determined that the portion of the current ETJ Line that lies between W. Lucas Road and Parker Road is not practical; and

WHEREAS, the cities of Lucas and Parker have negotiated a revised ETJ Line between W. Lucas Road and Parker Road that meets the legitimate interest of both the City of Lucas and the City of Parker.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LUCAS, COLLIN COUNTY, TEXAS AS FOLLOWS:

SECTION 1. REPEAL OF ORDINANCE NO. 98-01-05.

The City of Lucas hereby repeals Lucas' Ordinance No. 98-01-05 in its entirety.

ORIGINAL

SECTION 2. AMENDMENT OF ORDINANCE NO. 9742.

The City of Lucas hereby amends Ordinance No. 9742 adopted by the Lucas City Council on November 11, 1974, and filed in Volume 978 at page 106 of the Real Property Records of Collin County, Texas, as follows:

Pursuant to Chapters 42 and 43 of the Local Government Code and in consideration of the adoption of the same revised ETJ Line by the Parker City Council, the Lucas City Council hereby adopts a revised ETJ Line described in Exhibits "A" and "B" attached hereto and included herein by reference as an amendment to that portion of the ETJ Line as a municipal boundary of the cities of Lucas and Parker or their respective ETJs.

SECTION 3. CONFLICTS.

All ordinances and provisions of the City of Lucas, Texas that are in conflict with this Ordinance shall be, and the same are, hereby repealed, and all ordinances and provisions of ordinances of said City not so repealed are hereby retained in full force and effect.

SECTION 4. SEVERABILITY.

It is the intent of the City Council that if any paragraph, sentence, subdivision, clause, phrase, or section of this Ordinance be deemed severable and, should any such paragraph, sentence, subdivision, clause, phrase, or section be declared invalid or unconstitutional for any reason, such declaration of invalidity or unconstitutionality shall not be construed to affect the validity of those provisions of this Ordinance left standing, nor the validity of any ordinances of the City of Lucas.

SECTION 5. RECORDING.

This ordinance shall be recorded in the real estate records of Collin County, Texas.

SECTION 6. EFFECTIVE DATE.

This Ordinance will be effective upon its adoption.

SECTION 7. DRAINAGE PROVISIONS.

A. General Items:

- 1) The Cities of Parker and Lucas agree to submit to each other for review and comment any zoning request, preliminary plat, or final plat on any property adjacent to any portion of the total Parker/Lucas boundary line.
- 2) The Cities of Parker and Lucas agree to submit to each other for review and comment their thoroughfare plans in the area between Parker Road and W. Lucas Road, east of F.M. 2551, to determine the need for major thoroughfares in the area, and to consider amendment of their thoroughfare plans as needed, in order that both Cities' plans are consistent in the area.
- 3) The Cities of Parker and Lucas agree to require all future developments that receive drainage from, or discharge drainage to, either City to coordinate drainage improvements with both Cities.
- 4) The Cities of Parker and Lucas agree that any future water and/or sanitary sewer facilities installed in Lewis Lane will be installed with consideration for future drainage improvements.

B. Drainage Improvements in Poco Estados / Kirkland Estates Area:

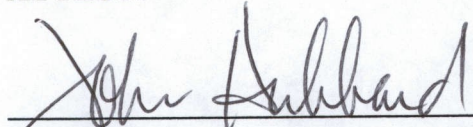
- 1) The Cities of Parker and Lucas agree that improvement of drainage in the Poco Estados / Kirkland Estates area is of paramount importance. Both Cities agree that drainage in the area should be developed in general accordance with the report and plans prepared by O'Brien Engineering (the "O'Brien Plans" circa. 1990/1991), subject to (a) a timely engineering review of said reports and plans, and (b) any modifications to said plans made necessary by the timely engineering review. The plans for these items are attached, and include the following:
 - * Attachment No. 1:
(1 page), "Drainage Requirements (partial) Poco Estados and Kirkland Estates," January 25, 1991.
 - * Attachment No. 2:
(12 pages), "Construction Plans for Drainage Improvements in Kirkland Estates and Poco Estados Subdivisions," April, 1991.
 - * Attachment No. 3:
(2 pages), Construction plans of "Parker Road Drainage Improvements," November, 1990.

