An aerial photograph of a residential area. A wide, winding river with a brownish, muddy appearance flows through the upper portion of the image. Below the river, a grid of streets and numerous houses are visible, interspersed with green trees and lawns. The overall scene depicts a suburban or rural development.

# DEVELOPMENT GUIDE

*Rosenberg*  
texas

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## ARTICLE VIII. - MULTI-FAMILY DEVELOPMENTS

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FOOTNOTE(S):

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**Editor's note**—Ord. No. 2007-25, § 1, adopted June 26, 2007, repealed former Art. VIII, §§ 6-250—6-258 and enacted provision designated as a new Art. VIII, §§ 6-250—6-261, to read as herein set out. Prior to inclusion of said ordinance, Art. VIII pertained to similar subject matter. See also the Code Comparative Table.

**Cross reference**— Planning and development, § 2-86 et seq.; fire prevention and protection, Ch. 11; flood prevention and protection, Ch. 12; health, sanitation and nuisances, Ch. 14; streets, sidewalks and other public places, Ch. 24; subdivisions, Ch. 25; traffic and vehicles, Ch. 28; utilities, Ch. 29

**Sec. 6-250. - Applicability; definition.**

The provisions of this article shall apply to the development, construction, and occupancy of a multi-family development. "Multi-family" shall mean all structures designed to contain three (3) or more complete separate living facilities for single-family occupancy.

(Ord. No. 2007-25, § 1, 6-26-07)

**Sec. 6-251. - Density and size, access and separation between multi-family dwelling buildings.**

- (a) Each multi-family dwelling building shall be limited to not more than seven thousand (7,000) square feet per floor. Multi-family dwelling buildings shall be limited to two (2) floors, and shall not exceed thirty (30) feet in height above finished grade. Each building shall be separate and separated by distances as stated in subsection (c) of this section.
- (b) Access must be provided around the entire perimeter of all multi-family development for emergency vehicles, including fire trucks, police cars, ambulances and garbage trucks. This access area must be paved and have a width of at least sixteen (16) feet. Multi-family developments with less than ten (10) multi-family dwelling units are exempt from this requirement. Multi-family developments may not be developed in stages or phases to circumvent this requirement.
- (c) Each building within a multi-family dwelling development shall be separated from other buildings by not less than thirty (30) feet. Enclosed courtyards shall not be less than forty (40) feet in depth, width, or length.
- (d) Building lines. The following minimum building lines shall be required for lots or tracts containing multi-family dwelling buildings, measured from the applicable property line; provided, however, if the lot is encumbered with a street right-of-way, such building line shall be measured from the boundary line of such street right-of-way:
  - (1) Front yard. The front yard building line shall not be less than thirty-five (35) feet.
  - (2) Side yard, interior. The interior side yard building line shall be not less than (a) thirty (30) feet if a one-story multi-family dwelling building (not to exceed fifteen (15) feet in height) is to be constructed; or (b) fifty (50) feet if a two-story multi-family dwelling building (not to exceed thirty (30) feet in height) is to be constructed.
  - (3) Side yard, street. The side building line adjacent to a street shall be not less than thirty (30) feet, except that where the side yard is adjacent to a collector street or major thoroughfare such building line shall be not less than thirty-five (35) feet.
  - (4) Rear yard; interior; alleyways. The rear building line shall be not less than (a) thirty (30) feet if a one-story multi-family dwelling building (not to exceed fifteen (15) feet in height) is to be constructed; or (b) fifty

(50) feet if a two-story multi-family dwelling building (not to exceed thirty (30) feet in height) is to be constructed. Provided, however, where the rear property line abuts an alleyway, there shall be a minimum of thirty (30) feet between the buildings abutting said alleyway.

- (5) Rear yard, major street. A rear building line adjacent to a collector street or a major thoroughfare shall be not less than thirty (30) feet.
- (e) No multi-family dwelling development shall contain more than fourteen (14) units per net platted acre. The net platted acreage shall be the total platted acreage of the development, less any acreage occupied by lakes or ponds, irrigation canals or drainage canals. For a development with one-story multi-family dwelling buildings the density shall not exceed seven (7) dwelling units per net platted acre. For a development with two-story or a combination of one- and two-story multi-family dwelling buildings the density shall not exceed fourteen (14) dwelling units per net platted acre. At no time shall any acre contain more than fourteen (14) dwelling units.
- (f) The total number of units within a multi-family development shall not exceed two hundred (200). Multi-family developments may not be developed in stages or phases to circumvent this requirement.

(Ord. No. 2007-25, § 1, 6-26-07)

#### Sec. 6-252. - Masonry construction.

At a minimum, thirty (30) percent of the exterior walls of a multi-family dwelling development shall be constructed of masonry materials and shall contain an appropriate moisture barrier in accordance with Article II of Chapter 6 hereof.

(Ord. No. 2007-25, § 1, 6-26-07)

#### Sec. 6-253. - Screening.

The following screening requirements shall apply to multi-family dwelling developments:

- (1) All refuse containers shall be screened;
- (2) An eight-foot tall decorative masonry wall shall be constructed on the sides and rear of any multi-family dwelling development; and
- (3) All walls shall be constructed of a solid masonry material of brick, decorative block or similar material. Similar material shall not include smooth face concrete masonry blocks or units. Masonry walls shall be erected on a concrete foundation of adequate strength and shall be not less than four (4) inches wider than the wall to be erected.

(Ord. No. 2007-25, § 1, 6-26-07)

#### Sec. 6-254. - Minimum off-street parking requirements.

- (a) The minimum requirements for off-street parking for multi-family dwelling developments are set forth in Section 6-418
- (b) A parking space shall be constructed of concrete cement and be the minimum size required by Section 6-418. No on-street parking shall be permitted. All parking areas shall be separated from walkways, sidewalks, streets, or alleys by a wall, fence, curbing, or other protection device. Parking will be so arranged as to prevent backing out onto any public street.

(Ord. No. 2007-25, § 1, 6-26-07)

Sec. 6-255. - Special protective requirements.

- (a) All multi-family dwelling buildings shall be constructed using one-hour fire-resistive materials in all walls, floors, ceilings, and attic separations, and shall contain a fire sprinkler system on all floors.
- (b) The use of wood shingle roofing and cedar shake siding materials is prohibited.

(Ord. No. 2007-25, § 1, 6-26-07)

Sec. 6-256. - Open green space requirements.

- (a) A minimum of thirty (30) percent of the net platted area shall be open green space. "Open green space" is defined as, and limited to, common areas of open green space with landscaping or open community recreational areas. Open green space does not include any areas specifically designated or used as building sites for multi-family units, buildings sites for utility or storage buildings, parking lots, garages, streets, or driveways within a multi-family development. The actual surface areas of open green space, such as common area lawns and landscaping, and community recreational areas, such as playgrounds, community swimming pools and surrounding paved deck area, community tennis courts, and other open common recreation areas, shall be considered in calculating the minimum requirement for open green space. Recreational facilities located within enclosed buildings shall not be considered open green space. Park land provided to satisfy the requirements set forth in Chapter 25, Subdivisions, Article IV, Park Land Public Sites and Open Spaces, may be included in satisfaction of the minimum required area of open green space required by this section, with the exception that detention basins (dry-bottom) shall not be used to satisfy open green space requirements.
- (b) All multi-family dwelling developments shall provide at least three (3) of the following amenity items:
  - (1) Tennis courts (minimum two (2));
  - (2) Swimming pool;
  - (3) Recreation/community center or room;
  - (4) Basketball court (full court);
  - (5) Fitness center; or
  - (6) Playground area.

A basketball court or tennis court shall not occupy the same space to be counted as separate amenities.

(Ord. No. 2007-25, § 1, 6-26-07)

Sec. 6-257. - Access.

- (a) Multi-family dwelling developments, including apartment and condominium developments, shall have an adequate number of access points to provide for an orderly and safe movement of vehicular traffic. The minimum number of points of access from said developments shall be provided in accordance with Section 25-61 of this Code.
- (b) All multi-family dwelling units (buildings) and all common/recreational areas shall have direct access to a driveway or access street, which shall be constructed in accordance with the city's minimum design construction standards for a private street.

(Ord. No. 2007-25, § 1, 6-26-07)

Sec. 6-258. - Lighting.

Each multi-family dwelling development shall include lighting for all recreational areas, driveways, access streets, entrances, and exits.

(Ord. No. 2007-25, § 1, 6-26-07)

Sec. 6-259. - Site plan.

At the time a preliminary plat application is submitted, a preliminary site plan of the multi-family development shall be submitted for review and approval of the planning and zoning commission. At the time a final plat application is submitted, a final site plan shall be submitted for review and approval by the planning and zoning commission and the city council. Any site plan of the multi-family development submitted in conjunction with an application for a building permit shall be in accordance with the final site plan approved by the city council. This requirement to provide a site plan shall be cumulative of, and in addition to, such other regulations and requirements as may be imposed under this Code.

(Ord. No. 2007-25, § 1, 6-26-07)

Sec. 6-260. - Minimum square footage.

Each dwelling unit within a multi-family development shall meet the following minimum square footage requirements:

- (1) Each one-bedroom unit shall have a minimum of area of six hundred (600) square feet;
- (2) Each two-bedroom unit shall have a minimum area of nine hundred (900) square feet;
- (3) Each three-bedroom unit shall have a minimum area of one thousand two hundred (1,200) square feet; and
- (4) No four-bedroom units shall be permitted.

(Ord. No. 2007-25, § 1, 6-26-07)

Sec. 6-261. - Penalty.

Any person who shall violate any provision of this article shall be deemed guilty of a misdemeanor and, upon conviction, shall be subject to the penalty provided in Section 1-13 of this Code.

(Ord. No. 2007-25, § 1, 6-26-07)

Sec. 6-262. - Exceptions.

The following developments shall be subject to the standard regulations set forth in this article, except as otherwise hereinafter provided:

- (1) Federally funded (example: U.S. Department of Housing and Urban Development, commonly referenced as "HUD") projects that comply with HUD Section 811 regulations for such projects, which is restricted to housing for persons with physical disabilities, developmental disabilities, or chronic mental illness, shall be subject to the following requirements:

- a. Applicability. Non-profit organizations: Entity must provide proof of non-profit status and federally funded status concurrently with the submittal of a site plan for consideration by the planning commission;
- b. Density: Maximum density of seven (7) units per net platted acre;
- c. Number of units: Maximum number of fifteen (15) units within a development;
- d. Minimum development area: Two (2) acres;
- e. Parking: Minimum of two (2) spaces per unit;
- f. Building separation: Minimum building separation of eighteen (18) feet;
- g. Property line fencing: A fence, consisting of chain link, wrought iron, or wood panels, shall be required along the perimeter property lines. An opaque fence shall be required along any property line that is adjacent to a residential use, or property platted for residential use, at the time of development of the multi-family use;
- h. Amenities: A minimum of one (1) of the following amenities shall be provided:
  - 1. Tennis courts.
  - 2. Swimming pool.
  - 3. Recreation/community center or room.
  - 4. Basketball court.
  - 5. Fitness center.
  - 6. Playground area.
  - 7. Open green space/play area.
  - 8. Gazebo.
- i. Size of units: Units shall be a minimum of five hundred (500) square feet;
- j. Maximum number of residents per unit: Three (3), with one (1) of those residents being at least eighteen (18) years of age or older; and
- k. Site plans: All site plans shall be submitted to the planning commission for a recommendation, and the city council for final approval.