- 2) The Cities of Parker and Lucas acknowledge the need for the remaining work to be done in accordance with the previously proposed O'Brien drainage improvements (subject to any necessary modifications as noted in #1 above), and agree to make positive effort toward construction of the drainage facilities in each City. These improvement items consist of the following:
- a) Construction of a 20 foot wide ditch from Lewis Lane to Turner Branch (see Attachment No. 1 for location, and Attachment No. 2, Turner cut-off channel, page 7 of 8, and page 8 of 8 of plans).
 - b) Construction of a ditch along the north side of Parker Road from Lewis Lane to Turner Branch (see Attachment No. 1 for location, and Attachment No. 3, pages 1 of 2, and 2 of 2 of plans).
 - c) Construction of a 20 foot wide ditch along the east side of Lewis Lane from north of Estados Drive to Parker Road (see Attachment No. 1 for location, and Attachment No. 2, pages 6 of 8, and 8 of 8 of plans).

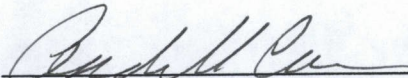
ADOPTED by the City Council of the City of Lucas, Collin County, Texas, this 21st day of April, 1998.



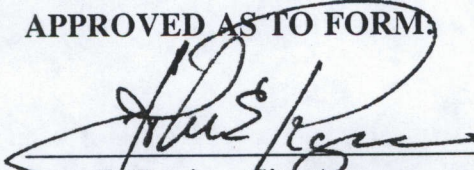
ATTEST:


 John Hubbard, City Secretary

APPROVED:

by: 
 Andrea Calve, Mayor

APPROVED AS TO FORM:


 John E. Rapier, City Attorney

4190 0054

Exhibit "A"

Revised common extraterritorial jurisdiction line between the City of Lucas and the City of Parker, Collin County, Texas:

Beginning at the southwest corner of the Kirkland Estates West, a subdivision to the City of Lucas, Collin County, Texas; said point being in the north right-of-way of Parker Road, and the east right-of-way of Lewis Lane, said point also being the same point as called in the original agreement recorded in Volume 1610, Page 337, Deed Records Collin County, Texas (D.R.C.C.T.) which shall be considered as an integral part of this agreement line to this point.

Thence northerly along the east right-of-way of Lewis Lane, as it may exist by future dedications, or as it presently exists along the following described courses: North 09 degrees, 01 minute, 30 seconds west, 797.03 feet, north 05 degrees, 21 minutes, 04 seconds east, 570.00 feet, and north 01 degree, 48 minutes, 09 seconds west, 457.00 feet to a point for corner;

Thence continuing northerly along the said east right-of-way line, as it presently or may exist by additional dedications to a point in the south property line of 50.5 acre tract of land, as conveyed to Barrett B. Newman, as recorded in Volume 3246, Page 783, D.R.C.C.T., being a point in the south line of the Ann S. Hurt Survey, Abstract No. 428;

Thence easterly along the south line of the aforementioned Newman tract, to the south east corner thereof, being the common corner of Lonesome Dove Estates, an addition to the City of Lucas, as recorded in Volume 03943 Page 02481, 02485 M.R.C.C.T.;
and Instrument 98-0063682

Thence northerly along the east line of said Newman tract, and the common line of Lonesome Dove Estates, to the north east corner of said Newman tract, an ell corner of said Lonesome Dove Estates;

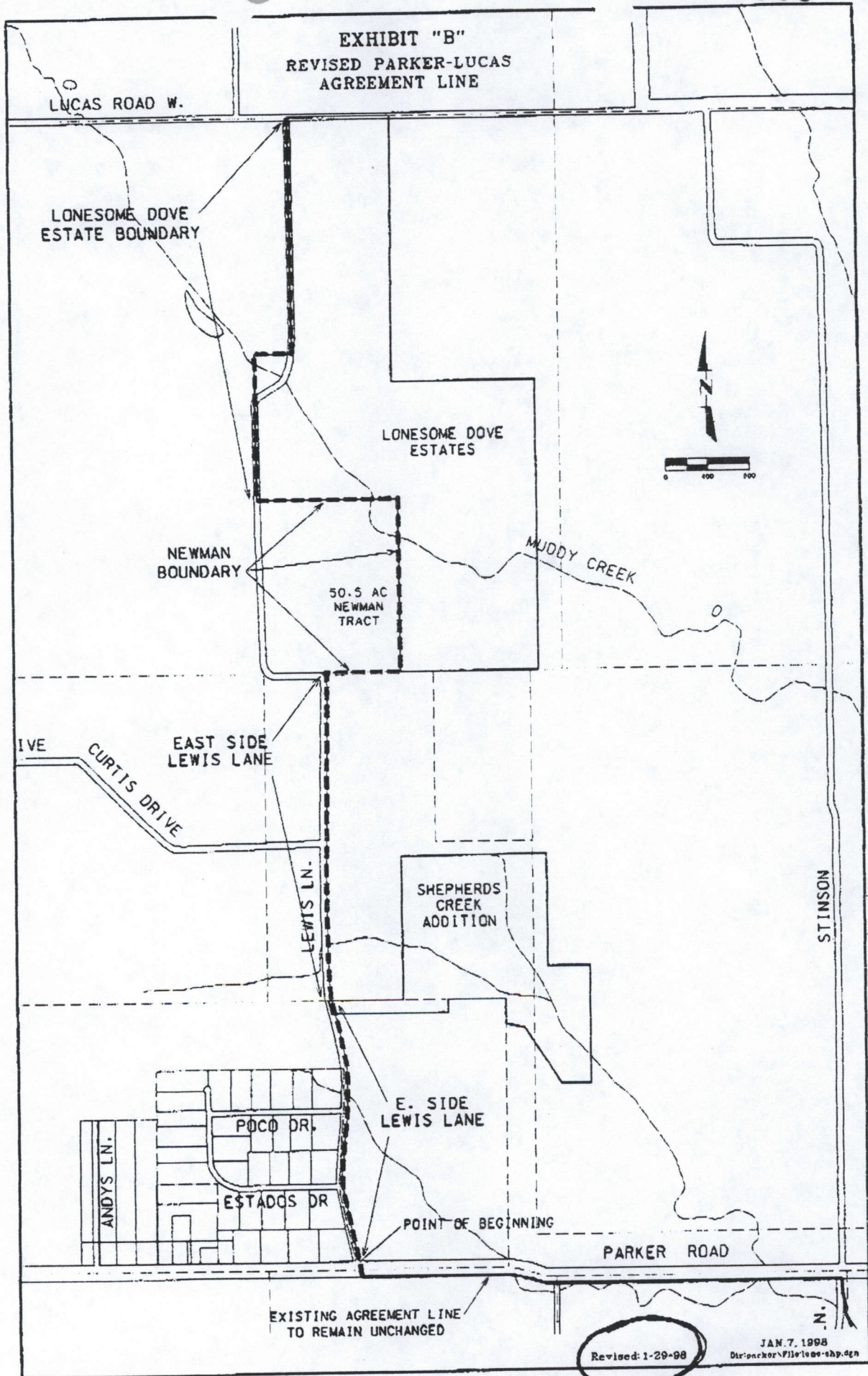
4190 0056

Thence westerly along the north line of the aforementioned Newman tract, and the common line of said Lonesome Dove Estates to the north west corner of said Newman tract;

Thence northerly along the most westerly west line of said Lonesome Dove Estates to the most southerly northwest corner thereof;

Thence easterly along the boundary line of Lonesome Dove Estates to an ell corner in the west right-of-way of Lewis Lane;

Thence northerly along the west right-of-way of Lewis Lane as shown on the Lonesome Dove Estates, or as it may exist by future roadway dedications for Lewis Lane, to a point at the south right-of-way line of west Lucas Road, and the west right-of-way line of Lewis Lane.





City of Lucas

City Council Agenda Request

March 20, 2025

Requester: City John Whitsell

Agenda Item Request

Discuss and take possible action to approve Resolution R 2025-03-00566 authorizing the submittal of one or more applications for Hazard Mitigation Grant Program funds to the Texas Division of Emergency Management under DR-4781 and DR-4798 and committing matching funds in the amount of 25%.