(Ord. No. 2010-02, § 1, 1-19-10)

Secs. 6-263—6-270. - Reserved.

## ARTICLE XIII. - SIGN REGULATIONS

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FOOTNOTE(S):

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**Editor's note**—Ord. No. 2000-07, § 1, adopted April 4, 2000, repealed the former Art. XIII, §§ 6-361—6-370, and enacted a new Art. XIII as set out herein. The former Art. XIII pertained to similar subject matter. Subsequently, Ord. No. 2011-07, §1, adopted May 3, 2011, repeated former, Art. XIII, §§ 6-361—6-374, and enacted provisions designated as a new Art. XIII, §§ 6-361—6-375, which pertained to similar subject matter. See also the Code Comparative Table.

**Cross reference**— Electrical signs, § 6-151 et seq.; electric signs, Ch. 6; National Electrical Code adopted in § 6-126; electrical sign contractors, § 16-116 et seq.; signs and outdoor displays, Ch. 28; Standard Building Code adopted in § 6-26; removal of unlawful signs, § 6-27(19); permit required, § 6-27(18); permit fees, § K101 of Appendix K; Standard Building Code adopted in § 6-26

**State Law reference**— Highway Beautification Act, V.T.C.A., Transportation Code § 391.001 et seq.; signs on rural roads, V.T.C.A., Transportation Code § 394.001 et seq.; authority of city to regulate signs, V.T.C.A., Local Government Code § 216.001 et seq.; warrants for fire, health, and code inspections, Vernon's Ann. C.C.P. art. 18.05 et seq.; display of unauthorized signs, V.T.C.A., Transportation Code § 544.006.

### Sec. 6-361. - Definitions.

- (a) Official sign means directional and other official signs authorized by law, including public notices, signs pertaining to scenic and historic attractions, and signs which have as their purpose the protection of life and property. A permit shall not be required for any official sign. An official sign shall include a house number or number designation painted on a curb or attached to a pole or post of any kind.
- (b) Political sign means any sign announcing or promoting the candidacy of one (1) or more persons for elective office, or concerning any political issue, appearing or which is to appear on the ballot in any local, state or national election.
- (c) Sign means any outdoor sign, light, display, device, figure, painting, drawing, message, placard, poster, billboard, handbill, dodger, circular or other thing which is designed, intended or used to advertise, inform, identify, display, direct or attract attention to any object, person, institution, organization, business, product, service, event or location by any means, including words, letters, figures, design, symbols, fixtures, colors, illumination or projected images.
- (d) Temporary sign means any sign intended to be displayed for a limited period of time only, not exceeding ninety-six (96) consecutive hours.
- (e) On-premises sign shall mean any sign identifying or advertising the business, person, activity, goods, products or services primarily sold or offered for sale on the premises where the sign is installed and maintained when such premises is used for business purposes.
- (f) Off-premises sign shall mean any sign advertising a business, person, activity, goods, products or services not usually located on the premises where the sign is installed and maintained, or which directs persons to any location not on the premises.
- (g) Banner as used herein shall include any type of temporary or permanent sign being constructed of fabric, canvas, or other durable or non-durable material whether natural or synthetic which is attached and/or mounted to a building, pole, pylon, or other device or fixture for the purpose of advertising a business, product, service or a not-for-profit organization. All banners must be constructed, placed and maintained in such a manner so as not to constitute a hazard or impact the health, safety or well-being of the public.

- (h) Community event shall be an event or activity organized and sponsored by a church, school, or other recognized not-for-profit organization and having a frequency of occurrence of not more than four (4) such events each year which shall occur for a period of time not exceeding two (2) days or a weekend from Friday through Sunday or any part thereof and where all proceeds, earnings, if any, are paid to or received by a not-for-profit corporate entity including, but not limited to, a governmental institution, church or school. A community event sign may be permitted for a longer period not to exceed one (1) month by the city manager with the approval of the city council.
- (i) Display device shall be known to mean and include a festoon, a device designed to spin or twirl (excepting balloons and flags including the official flags of any country, state, county or city, textile or synthetic) including, but not limited to, cuttings, reflective materials and other items designed to attract attention, promote commercial sales, or to draw attention to a store or place. All materials whether or not carrying printed copy that are designed to twirl, blow, vibrate, turn or twist shall be deemed display devices.
- (j) Inoperable vehicle shall mean any motor vehicle of any type that is either mechanically inoperable to the extent that said vehicle may not be safely operated upon the public streets of the state or does not have affixed thereto a valid and unexpired state inspection sticker or registration certificate issued by the state department of transportation.
- (k) Portable sign shall mean any sign not permanently set in concrete or placed in the ground to a sufficient depth to prevent said sign from becoming a hazard as shall be from time to time determined by the director of public works or certified by a registered state engineer.
- (l) Real estate sign shall mean a sign advertising real estate for sale or rent and which is located upon the property that is being offered for sale or rent. Such sign shall not be larger than thirty-two (32) square feet, shall not exceed four (4) feet by eight (8) feet in size and must be firmly affixed to poles or stakes set in the ground to a sufficient depth to be sure that the sign shall not be hazardous or constitute a hazard.
- (m) Changeable electronic variable message sign (CEVMS) shall mean a sign which permits lights to be turned on or off intermittently or which is operated in a way whereby light is turned on or off intermittently, including any 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 light emitting diode (LED) or digital sign, and which varies in color or intensity. A CEVMS sign does not include a sign located within the right-of-way which functions as a traffic control device and which is described and identified in the Manual on Uniform Traffic Control Devices (MUCTD) approved by the Federal Highway Administrator as the National Standard.
- (n) Community information sign shall mean a sign for the City of Rosenberg, other governmental entity, or local school district that advertises or promotes, including the promotion of general service announcements or other happenings that are of general interest to the community. Such sign shall be allowed to be placed on-premise of the property owned by such entity.
- (o) Downtown area shall mean the Old Rosenberg Downtown Market Region from the center right-of-way of Avenue I from the center right-of-way line of First Street to the center right-of-way line of Fifth Street, then north to the south right-of-way line of Southern Pacific Railroad from the center right-of-way lines of FM 723 and First Street to the center right-of-way line of Fifth Street.
- (p) A-frame sign shall mean a sign used to identify a business name, telephone number, hours of operation, and goods or services available on the property where the sign is located. An A-frame sign is made of two (2) pieces of wood, metal or other similar material approved by the building official connected at the top by hinges or similar devices. An A-frame sign is also commonly referred to as a "sandwich board sign," and shall include signs erected on easels or freestanding frames with sign inserts.
- (q) Ghost sign shall mean any existing wall sign that advertises a business or service used historically in the early to mid-20th century. Ghost signs may be faded and can be repainted to preserve the historic character of the sign by matching the original colors. Ghost signs are typically found in historic districts and may advertise an obsolete business or product.

- (r) Hanging sign shall mean a permanent sign that is attached to the underside of an awning, canopy, or other structure projecting from a wall or roof of structure that covers a pedestrian walkway, located near the business entrance just above the door or to the side of the door, hanging perpendicular or parallel to the building façade.
- (s) Nonconforming sign shall mean a sign that does not conform with the regulations of this article, and:
  - (1) Was erected in compliance with the regulations then in effect; or
  - (2) Was lawfully in place at the time it was annexed to the city.
- (t) Sign size shall mean the area enclosed by drawing one (1) or more rectangles of horizontal and vertical lines that fully contain all extremities of the sign drawn to scale, excluding its supports and any open and unenclosed areas between the supports.
- (u) Sign district shall mean a specified area parallel to a roadway that creates a corridor in which specific regulations apply. In the case of a district boundary line dividing a property into two parts, the least restricted district sign district shall apply.
- (v) Sign height shall mean the vertical distance measured from grade at the front of the sign to the highest point of the sign, including the base, support structures, borders, and trim.
- (w) Single tenant sign shall mean a sign displaying advertising for a single business or service entity only.
- (x) Multi-tenant sign shall mean a sign displaying advertising for two (2) or more separate businesses or service entities upon a single sign structure.
- (y) Sight visibility triangle shall mean an area between a height of two (2) feet and eight (8) feet above an area at the intersection of two (2) streets, which shall include that portion of public right-of-way and any corner lot within the adjacent curb lines and a diagonal line intersecting such curb lines at points twenty (20) feet back from their intersection, to form a triangle; and shall also mean an area on each side of a driveway where private driveways open into public streets, which shall include that portion of public right-of-way and any portion of lot within the adjacent curb lines and a diagonal line intersecting at points twenty (20) feet long, one (1) of which extends back along the adjacent curb and the other back toward the private property or street, to form a triangle.
- (z) *Digital billboard* shall mean an off-premises sign utilizing digital message technology, capable of changing the static message or copy on the sign electronically. A digital billboard may be internally or externally illuminated. Digital billboards shall contain static messages only, and shall not have animation, movement, or the appearance or optical illusion of movement, of any part of the sign structure. Each static message shall not include flashing or the varying of light intensity. A digital billboard shall not be considered a CEVMS sign hereunder.

(Ord. No. 2011-07, § 1, 5-3-11; Ord. No. 2012-11, § 1, 3-20-12; Ord. No. 2012-12, § 1, 3-20-12; Ord. No. 2012-13, § 1, 3-20-12; Ord. No. 2013-03, § 1, 1-15-13, Ord. No. 2016-04, § 1, 1-19-16)

Sec. 6-362. - Standards; on-premises signs.

- (a) The provisions as herein set out shall be applicable to on-premises signs as that term shall be herein defined. Signs shall not imitate or resemble any official traffic control sign, signal or device. Real estate signs as herein previously defined shall be deemed "on-premises" signs so long as the same shall be located on the premises for which they are used to advertised property and improvements for lease, rent or sale. On-premise real estate signs shall meet the requirements of this section and shall not be required to meet other requirements as herein provided for height, width and size of real estate signs.
- (b) Signs shall not be erected or maintained upon trees or painted or drawn upon rocks or natural features.

- (c) No sign shall exceed nine (9) feet in height, or thirty-six (36) square feet in area, except for signs that are located within a Sign District.
- (d) A commercial development or other tract of land utilized for business purposes shall be entitled to one (1) freestanding on-premise sign for each two hundred fifty (250) feet of street frontage, or portion thereof.
- (e) Signs may not be located in such a manner as to obscure or otherwise interfere with the effectiveness of an official traffic sign, signal or device, or to obstruct or interfere with the driver's view of approaching, merging or intersecting traffic.
- (f) No signs shall be so illuminated in a manner that interferes with the effectiveness of or obscures an official traffic sign, device or signal.
- (g) Lights which are not effectively shielded as to prevent beams or rays of light from being directed at any portion of the traveled ways of the highways, and which are of such intensity or brilliance as to cause glare or to impair the vision of the driver of any motor vehicle, or which otherwise interfere with any driver's operation of a motor vehicle, are prohibited.
- (h) Every sign regulated by this article shall also comply with all other applicable sections of the Code or building regulations, statutes or ordinances of the city.

(Ord. No. 2011-07, § 1, 5-3-11; Ord. No. 2013-03, § 1, 1-15-13)

Sec. 6-362.1. - Sign District "A".

There is hereby created a Sign District "A", which shall include:

- (1) All property extending from the right-of-way of U.S. Highway 59 and extending outward for a distance of three hundred (300) feet to create a corridor parallel to the right-of-way of the road, for the entire length of the road within the city limits.
  - (2) All property extending from the right-of-way of Spur 10 and extending outward for a distance of three hundred (300) feet to create a corridor parallel to the right-of-way of the road, for the entire length of the road within the city limits.
- (a) The following standards shall apply to single tenant signs within District "A":
    - (1) The maximum height shall be thirty (30) feet.
    - (2) The maximum size shall be one hundred sixty (160) square feet.
  - (b) The following standards shall apply to multi-tenant signs within District "A":
    - (1) The maximum height shall be thirty-six (36) feet.
    - (2) The maximum overall size shall be five hundred seventy-six (576) square feet.
    - (3) The maximum size per individual tenant shall be one hundred sixty (160) square feet.

(Ord. No. 2013-03, § 1, 1-15-13)

Sec. 6-362.2. - Sign District "B."

- (a) There is hereby created a Sign District "B," which shall include:
  - (1) All property located within the city adjacent to and fronting on the right-of-way of FM 2218;
  - (2) All property located within the city adjacent to and fronting on the right-of-way of FM 2977;
  - (3) All property located within the city adjacent to and fronting on the right-of-way of FM 762;

- (4) All property located within the city adjacent to and fronting on the right-of-way of FM 723 and not in the Downtown Area;
  - (5) All property located within the city adjacent to and fronting on the right-of-way of the sections of State Highway 36 that extend south of City Hall Drive and north of U.S. Highway 90A;
  - (6) All property located within the city adjacent to and fronting on the right-of-way of the section of U.S. Highway 90A that extends west of Spur 529;
  - (7) All property located within the city adjacent to and fronting on the right-of-way of Spur 529;
  - (8) All property located within the city adjacent to and fronting on the right-of-way of the section of U.S. Highway 90A that extends east of 8th Street;
  - (9) All property located within the city adjacent to and fronting on the right-of-way of the section of FM 1640 that extends east of Mahlmann Street;
  - (10) All property located within the city adjacent to and fronting on the north side of the right-of-way of the section of FM 1640 between 8th and Mahlmann Streets; and
  - (11) All property located within the city adjacent to and fronting on the right-of-way of the section of Lane Drive between U.S. Highway 90A and Westwood Drive.
- (b) The following standards shall apply to single tenant signs within District "B":
- (1) The maximum height shall be sixteen (16) feet.
  - (2) The maximum size shall be one hundred twenty (120) square feet.
- (c) The following standards shall apply to multi-tenant signs within District "B":
- (1) The maximum height shall be twenty-four (24) feet.
  - (2) The maximum overall size shall be three hundred twenty (320) square feet.
  - (3) The maximum size per individual tenant shall be one hundred twenty (120) square feet.

(Ord. No. 2013-04, § 1, 1-15-13; Ord. No. 2013-39, § 1, 9-17-13; Ord. No. 2014-08, § 1, 5-6-14)

Sec. 6-362.3. - Sign District "C."

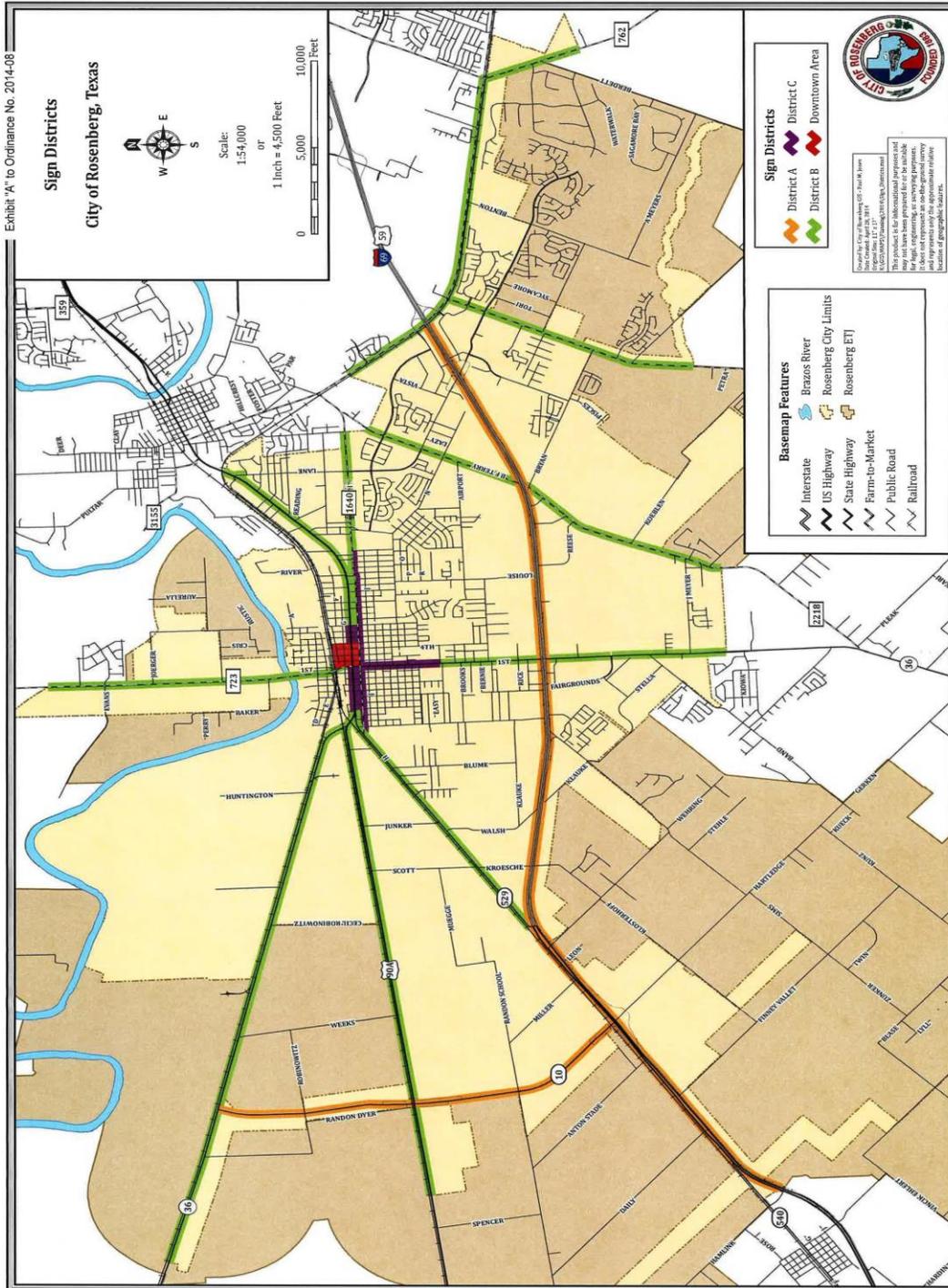
- (a) There is hereby created a Sign District "C," which shall include:
- (1) All property located within the city adjacent to and fronting on the right-of-way of the section of State Highway 36 between City Hall Drive and U.S. Highway 90A and not in the Downtown Area;
  - (2) All property located within the city adjacent to and fronting on the right-of-way of the section of U.S. Highway 90A between Spur 529 and 8th Street and not in the Downtown Area;
  - (3) All property located within the city adjacent to and fronting on the right-of-way of the section of FM 1640 between Spur 529 and 8th Street and not in the Downtown Area; and
  - (4) All property located within the city adjacent to and fronting on the south side of the right-of-way of the section of FM 1640 between 8th and Mahlmann Streets.
- (b) The following standards shall apply to single tenant signs within District "C":
- (1) The maximum height shall be twelve (12) feet.
  - (2) The maximum size shall be sixty (60) square feet.
- (c) The following standards shall apply to multi-tenant signs within District "C":
- (1) The maximum height shall be twelve (12) feet.

- (2) The maximum overall size shall be ninety-six (96) square feet.
- (3) The maximum size per individual tenant shall be sixty (60) square feet.

(Ord. No. 2014-08, § 1, 5-6-14)

Sec. 6-362.4. - Sign District Map.

The Sign District Map, depicting Sign Districts "A," "B," and "C" and the Downtown Area of the City of Rosenberg, is attached hereto as Exhibit "A" and incorporated herein for reference purposes.



(Ord. No. 2014-08, § 1, 5-6-14)

Sec. 6-363. - Prohibition of certain new on or off-premises signs.

- (a) From and after the effective date of this Code amendment, no new construction permits shall be issued for off-premises signs other than digital billboards, subject to the provisions of section 6-365(c)(4) below. This prohibition shall apply to all classifications of signs, types of signs and special function signs, and all other signs used as off-premises signs, including portable signs; however, signs directing persons to the location of places of worship, schools and specified community events shall be permitted providing the size of said signs shall be limited to thirty-two (32) square feet in area.
- (b) All signs that are portable, moveable, trailer, or signs that are not permanently affixed in a concrete base or placed in the ground to a depth sufficient to prevent said sign from being removed shall be deemed illegal signs and shall be removed on or before October 1, 2000. Any person owning, maintaining or assisting in the maintenance of such signs after October 1, 2000 shall be deemed guilty of a misdemeanor and may be punished as otherwise provided in this Code. Each day such sign shall remain after October 1, 2000 shall constitute a separate violation of this Code and may be punished to the extent as provided for in this Code. Any sign which is in violation of this Code may be removed in accordance with applicable provisions of law.

(Ord. No. 2011-07, § 1, 5-3-11)

Sec. 6-364. - Signs in public places.

It shall be unlawful for any person to fasten, tack, nail, tie, glue, paste or maintain any sign anywhere on any public building or property, including but not limited to the streets, sidewalks, curbs, gutters, trees on public rights-of-way, utility poles, signal lights or posts in the city, or to cause the same to be done, except for signs required or authorized by governmental authority, or political signs as provided herein.

(Ord. No. 2011-07, § 1, 5-3-11)

Sec. 6-365. - Signs subject to specific regulations.

- (a) Prohibited signs and the maintenance, continuation, erection, change or permitting prohibited signs to remain on any property in the city shall be deemed a violation of this Code. The owner of the property or persons in actual possession of said property or the persons operating or employed in a managerial capacity by any business where such signs are erected and exhibited shall be deemed in violation of this Code. Such persons may be punished in accordance with the provisions of law to the maximum extent as otherwise permitted under the law and each day a violation shall remain in existence shall be a separate, distinct violation of this Code.
- (b) The following shall be deemed prohibited and shall apply to all signs including nonconforming signs:
  - (1) A sign requiring a permit under this Code but erected, repaired, replaced or modified without the required permit is a prohibited sign.
  - (2) A sign that has become injurious, potentially injurious or a hazard to the health, safety and well-being of the residents, citizens and inhabitants of the city, including, but not limited to: the sign has become dilapidated and has fallen into a state of disrepair; or the sign has become structurally unsound, unsafe, has defective parts, splintered wood, rusted supports, or in need of other similar acts of repair.
  - (3) A sign that is inadequately maintained which may include, but is not limited to: evidence of deterioration including broken or cracked faces, peeling, rust, fading, in need of painting, discoloration or contains wear holes or stress separations.
  - (4) A sign maintained on private property advertising or describing a business which is no longer in business and in operation as a business or advertising a product that is no longer sold where such sign has become

hazardous and unsafe because of neglect, deterioration or structural damage, neglect or lack of maintenance.