Background Information

The Texas Department of Emergency Management has two upcoming Hazard Mitigation Grants, DR-4781 and DR-4798. Staff is applying to replace the generators at City Hall and the McGarity pump station. The generator at City Hall is undersized for the current size of the building, and the generator at the McGarity pump station is the oldest and has frequent problems. This 25% matching funds grant will not impact the current fiscal year.

Attachments/Supporting Documentation

1. Resolution R 2025-03-00566

Budget/Financial Impact

There will be no budget impact on the current fiscal year. However, we have received budget numbers of \$265,841 for the project. Based on these numbers, the future budget impact could be up to \$66,460.

Recommendation

Approve as presented.

Motion

I make a motion to approve/deny Resolution R 2025-03-00566 authorizing the submittal of one or more applications for Hazard Mitigation Grant Program funds to the Texas Division of Emergency Management under DR-4781 and DR-4798 and committing matching funds in the amount of 25%.



RESOLUTION R 2025-03-00566
[Hazard Mitigation Grant Program]

A RESOLUTION OF THE CITY OF LUCAS, TEXAS, AUTHORIZING THE SUBMISSION OF A HAZARD MITIGATION GRANT PROGRAM (HMGP) APPLICATION THROUGH THE TEXAS DIVISION OF EMERGENCY MANAGEMENT AND AUTHORIZING THE MAYOR AND CITY MANAGER TO ACT AS THE CITY'S EXECUTIVE OFFICERS AND AUTHORIZED REPRESENTATIVES IN ALL MATTERS PERTAINING TO THE CITY'S PARTICIPATION IN THE DR-4781 AND DR-4798 HAZARD MITIGATION GRANT PROGRAMS.

WHEREAS, the City Council of the City of Lucas, Texas desires to reduce or eliminate the long-term risk of loss of life, injury, damage to and loss of property, and suffering and hardship, by lessening the impact of future disasters; and

WHEREAS, the City desires to develop a viable community, including decent housing and a suitable living environment; and

WHEREAS, it is necessary and in the best interests of the City to apply for funding under the DR-4781 and DR-4798 Hazard Mitigation Grant Program;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF LUCAS, TEXAS:

1. That one or more Hazard Mitigation Grant Program applications is hereby authorized to be filed on behalf of the City with the Texas Division of Emergency Management for eligible projects.
2. That the City's application(s) be placed in competition for funding under the April 2024 Severe Storms DR-4781 and Hurricane Beryl DR-4798 programs.
3. That the application(s) be for up to 75% of eligible project costs for construction improvements, project engineering, and acquisition related to generators and/or other eligible activities.
4. That the City Council directs and designates the Mayor and Mayor and City Manager as the City's Chief Executive Officers and Authorized Representatives to act in all matters in connection with this application and the City's participation in the Hazard Mitigation Grant Program.
5. That all funds will be used in accordance with all applicable federal, state, local and programmatic requirements including but not limited to procurement, environmental review, labor standards, real property acquisition, and civil rights requirements.
6. That it further be stated that the City is committing 25% of eligible project costs from its General Operating Fund as a cash contribution and/or in-kind services toward the engineering and construction activities of the selected project.

Passed and approved this 20th day of March 2025.

Dusty Kuykendall
Mayor

ATTEST:

Toshia Kimball
City Secretary



City of Lucas

City Council Agenda Request

March 20, 2025

Item No. 7

Requestor: Mayor Dusty Kuykendall

Agenda Item Request

Executive Session: An Executive Session is not scheduled for this meeting.

As authorized by Section 551.071 of the Texas Government Code, the City Council may convene into closed Executive Session for the purpose of seeking confidential legal advice from the City Attorney regarding any item on the agenda at any time during the meeting. This meeting is closed to the public as provided in the Texas Government Code.

Background Information

NA

Attachments/Supporting Documentation

NA

Budget/Financial Impact

NA

Recommendation

NA

Motion

NA



City of Lucas

City Council Agenda Request

March 20, 2025

Item No. 08

Requester: City Council

Agenda Item Request

Reconvene from Executive Session and take any action necessary as a result of the Executive Session.

Background Information

NA

Attachments/Supporting Documentation

NA

Budget/Financial Impact

NA

Recommendation

NA

Motion

NA