- (5) Signs which obstruct doors, windows or fire exits. No sign or other advertising structure shall at any time be erected, relocated or maintained so as to prevent ingress or egress from any door, window or fire escape. No sign of any kind shall be attached to a standpipe, fire hydrant or fire escape. All such signs shall be deemed prohibited signs.
- (6) No signs shall be erected, relocated or maintained which constitute a traffic hazard and such signs shall be deemed prohibited signs. Any sign, which meets any of the following criteria, shall be prohibited under this subsection. A sign under this subsection shall be deemed prohibited if such sign:
  - a. Obstructs free and clear vision of any sight visibility triangle as defined herein; or
  - b. Interferes with or obstructs the view or may be confused with any authorized traffic sign, signal or device because of its position, shape or color.
- (7) Any sign or other advertising structure, which shall constitute a hazard to safety or health by reason of inadequate design, construction, repair or maintenance shall be deemed a prohibited sign.
- (8) Any sign which is illuminated with lights which glare into or upon surrounding area of any residential premises or distract operators of vehicles or pedestrians on the public right-of-way shall be deemed a prohibited sign.
- (9) Any sign which shall display any matter which is designed to promote or advertise a sexually oriented business or sexually oriented product or where the dominant theme of the sign affronts community standards relating to the description or representation of sexual matters and is generally without redeeming value shall be deemed a prohibited sign.
- (10) Any sign or other advertising structure painted, affixed, or in any way attached or placed upon an inoperable motor vehicle shall be prohibited.
- (11) Any other signs, display devices, banners or other advertising pieces not specifically permitted under this Code shall be deemed prohibited, may not be maintained or displayed and must be removed immediately. Display or maintenance of a sign not permitted herein shall constitute a violation of this Code and each day a violation shall continue will represent a separate and distinct violation.
- (12) No sign of any type whether subject to the permitting provisions of this Code or otherwise shall at any time be located any closer than five (5) feet from the edge of the public street right-of-way abutting the property where said sign is located. The provisions of this section shall not be applicable to properties located within the area designated as Tax Increment Reinvestment Zone No. 1 established and provided for in Ordinance No. 99-33 on file in the office of the city secretary of the city.
- (13) Off-premise changeable electronic variable message signs (CEVMS) shall be prohibited within the corporate limits and the extraterritorial jurisdiction of the city. No new permit shall be issued for the installation, erection, or replacement of an off-premise CEVMS, including any conversion or modification of an existing off-premise sign to a CEVMS, within the corporate limits or the extraterritorial jurisdiction of the city.
- (14) On-premise changeable electronic variable message signs (CEVMS) shall be permitted within the corporate limits and the extraterritorial jurisdiction of the city, provided that:
  - a. Such signs shall be permitted only as an appurtenance to an otherwise permitted on-premise sign.
  - b. Flashing or blinking messages shall not be permitted on such signs; however, rolling messages or other stationary messages shall be permitted.
  - c. Such signs shall comply with all provisions of section 6-362(a) through (h).

- (15) All signs in violation of the city's building and electrical codes. All signs, together with their supports, braces, guys, and anchors shall be kept in good repair.
- (c) The following types of signs shall be deemed to be permitted signs:
- (1) Real estate signs: Real estate signs advertising real property for sale or lease and located on the premises of said property and not exceeding thirty-two (32) square feet in size may remain in place so long as the real estate that is being advertised remains "for sale" and/or "for lease" on the applicable market. No real estate sign shall remain on property beyond the expiration of any listing agreement with any real estate broker and in the case of sales or offers for sale by individuals without brokers or agents, a real estate sign may not be permitted to remain on the subject property after the property has been removed from sale and/or "for lease" status. In addition, no real estate sign shall remain for more than five (5) days after the property subject to the real estate sign has been sold or leased.
  - (2) Political sign: A political sign shall be a sign which advertises, supports or urges support for a particular candidate or person seeking election to a particular office or position or a sign advertising and/or advocating a particular position or vote for or against a proposition, proposal or issue. No political sign, erected solely as a political sign and not as changeable copy to a sign or signboard lawfully permitted and used for other commercial purposes, shall remain in the city after the election for which the sign is placed has been completed. It shall be a violation of this Code for any political sign to be placed more than ninety (90) days prior to the date of the election and to remain more than ten (10) days after the date of the election or event for which the sign has been placed. Political signs affixed to billboards shall be removed within twenty (20) days after the date of the election or event for which the sign is placed. No political signs shall at any time be placed on a public street, public street right-of-way or any other public properties owned by or dedicated to the city.
  - (3) Kiosk signs: Kiosk signs shall be approved sign plaza structures located within the city right-of-way, providing directions to subdivisions, homebuilders, and city facilities, installed and maintained by the city or a contractor authorized by the city.
- (4) *Digital billboards.*
- a. Digital billboards shall be permitted in sign district "A" on existing and new off-premises signs pursuant to a conversion agreement between the city and the applicant. Such conversion agreement shall provide that:
    1. The applicant shall remove off-premises sign face area from within the city and its extraterritorial jurisdiction (ETJ) at a 3:1 square footage ratio;
    2. The sign face area and all above ground supporting structures to be removed shall be removed within one hundred and eighty (180) days after issuance of the building permit for the digital billboard and receipt of the requisite TxDOT permit for the digital billboard but prior to commencement of construction of the digital billboard, provided that final approval of the building permit shall be subject to completion of removal of the requisite sign face area, and all above ground supporting structures;
    3. The applicant shall agree to utilize one (1) spot in a standard eight (8) spot rotation on the digital billboard for five (5) separate two- week periods each year to display city-sponsored event announcements and non-commercial public service announcements to promote the civic interests of the city without charge to city; and
    4. Regional emergency information shall be displayed in accordance with the established protocols of local and state authorities. Emergency communications should travel through established protocols set up by the division of emergency management or first responders.
  - b. Digital billboard sign size shall not exceed six hundred and eighty (680) square feet in sign face area.
  - c. Digital billboard signs shall be set back a minimum of ten (10) feet from all public street rights-of-way.

- d. No digital billboard shall be located within two hundred and fifty (250) feet of the property line of a property used for residential purposes if the property is in the line of site of the digital billboard face. Residential use is defined as the use of the property on the date of installation of the digital face(s).
- e. Digital billboard signs shall not exceed forty-two and one-half (42.5) feet in height above the main traveled way.
- f. A digital billboard sign shall not be located within a three-mile radius of another digital billboard sign.
- g. Owners of digital billboard sign faces have the sole option to remove the digital units from the outdoor advertising structure at any time, for any reason. During all periods where there are no digital units on the sign structure, the sign owner shall be permitted to operate the sign faces as traditional, static type. However, owners will be limited to a static sign no larger than the existing digital billboard. In no case will the owner be able to reconstruct the signs that were removed pursuant to subsection (4) herein in the event such digital billboard is converted is operated as a traditional static sign.
- h. *Minimum display time.* Each message on the sign must be displayed for a minimum of eight (8) seconds.
- i. *Brightness level.* Digital billboards shall not operate at brightness levels of more than 0.3 foot candles above ambient light, as measured using a foot candle meter at a pre-set distance of two hundred and fifty (250) feet from a sign with a nominal face size of fourteen (14) feet x forty-eight (48) feet.

(Ord. No. 2011-07, § 1, 5-3-11; Ord. No. 2013-03, § 1, 1-15-13, Ord. No. 2016-04, § 1, 1-19-16)

#### Sec. 6-366. - Temporary signs.

Temporary signs such as garage sale signs and real estate signs, with the exception of political signs, shall be allowed on private property with the owner's permission and shall be removed within forty-eight (48) hours after the date of the event to which such signs make reference or to which such signs are relevant.

(Ord. No. 2011-07, § 1, 5-3-11)

#### Sec. 6-367. - Painting street numbers on city curbs.

- (a) The public works director or his designee is hereby authorized to issue a permit for limited periods of time, not exceeding ninety (90) days, stated in the permit, authorizing the permittee to paint street numbers, according to the specific standards set forth below, on the city curb showing the correct street number of abutting property. Such permit shall be expressly conditioned upon the permittee's obtaining the consent of the abutting property owner before painting the address applicable to such abutting property, and such permit shall be revocable by the public works director or his designee upon violation of this section. Prior to issuance of a permit hereunder, a permittee shall be required to pay a permit fee of twenty-five dollars (\$25.00). A property owner may paint street numbers on the city curb abutting his or her private property in accordance with specifications hereinafter provided, but shall be exempt from the requirement of obtaining a permit and payment of the twenty-five dollar (\$25.00) permit fee.
- (b) All street numbers shall be painted in the following manner:
  - (1) Street numbers shall be in a block numbering style;
  - (2) Four (4) inches in height;
  - (3) Width shall be in proportion to the height or approximately two and one-half (2½) inches in width;
  - (4) A one-inch distance shall be maintained between figures;
  - (5) Painted in reflective paint with black numbers on a white background;

- (6) Background shall be rectangular in shape and shall not exceed more than one (1) inch above and below the numbers and not more than two (2) inches on each side; and
  - (7) Rectangular background shall be no more than twenty (20) inches in length.
- (c) The use of the Texas flag is permitted under the following conditions:
- (1) Red and blue portions of the flag shall not be painted in reflective paint;
  - (2) The white portion of the flag shall be in painted in reflective paint;
  - (3) The house number shall be painted in the reflective white portion of the flag; and
  - (4) All size, width and placement of the numbers shall be consistent with subsection (b) listed above.
- (d) Painted street numbers, including flags other than the Texas flag, and other symbols, existing on city curbs on the date of adoption of this section as amended, nonconforming to the requirements as amended, shall not be permitted. If a city curb is painted in violation of this section, the property owner shall have ninety (90) days to remove such painting. If a property owner fails to remove the curb painting in violation of this section with the ninety-day time period specified above, then the property owner will be in violation of this section and the city may take any necessary action to remove the curb painting in violation of this section.

(Ord. No. 2011-07, § 1, 5-3-11; Ord. No. 2014-45, § 2, 12-2-14)

#### Sec. 6-368. - Display devices.

It shall be unlawful at any time for anyone in the city to use a display device in conjunction with any sale, offering to sell, or offering to buy goods, services, wares or merchandise. Display devices, because of their attractiveness, color, motion and other similar attributes, are hazardous to the health, safety and well-being of motorists and others coming upon streets and roadways in that they tend to distract persons operating motor vehicles and otherwise cause confusion and commotion.

- (1) The provisions of this section shall not apply to any display devices placed or maintained within the public right-of-way by the city to promote any cultural, civic or recreational activities sponsored or promoted by the city or other governmental entity.
- (2) The use of display devices as defined herein shall not be permitted.
- (3) A person or business utilizing a display device on the date of enactment of this article shall have a period of sixty (60) days from the date of enactment of this article in which to comply with the requirements set forth in this article.

(Ord. No. 2012-12, § 2, 3-20-12)

**Editor's note**— Ord. No. 2012-12, § 2, adopted Mar. 20, 2012, deleted § 6-368, in its entirety and enacted new provisions to read as herein set out. Prior to this amendment, § 6-368 pertained to "Banners and display devices." See Code Comparative Table for derivation.

#### Sec. 6-369. - Prohibited signs; removal/violation.

Any sign, banner, display device or flag existing at the time of the adoption of this article or that may be permitted and constructed at a future date shall be maintained in such a manner so as to comply with original intent of advertising and shall be maintained in such a manner so as not to endanger the health, safety, and well-being of

the residents, citizens or inhabitants of the city. Any sign, banner, display device or flag not meeting the requirements of this section shall be removed or repaired upon proper notification by the director of public works.

Any sign that is prohibited and which constitutes an immediate threat to the health, safety and well-being of the citizens, residents and inhabitants of the city may be removed by the director of public works at any time with or without notice.

(Ord. No. 2011-07, § 1, 5-3-11)

#### Sec. 6-370. - Signs attached to buildings.

No special requirements shall be imposed under this article as to any sign that shall be totally attached to a building in place and which shall not constitute a sign which extends out or is a marquee sign, but instead a sign that is totally attached to a building and is flat against the surface of the building and which advertises a product or service offered for sale in the building to which it is attached. However, all such building signs shall be erected in accordance with all other applicable codes for structure and improvements to structures. The building official shall permit a sign attached to a building when the same can be safely erected and maintained in accordance with all applicable codes.

(Ord. No. 2011-07, § 1, 5-3-11)

#### Sec. 6-371. - Contractor's sign.

Nothing in this article shall prohibit a construction or remodeling contractor from placing a sign upon the premises upon which the work is performed and the same may remain upon the premises where the work is being performed until the work is completed so long as said sign shall meet the requirements as otherwise set out herein as to signs and configuration for real estate signs.

(Ord. No. 2011-07, § 1, 5-3-11)

#### Sec. 6-372. - Community information signs.

Community information signs are subject to the following:

- (1) Sign shall be a maximum of twenty-four (24) feet in height.
- (2) Sign shall be a maximum of one hundred twenty (120) square feet in surface area.
- (3) Sign shall be setback a minimum of ten (10) feet from the property line.
- (4) No portion of the sign, including any support structures or projections, shall encroach into the public right-of-way.
- (5) Sign shall not be closer than one hundred (100) feet to any other sign located on the property.
- (6) A sign containing a changeable electronic variable message, in accordance with Section 6-365(15) of this Code, shall not have such message entail more than seventy-five (75) percent of the total surface area of the sign.
- (7) The support structure extending from the ground to the sign surface area shall be constructed of masonry, so that there are no visible metal poles or similar type material.
- (8) The support structure at the ground level shall be landscaped as follows:
  - a. A minimum landscaped area of twice the size of the footprint of the support structure at ground level shall be provided around each support structure, and the base of the support structure shall be screened with evergreen shrubbery maintained at a minimum of one (1) foot in height; or

- b. A hardscaped area be provided around the support structures at the ground level to provide screening at a minimum of one (1) foot in height. For the purposes of this section, hardscape shall mean any masonry, stone, iron, or wood work that is integrated into a landscape setting.

(Ord. No. 2012-22, § 1, 5-15-12)

**Editor's note**— Ord. No. 2012-22, § 1, adopted May 15, 2012, deleted § 6-372, in its entirety and enacted new provisions to read as herein set out. Prior to this amendment, § 6-372 pertained to similar subject matter. See Code Comparative Table for derivation.

#### Sec. 6-373. - Signs in downtown area.

The following signs shall be permitted in the downtown area, so long as such signs comply with the regulations as set forth below:

- (a) A-frame signs are subject to the following:
  - (1) Maximum of twelve (12) square feet of surface area per side, including any support structures.
  - (2) Maximum of four (4) feet in height.
  - (3) Maximum of three (3) feet in width.
- (b) Easel signs or freestanding frames with a sign insert are subject to the following:
  - (1) Maximum of six (6) square feet of surface area per side.
  - (2) Maximum of five (5) feet in height.
  - (3) Maximum of three (3) feet in width.
- (c) A-frame signs and easel signs are both subject to the following:
  - (1) No more than one (1) sign per business shall be allowed.
  - (2) Signs must be placed on a sidewalk or adjacent to a sidewalk.
  - (3) Signs must be located a minimum of two (2) feet from any curb of any adjacent street.
  - (4) Signs must provide an unobstructed pedestrian clearance of at least four (4) feet in width.
  - (5) Signs may be displayed from the time the business opens and should be taken in at the close of business each day.
  - (6) Signs shall be sufficiently weighted or anchored to prevent movement by wind or other elements.
  - (7) A sign permit is required to be issued by the City of Rosenberg for any A-frame sign or easel sign.
- (d) Hanging signs are subject to the following:
  - (1) No more than one (1) hanging sign per each ten (10) feet of linear feet shall be allowed.
  - (2) Hanging signs shall not exceed six (6) square feet in surface area per side.
  - (3) Hanging signs must maintain a minimum clearance of seven (7) feet from pedestrian grade measured from the lowest hanging portion of the sign.
  - (4) Hanging signs must maintain a minimum clearance of one (1) foot from the curb.
  - (5) Hanging signs shall be securely fastened.
  - (6) A sign permit is required to be issued by the City of Rosenberg for any hanging sign.

(Ord. No. 2011-07, § 1, 5-3-11)

Sec. 6-374. - Signs regulations extended to extraterritorial jurisdiction.

The provisions of this article are hereby extended and shall be enforced in all areas within the city's extraterritorial jurisdiction.

(Ord. No. 2011-07, § 1, 5-3-11)

Sec. 6-375. - Regulation of nonconforming signs.

- (a) Nonconforming signs shall be subject to the following regulations:
- (1) Nonconforming signs, with an approved permit from the city, may be permitted to have a changing of the façade and content of the face of the sign.
  - (2) General maintenance of a nonconforming sign shall be permitted without the need of a permit, such as repainting, or cleaning maintenance.
  - (3) Any part of a sign or the supporting structure of a sign that is nonconforming may be repaired or renovated only by the use of the types of materials and dimensions of materials that are the same as the parts of the sign or supporting structure being repaired or renovated. A person shall not repair or renovate such sign without first obtaining a permit.
- (b) Destruction; repairs.
- (1) Any nonconforming sign, including its supporting structure, which is destroyed, dismantled, damaged, dilapidated or deteriorated, must not be replaced, repaired, altered, or renovated, in whole or in part, if such replacement, repair, alteration, or renovation would require an expenditure of monies in excess of sixty (60) percent of the reproduction cost of erecting a new sign, including its supporting structure, at the same location, which is substantially the same or similar to the nonconforming sign destroyed, dismantled, damaged, dilapidated or deteriorated, unless such replacement, repair, alteration, or renovation makes the sign conforming.
  - (2) To reasonably determine the applicability of subsection (b)(1) of this section, the owner of the nonconforming sign shall submit to the building official, two (2) or more independent estimates from established sign companies of the cost of replacing, repairing, altering or renovating, in whole or in part, the existing nonconforming sign and two (2) or more independent estimates from established sign companies of the reproduction cost of a new sign, including its supporting structure, which is substantially the same or similar to the nonconforming sign destroyed, dismantled, damaged, dilapidated or deteriorated. The estimates must include an itemized list of the materials to be used.

(Ord. No. 2011-07, § 1, 5-3-11)

Sec. 6-376. - Flags.

The use and display of flags is herein permitted, in accordance with the following:

- (1) The flag, as defined herein, of any nation, state, political subdivision, or other recognized governmental entity, or the flag of any religious, fraternal, or charitable organization, or the flag of a historic, political, or military nature displayed, shall be permitted, as follows:
  - a. The flag is displayed on a flagpole as defined in Section 6-361(t).
- (2) Flags displaying a company or business entity logo shall be permitted as follows:
  - a. The flag representing or advertising the business entity is located on the business property.
  - b. The flag, if displayed with a flag as permitted in (1) above, shall be no larger than the flag described in (1) above in accordance with established rules of etiquette.
  - c. No more than two (2) such flags may be displayed per property.
- (3) Flags and flagpoles on commercial property shall be setback a minimum of fifteen (15) feet from the property line. Flags on residential properties shall be exempt from any setback requirements.
- (4) Flags and flagpoles shall not be located or illuminated in such a manner as to obscure or otherwise interfere with the effectiveness of an official traffic sign, signal or device, or so as to obstruct or interfere with the view of a driver of approaching, emerging or intersecting traffic, or so as to prevent any traveler on any street from obtaining a clear view of approaching vehicles for a distance of two hundred fifty (250) feet along the street.
- (5) Existing flagpoles as of the effective date of this ordinance shall be allowed to remain.

(Ord. No. 2012-11, § 2, 3-20-12)

Sec. 6-377. - Banners.

The use and display of banners is herein permitted, in accordance with the following:

- (1) Building banner.
  - a. A building banner shall be securely fastened to the fascia of the building on at least four (4) places on the banner.
  - b. A banner may be placed on an opaque fence of a business that serves as a screening device, provided that the banner is securely fastened to the fence on at least four (4) places on the banner.
  - c. A building banner must be displayed on-premise of the product or service that the banner advertises.
  - d. No more than one (1) banner shall be allowed on each side of the façade of the building, or no more than one (1) banner per fence.
  - e. Each tenant within a multi-tenant building that has a storefront shall be allowed one (1) building banner per tenant on the front façade of the tenant's lease space.
- (2) Bracketed, free-standing banner.
  - a. For the purposes of this section, bracketed shall mean the banner is framed at the top and bottom of the banner with a metal bracket, so the banner is stationary and does not move in the wind.
  - b. A bracketed, free-standing banner shall be permitted on a property in which the principal building is set back at least fifty (50) feet from the adjacent roadway.

- c. A bracketed, free-standing banner shall be securely fastened to a permanent post made of steel or wood of not less than four (4) inches in diameter, with a base set in concrete in the ground a minimum of two (2) feet, and secured to the post in at least two (2) places on the banner.
  - d. The permanent post shall be setback a minimum of five (5) feet from the property line.
  - e. The banner must be fastened a minimum of seven (7) feet from the ground.
  - f. A bracketed, free-standing banner must be displayed on-premise of the product of service that the banner advertises.
  - g. One (1) banner per two hundred (200) feet of linear frontage, or portion thereof, shall be allowed per property. Any property of less than two hundred (200) feet of linear frontage shall be allowed one (1) bracketed, free standing banner.
  - h. A bracketed, free standing banner shall not exceed twenty-four (24) square feet in size.
  - i. The permanent post in b. above cannot be any part of a permanent sign structure.
  - j. No banner shall be displayed over a driveway or access easement into a property.
- (3) Event banner.
- a. An event banner shall be allowed for events that occur on-premise of the event that the banner advertises, including, but not limited to, banners announcing grand openings and sales events.
  - b. An event banner shall be located on-premise of the event that the banner advertises.
  - c. An event banner shall be displayed no more than sixty (60) consecutive days, and no more than three (3) times per calendar year.
  - d. One (1) event banner per five hundred (500) feet of linear frontage, or portion thereof, shall be allowed per property. Any property of less than five hundred (500) feet of linear frontage shall be allowed one (1) event banner.
  - e. An event banner shall be securely fastened to a permanent fixture, such as a building façade, a fence or a gate, on at least four (4) places on the banner.
  - f. An event banner shall not exceed the following sizes:
    - 1. Sign District "A": one hundred sixty (160) square feet.
    - 2. All other areas: sixty (60) square feet.
- (4) Permits required.
- a. A permit shall not be required for a building banner as described in this section.
  - b. A permit shall be required prior to the installation of a bracketed, free-standing banner and an event banner as described in this section.
  - c. For event banner permits, the applicant shall specify the event for which the permit is requested. The permit shall set forth the date of removal of the event banner as described in this section.
- (5) Maintenance of banners.
- a. All banners must be maintained and in good repair and in compliance with other provisions of the Code. Any banner that is torn, worn, or faded shall be removed from the property within seventy-two (72) hours of written notification by the city.
- (6) Compliance.

- a. A person or business displaying a banner on the date of enactment of this article shall have a period of sixty (60) days from the date of enactment of this article in which to comply with the requirements set forth in this article.

(Ord. No. 2012-13, § 2, 3-20-12; Ord. No. 2013-07, § 1, 1-15-13) Secs. 6-378—6-389. - Reserved.

## ARTICLE XVI. - PARKING LOT STANDARDS AND SPECIFICATIONS

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FOOTNOTE(S):

--- (17) ---

**Editor's note**—Ord. No. 2011-24, § 1, adopted Dec. 20, 2011, amended art. XVI, in its entirety to read as herein set out. Former art. XVI, §§ 6-416—6-418, pertained to similar subject matter, and derived from: Ord. No. 2000-02, § 1, adopted Mar. 21, 2000; Ord. No. 2000-56, § 1, adopted Dec. 05, 2000; Ord. No. 2003-14, § 1, adopted Apr. 15, 2003; Ord. No. 2007-25, § 2, adopted June 26, 2007; Ord. No. 2008-24, §§ 3, 4, adopted Aug. 5, 2008; Ord. No. 2008-25, § 1, adopted Aug. 19, 2008; Ord. No. 2008-30, §§ 1, 2, adopted Dec. 16, 2008; Ord. No. 2008-31, § 1, adopted Dec. 16, 2008; and Ord. No. 2009-27, §§ 1, 2, adopted Aug. 18, 2009.

**Editor's note**—Ord. No. 2000-02, § 1, adopted Mar. 21, 2000, set out provisions intended for use as §§ 6-700—6-702. For purposes of classification, and at the editor's discretion, these provisions have been included as §§ 6-416—6-418.

### Sec. 6-416. - Off-street parking regulations.

It is the intent of this section to ensure that adequate off-street parking is provided.

- (1) Required off-street parking spaces should be on the same lot, tract, parcel, or premises as the use being served.
- (2) Any existing use that is enlarged, structurally altered, or remodeled to the extent of increasing or changing the use by more than fifty (50) percent as it existed at the effective date of this article shall be accompanied by off-street parking for the entire building, or use in accordance with the required off-street parking regulations set forth in the section 6-418, schedule of parking regulations. Exemption may be permitted for a business that existed prior to the passage of this ordinance and requires less than twenty-five (25) spaces, and is rebuilt due to fire, storm, or other acts of God.
- (3) Existing parking spaces may not be used to satisfy additional off-street parking requirements unless the existing spaces proposed for use in meeting the requirements of the associated use exceed the number of spaces required for the building or use for which the existing spaces are associated. All parking associated with a building or use from which the spaces are drawn must meet all requirements of this article.
- (4) Off-street parking areas shall provide parking spaces with a minimum stall width of nine (9) feet (as measured from centerline to centerline) and a minimum length of twenty (20) feet. Off-street parking spaces shall be clearly marked with striping to indicate the location of the individual spaces.
- (5) All parking and paving areas shall meet the following setbacks:
  - a. Parking and paving areas shall be setback a minimum of ten (10) feet from any property line that abuts a street right-of-way or an access easement as defined in Article 1, of Chapter 25, Subdivisions, Section 25-1
  - b. Parking and paving areas shall be setback a minimum of five (5) feet from any side property line. For corner lots, parking and paving areas shall provide the minimum five (5) foot setback on both interior side yards, regardless of whether one (1) yard is considered a rear yard.
  - c. There shall be no parking or paving setback on the rear of a lot. Parking spaces abutting an adjoining property line in the rear shall be provided with wheel guards or bumper guards located so that no part of a normally parking vehicle shall extend beyond the property line.
  - d. Parking and paving areas shall be setback a minimum of five (5) feet from any alley.

- e. For interior side property lines in commercial developments with shared parking, no setback from the interior property lines are required.
  - f. Single family residential parking shall be exempt from these setback requirements.
  - g. Nonconforming parking and paving areas:
    - i. Parking and paving areas which are in existence on the effective date of this ordinance, and which are nonconforming as it relates to the provisions of subsection 6-416(5), may be repaired or renovated provided that repairs or renovations do not exceed fifty (50) percent of the replacement cost of the parking or paving area as determined by two (2) or more independent estimates from licensed contractors.
    - ii. Repairs or renovations exceeding fifty (50) percent of the replacement cost of a nonconforming parking or paving area must result in conformance with subsection 6-416(5).
- (6) Approval of the parking area layout and design of all off-street parking areas shall be by the planning director or such designee. The planning director or such designee shall determine that spaces provided are useable and that the circulation pattern of the area is adequate.
- (7) All off-street parking areas shall be paved with a permanent all-weather surface of asphalt concrete or Portland cement concrete approved by the planning director.
- (8) All off-street parking areas within commercial or multi-family projects shall be provided with exterior lighting, which meets the following minimum standards:
- a. Proper illumination shall be provided for safety, which at a minimum, shall be the equivalent of one-foot candle average of illumination throughout the parking area. In commercial parking lots, lights should be operable at a minimum of one (1) hour before the business is open to a period at least one (1) hour after the business has closed.
  - b. All lighting shall be on a time clock or photo sensor system.
  - c. All lighting shall be designed to confine direct rays to the premises. No spill over beyond the property line shall be permitted, except onto public thoroughfares provided, however, that such light shall not cause hazard to motorists.
- (9) Access to parking areas for commercial or multi-family projects shall be provided as follows:
- a. Two-way access driveways shall have a width of no less than twenty (20) feet nor greater than forty-four (44) feet. In cases where one-way access drives are approved, a minimum width of twelve (12) feet is required.
  - b. The parking area shall be designed so that a vehicle within the parking area will not have to enter a public street to move from one (1) location to any other location within the parking area. (Businesses requiring twenty-five (25) spaces or less are exempt from this provision.)
  - c. Under no circumstances will spaces be approved that require a vehicle to back into a public right-of-way. (Businesses requiring twenty-five (25) spaces or less are exempt from this provision.)
  - d. This section relating to access for commercial or multi-family projects shall not be applicable for single-family residential parking requirements.
- (10) Access to parking area for single-family residential units shall be provided as follows:
- a. The driveway shall be a minimum nine (9) feet wide and connect to all parking areas including garage.
  - b. The driveway can permit a vehicle to safely back into a public right-of-way.
  - c. The access drive may be of like material of the city street, but in no case less than an asphalt material. It does not have to match the parking space material.

d. The design criteria shall be approved by the building official and be properly tied into the city street.

(11) The Downtown Area, as defined in this chapter, shall be exempt from the parking regulations set forth in this article.

(Ord. No. 2011-24, § 1, 12-20-11; Ord. No. 2011-34, § 1, 12-20-11; Ord. No. 2012-41, § 1, 11-20-2012)

Sec. 6-417. - Off-street parking landscaping (twenty-five spaces or more).

- (a) All areas, except the downtown area, that are used for parking shall conform to the minimum landscaping requirements of this section. Parking lots shall have open landscaped areas that are equal to but not less than ten (10) percent of the parking areas and drives in the parking area. The required area may be used as island, perimeter landscaping, or in any combination. A minimum of fifty (50) percent of the required landscaped area must be used as islands.
- (b) Landscaping in the right-of-way shall be permitted subject to the approval of the planning director. Credit for up to fifty (50) percent of the minimum landscaping area requirement shall be allowed for landscaping of the street right-of-way.
- (c) Off-street parking areas (including loading docks, access roads and drives) that are adjacent to an area used for residential purposes may require screening by means of a six-foot wall or opaque fence, which shall be erected and maintained along the property line to provide visual screening. It shall be necessary to show all planting areas drawn to scale and all plants and trees within shall be clearly located and labeled on-site plans for development regulated by this article.
- (d) Landscaping areas shall be protected from vehicular encroachment by curbs or wheel stops.
- (e) Landscaping shall consist of a combination of such materials as grasses, groundcover, shrubs, vines, hedges, trees, or other such materials. Grasses and groundcover alone shall not constitute adequate landscaping.
- (f) Visibility at intersections. On a corner lot, no structure shall be erected or constructed, and no vegetation shall be planted and allowed to grow, in such a manner as to impede vision between a height of two (2) feet and eight (8) feet above the centerline grades of the intersecting streets, in the triangular area bounded by the intersecting street lines and a line joining points along said street lines twenty (20) feet from the point of their intersection.

(Ord. No. 2011-24, § 1, 12-20-11; Ord. No. 2011-34, § 1, 12-20-11)

Sec. 6-418. - Schedule of parking regulations.

Computing parking space requirements:

- (1) Where a fraction of an off-street parking space greater than or equal to one-half (0.5) is required pursuant to the table below, a full parking space shall be provided.
- (2) For uses not mentioned in the table below or for which the category of use is uncertain, the planning director shall determine the most appropriate equivalent from the subsequent table. An applicant unsatisfied with the planning director's decision may make an appeal to the planning and zoning commission.

\* GLA is the "gross leasable floor area".

| Use  | Unit                      | Minimum Number Spaces: Unit |
|--|---------------------------|-----------------------------|
| Single-family residential  | Dwelling unit             | 2:1 dwelling unit           |
| Townhouse residential  | Dwelling unit             | 2.5:1 dwelling unit         |
| Duplex residential   | Duplex                    | 4 covered spaces per duplex |
| General office (includes banks and savings and loans)                                | 1,000 square feet of GLA* | 5:1000 square feet          |
| General retail (under 400,000)   | 1,000 square feet of GLA* | 5:1000 square feet          |
| General retail (400,000 and over)  | 1,000 square feet of GLA* | 5:1000 square feet          |
| Fast-food eating (with or without drive-through, without table service)              | 1,000 square feet of GLA* | 10:1,000 square feet        |
| Restaurants and cafeterias (sit down eating with table service, without bar)         | 1,000 square feet of GLA* | 12:1,000 square feet        |
| Restaurants and cafeterias (sit down eating with table service, with bar)            | 1,000 square feet of GLA* | 15:1,000 square feet        |
| Bars, nightclubs and taverns   | 1,000 square feet of GLA* | 20:1,000 square feet        |
| Churches, cinemas, meeting rooms, and places of public assembly (with fixed seating) | Seats                     | 1:4 seats                   |
| Places of public assembly (without fixed seating)                                    | Areas of assembly         | 1:45 square feet            |
| Places of assembly for elementary age children (without fixed seating)               | Areas of assembly         | 1:650 square feet           |

|  |  |  |
|--|--|--|
| Hospitals (acute care)                                   | Beds                                     | 1:1 bed  |
| Hospitals, nursing homes, assisted living (chronic care) | Beds                                     | 1:3 beds   |
| Light manufacturing                                      | 1,000 square feet of GLA*                | 2:1,000 square feet  |
| Wholesaling, warehousing, and distribution               | 1,500 square feet of inside storage area | 1:1,500 square feet  |
| Bowling alley  | Lanes                                    | 5:1 lane   |
| Funeral home   | Seats                                    | 1:3 seats  |
| Medical/dental clinic                                    | 1,000 square feet of GLA*                | 6:1,000 square feet  |
| Hotel/motel  | Rooms                                    | 1:1 room   |
| Multifamily dwelling                                     | 1 Bedroom<br>2 Bedroom<br>3 Bedroom      | 4 spaces: 1 bedroom dwelling<br>5 spaces: 2 bedroom dwelling<br>6 spaces: 3 bedroom dwelling<br>30% of the required spaces shall be covered. (At a minimum, 10% of the total spaces shall be designated for guest parking) |
| Auto repair, painting, or body repair                    | 1,000 square feet of GLA*                | 3:1,000 square feet of office area + 4 spaces per each bay, or one space per 600 square feet of other gross floor area   |
| Auto wash  | Use                                      | 10 minimum   |
| Auto part sales  | 1,000 square feet of GLA*                | 3:1,000 square feet of office area + 4 spaces per each bay, or one space per 600 square feet of other gross floor area   |

|  |                             |   |
|--|-----------------------------|---|
| Auto service station                     | Use                         | 2 spaces per day + 2 stacking spaces per pump |
| Automobile/vehicle sales:                |                             |   |
| For showroom/office                      | 1,000 square feet of GLA*   | 4:1,000 square feet                           |
| For outside lot                          | 800 square feet of lot area | 1:800 square feet                             |
| Minimum, if greater than total for above | Total site                  | 8 spaces                                      |
| Self-storage/Mini-warehouse              | 12,000 square feet of GLA*  | 1:12,000 square feet                          |

(Ord. No. 2011-24, § 1, 12-20-11; Ord. No. 2011-34, § 1, 12-20-11)

Sec. 6-419. - Special exceptions for parking and landscaping for commercial uses with frontage on Avenue H, Avenue I, and State Highway 36 only.

- (a) Upon written request of the property owner, the city council may grant a special exception to the provisions of this article, including the parking and paving setbacks required by subsection 6-416 (5), limited to and in accordance with the items referenced in this section.
- (b) The purpose of a special exception shall be to authorize a modification of standards applicable to development within the city, which is consistent with the overall intent of the Code, but that requires additional review to determine whether the development with the modifications is compatible with adjoining properties and the character of the neighborhood in which the development is proposed.
- (c) An application for a special exception shall be filed only for parking and landscaping provisions contained within this article of the Code.
- (d) In granting a special exception under this article, the city council may impose such criteria and conditions as necessary to bring the property into further compliance with this article and to protect adjacent property owners.
- (e) Special exceptions shall be limited to the following:
  - (1) The property to which a special exception applies shall be no larger than one (1) acre in size.
  - (2) The property to which a special exception applies shall be a property in which an improvement is upon, and not be a stand-alone, vacant property, in which no building currently exists. A vacant property adjacent to a developed property, in which the vacant tract and the developed tract are replatted into one (1) lot, shall be permitted.

- (3) The special exception may allow for the reduction of parking requirements in an amount not exceeding twenty-five (25) percent of the parking required for that use under this article.
- (f) Application requirements. An application for a special exception shall be accompanied by the following:
- (1) Completed application, as provided by the planning department.
  - (2) A statement detailing the specifics of the site, including the size of the site, the size of any buildings to be utilized, the parking spaces proposed, and any other information deemed appropriate by the planning director.
  - (3) A site plan of the subject property.
  - (4) A landscape plan showing as much conformance to the landscaping requirements as the site can accommodate.
- (g) Application processing.
- (1) The planning commission shall consider an application for a special exception and make a recommendation to the city council.
  - (2) The planning department shall cause notice to be sent by regular mail before the tenth day before the date in which the special exception is considered by the city council, to each owner of real property located within two hundred (200) feet of the exterior boundary of the property in question.
  - (3) The planning department shall cause notice to be published in a newspaper of general circulation in the city before the tenth day before the date in which the special exception is considered by the city council.
  - (4) The city council shall hold a public hearing and receive public comments regarding the special exception.

(Ord. No. 2011-24, § 1, 12-20-11; Ord. No. 2012-41, § 1, 11-20-12)

**Sec. 6-420. - Outdoor displays of motor vehicles; paving requirements.**

(a) Definitions.

Motor vehicle shall mean a self-propelled vehicle required to be registered under the Texas Transportation Code, and is designed for use on a public roadway, regardless if the motor vehicle is operable, inoperable or dismantled.

Outdoor display area(s) shall mean an area for the outdoor display of motor vehicles that are available for rent, sale, lease or storage.

Residential property means an establishment serving a single-family or household.

- (b) Outdoor display areas, paving requirements. All outdoor display areas shall be paved with a permanent all-weather surface of asphalt concrete or Portland cement concrete approved by the planning director.
- (1) Outdoor display of motor vehicles shall not be displayed on areas that are designated for off-street parking or are included in the computation for designated off-street parking (unless the off-street parking spaces available exceed the number of spaces required for off-street parking), areas designated for landscaping, grass, dirt, gravel or other unimproved surfaces.
  - (2) Display of one (1) motor vehicle for sale on residential property shall not be considered an outdoor display area for purposes of this section.
  - (3) Outdoor display areas of motor vehicles that require proper screening pursuant to applicable city ordinances shall comply with screening requirements in addition to paving.
  - (4) Outdoor display areas shall not encroach into the sight visibility triangle.

- (c) Outdoor display areas in existence at time of enactment of this article. A person owning, renting, leasing, or operating an outdoor display area on the date of enactment of this article shall have a period of six (6) months from the date of enactment of this article in which to comply with the paving requirements set forth in subsection 6-417(b) of this article. This section shall only apply to outdoor display area(s) as it existed on the date of enactment of this article. Should an existing outdoor display area(s) be enlarged or expanded prior to the end of the six-month period, the entire outdoor display area(s) shall be required, at time of enlargement or expansion, to comply with subsection 6-417(b).

(Ord. No. 2011-34, § 1, 12-20-11)

Secs. 6-421—6-424. - Reserved.

**ARTICLE XVII. - SINGLE-FAMILY AND ACCESSORY DWELLING UNITS**

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**Sec. 6-425. - Definitions.**

The following definitions shall be applicable to the terms and provisions as used in this article:

Accessory dwelling unit shall mean a subordinate structure that is located on the same lot, tract, or parcel of land as the main structure, which is incidental to the use of the main structure.

Estate lot shall mean a residential lot, tract, or parcel of land containing three (3) acres or greater.

Single-family dwelling unit shall mean a building containing one (1) dwelling unit that is designed to be occupied by one (1) family.

(Ord. No. 2006-32, § 1, 11-7-06)

**Sec. 6-426. - Single-family dwelling units.**

There shall be only one (1) single-family dwelling unit permitted per platted lot, tract, or parcel of land.

(Ord. No. 2006-32, § 1, 11-7-06)

**Sec. 6-426. - Construction of accessory dwelling units.**

An accessory dwelling unit shall be permitted to be constructed, in accordance with the provisions of this article, on an estate lot containing a single-family dwelling unit. An accessory dwelling unit shall not be permitted to be constructed on a lot, tract, or parcel of land containing less than three (3) acres.

(Ord. No. 2006-32, § 1, 11-7-06)

**Sec. 6-426. - Restrictions on accessory dwelling units.**

An accessory dwelling unit constructed on an estate lot shall be subject to the following conditions and restrictions:

- (a) An accessory dwelling unit shall not be rented or leased, under any conditions;
- (b) There shall be only one (1) accessory dwelling unit permitted on any estate lot;
- (c) An accessory dwelling unit shall not exceed two (2) stories.
- (d) There shall be only one (1) water tap, sanitary sewer tap, electrical connection, and gas connection permitted for an estate lot to serve the main structure and any accessory dwelling unit.
- (e) An accessory dwelling unit shall not be a mobile home or manufactured home.

(Ord. No. 2006-32, § 1, 11-7-06)

**Sec. 6-427. - Building permit requirements for accessory dwelling units.**

At the time a building permit application is submitted for the construction of an accessory dwelling unit, the applicant must submit a site plan. This requirement to provide a site plan shall be cumulative of, and in addition to, such other regulations and requirements as may be imposed under this Code.

(Ord. No. 2006-32, § 1, 11-7-06)

Sec. 6-428. - Setbacks for accessory dwelling units.

The following set back lines shall be established for all accessory dwelling units, and shall be so indicated on all site plans as delineated below:

- (a) Front yard. The front yard setback for an accessory dwelling unit shall be fifty (50) feet from the property line. The front yard orientation is established in accordance with the main structure.
- (b) Side and rear yard. The side and rear yard setbacks for an accessory dwelling unit shall be thirty (30) feet from the property line. The side and rear yard orientation is established in accordance with the main structure.
- (c) Main dwelling. The setback for an accessory dwelling unit from the main structure shall be ten (10) feet.

(Ord. No. 2006-32, § 1, 11-7-06)

Sec. 6-429. - Penalty.

Any person who shall violate any provision of this article shall be deemed guilty of a misdemeanor and, upon conviction, shall be subject to the penalty provided in Section 1-13 of this Code.

(Ord. No. 2006-32, § 1, 11-7-06)

Secs. 6-430—6-439. - Reserved.

## ARTICLE XX. - SIDEWALKS

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FOOTNOTE(S):

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**Editor's note**—Ord. No. 2009-02, § 1, adopted January 6, 2009, amended the Code by adding provisions designated as Art. XX, § 6-460. Inasmuch as there already exist provisions so designated, said ordinance has been included herein as Art. XX, § 6-470 at the discretion of the editor. See also the Code Comparative Table.

**Sec. 6-470. - Sidewalk regulations for all residential and non-residential construction.**

- (a) Sidewalks are required for all residential and non-residential construction, and shall be installed at the expense of the developer or owner, as follows:
  - (1) Sidewalks shall be constructed along one (1) side of all major thoroughfares and collector streets in accordance with the master sidewalk plan, and along both sides of any new local or residential streets.
  - (2) Sidewalks shall meet the minimum width and other design elements as specified in the design standards in effect at the time of construction.
  - (3) Sidewalks shall be constructed by the developer or owner along any existing and any new perimeter streets of subdivisions at the time of completing subdivision improvements. Such sidewalks shall be shown on the construction plans and constructed prior to acceptance of the public improvements by the city.
  - (4) Sidewalks shall be constructed by the developer or owner at the fronts of all lots, tracts, and reserves, and also along the side streets of corner lots, at the time of completing construction of building improvements on the lot, tract, or reserve. Such sidewalk shall be shown on the site plan submitted with the building permit application and shall be constructed prior to issuance of a certificate of occupancy for the structure on that lot.
  - (5) In accordance with the master sidewalk plan for major thoroughfares and collector streets and along both sides of any new local or residential streets, sidewalks shall be required on all lots where an existing use is enlarged, structurally altered, or remodeled to the extent of increasing or changing the use by more than fifty (50) percent as it existed at the effective date of this article upon development. Such sidewalk shall be completed prior to issuance of a certificate of occupancy for the structure on that lot.
  - (6) Sidewalks shall be constructed within the right-of-way of the adjacent street, unless there is no space due to an open ditch or other obstacle, in which case the sidewalk shall then be located upon private property within a pedestrian access easement provided on the plat. A pedestrian access easement shall be defined as an easement created for the sole purpose of providing pedestrian access via a sidewalk on a property, of a width necessary to accommodate a sidewalk or portion of sidewalk.
- (b) A note shall be added to any residential or non-residential plat that specifies that a sidewalk shall be constructed and shall specify the required width.
- (c) Additional sidewalks may be provided as the developer or owner may desire and shall conform to the design standards in effect at the time of construction.
- (d) Sidewalks shall not be required:
  - (1) Along any side of an existing local or residential street in which no other sidewalk exists.
  - (2) Along U.S. Highway 59 or the frontage roads of U.S. Highway 59.

(Ord. No. 2009-02, § 1, 1-6-09)



## Chapter 6 – BUILDINGS AND BUILDING REGULATIONS

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### ARTICLE XXI. – INTERIM CORRIDOR STANDARDS

#### Sec. 6-471. – Definitions.

For the purpose of this article, the following terms, phrases, words and their derivations shall have the meaning given herein. Definitions not expressly prescribed herein are to be determined in accordance with customary usage in municipal planning practice.

*Building* shall mean any structure which is built for the support, shelter, or enclosure of persons, animals, chattels, machinery, equipment, or movable property of any kind.

*Building Setback* shall mean the line within the property defining the minimum horizontal distance between a building or other structure and the adjacent street right-of-way line and other property lot lines, including side or rear property lines.

*Development* shall mean improvements including buildings, parking lots, fencing, landscaping, and/or signage.

*Front Building Elevation* shall mean a minimum of one (1) building elevation containing the front door of the establishment and facing a street, but not necessarily all building elevations facing a street.

*Industrial* shall mean establishments engaged in manufacturing, assembly, storage, warehouse, distribution, and combination office-warehouse uses.

*Masonry* shall mean brick, stone, real stucco, splitface concrete block, architectural concrete tilt wall or a combination thereof and shall not include exterior insulation and finishing system (EIFS), hardiplank or any other material not specifically provided for in this definition.

*Parking Setback* shall mean the line within the property defining the minimum horizontal distance between off-street parking spaces or off-street parking space drive aisles and the adjacent street right-of-way line and other property lot lines, including side or rear property lines.

*Primary Tree* shall mean live oak, shumard oak, red maple, Mexican sycamore, bald cypress, loblolly pine, or southern red oak.

*Redevelopment* shall mean exterior restoration, renovation, or expansion of an existing structure that improves its appearance or changes its architectural character; or new building construction on a site that had pre-existing uses.

*Secondary Tree* shall mean river birch, wax myrtle, eastern redbud, crape myrtle, Mexican plum, cherry laurel, or east Palatka holly.

*Shrub* shall mean waxleaf ligustrum, redtip photinia, oleander, wax myrtle, or burfurd holly.

**Sec. 6-472. – Purpose and Duration.**

(a) It is the purpose of this Article to provide for the following during the preparation of a Unified Development Code (UDC):

- (1) The safe and orderly development of highly visible and heavily traveled corridors;
- (2) Promotion of economic development;
- (3) Protection and enhancement of property values; and
- (4) Enhanced quality of life and appearance of newly developed and redeveloped properties along the subject corridors.

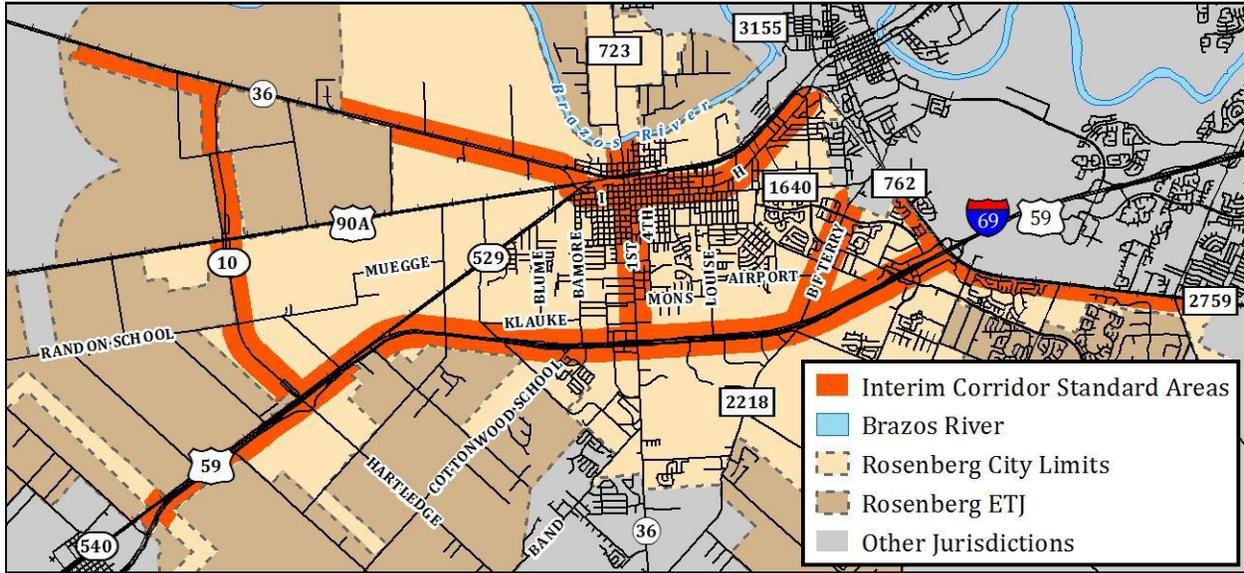
(b) These Interim Corridor Standards are in effect until the City Council repeals or amends the standards or they become obsolete due to the adoption of the UDC.

**Sec. 6-473. – Application and Conflicts.**

(a) This article shall apply to Development and Redevelopment of property located within the City Limits and within one thousand feet (1,000') of the centerlines of the following streets as depicted in Figure XXI.1, Interim Corridor Standards Map:

- (1) U.S. 59 / Interstate 69;
- (2) Spur 10;
- (3) State Highway 36 West;
- (4) FM 723 south of the Brazos River;
- (5) State Highway 36 between U.S. Highway 90A / Avenue H and U.S. 59 / Interstate 69;
- (6) U.S. Highway 90A / Avenue H east of State Highway 36 West;
- (7) FM 2218 north of U.S. 59 / Interstate 69; and
- (8) FM 762.

Figure XXI.1 – Interim Corridor Standards Map



(b) If any provision of this article conflicts with another provision of the Code of Ordinances, the more restrictive provision will control.

**Sec. 6-474. – Exemptions.**

(a) The provisions of this article shall not apply to:

- (1) Single-family residential development;
- (2) The Downtown Area, as defined in this chapter;
- (3) Development existing on the effective date of this ordinance where Redevelopment is not proposed to occur;
- (4) Building or Parking Setbacks or Lines established by plat prior to the effective date of this ordinance; or
- (5) Redevelopment where Development is not being expanded in size.

(b) Redevelopment under one category of these standards (e.g., exterior building materials) does not trigger a requirement that the site meet all standards. For example, if a building façade is added, the applicant may be required to meet the standards for exterior building materials, but they will not be required to meet any other standards (e.g., landscaping).

(c) Additions to existing Developments shall not cause the existing Developments to come into compliance with this article unless the existing Development is expanded in size by fifty percent (50%) or more. If the existing Development is expanded in size by fifty percent (50%) or more, additions to existing Developments shall cause the existing Developments to come into compliance with this article. Additions themselves, however, shall always be in compliance with this article.

**Sec. 6-475. – Authority of Planning Commission.**

(a) The Planning Commission may:

(1) Hear and decide an appeal that alleges error in an order, requirement, decision, or determination made by an administrative official in the enforcement of this article;

(2) Hear and decide special exceptions to the terms of this article for properties that are no larger than one (1) acre in size, that have existing Development upon them, and that are located in the State Highway 36 corridor between U.S. Highway 90A / Avenue H and U.S. 59 / Interstate 69 or in the U.S. Highway 90A / Avenue H corridor east of State Highway 36 West;

(3) Authorize in specific cases a variance from the terms of this article if

a. The variance is not contrary to the public interest;

b. Due to special conditions;

c. A literal enforcement of the ordinance would result in unnecessary hardship; and

d. So that the spirit of the ordinance is observed and substantial justice is done.

(b) In granting variances, the Commission may impose such reasonable conditions as will ensure that the use of the property to which the variance applies will be as compatible as practicable with the surrounding properties. Conditions may include additional landscaping and/or enhanced building or site design above and beyond the minimum requirements of this article.

**Sec. 6-476. – Amendments.**

City Council may, from time to time, adopt, amend and make public rules and regulations for the administration of this chapter as recommended by the Planning Commission.

**Sec. 6-477. – Site Plans.**

Site plans for all developments in the subject corridors shall be submitted for review and approved by the Community Development Department prior to the issuance of applicable building permits. The review shall include, but is not limited to, setbacks, exterior building materials, landscaping, and signage. Site plans shall comply with the standards contained in this article.

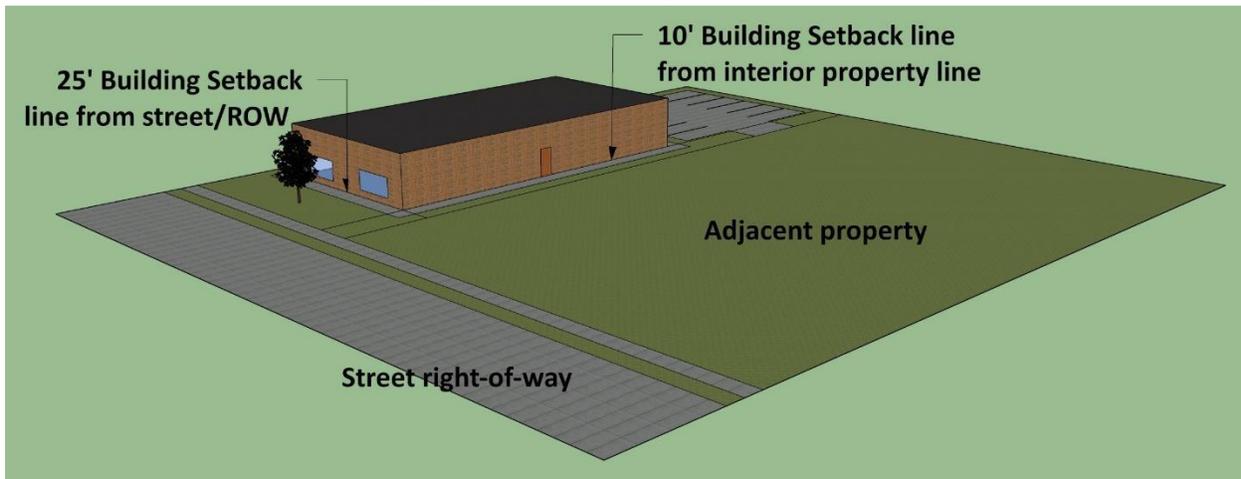
**Sec. 6-478. – Setbacks.**

(a) The following minimum Building Setback lines shall be required:

(1) Twenty five feet (25') from street rights-of-way; and

(2) Ten feet (10') from all other interior property lines.

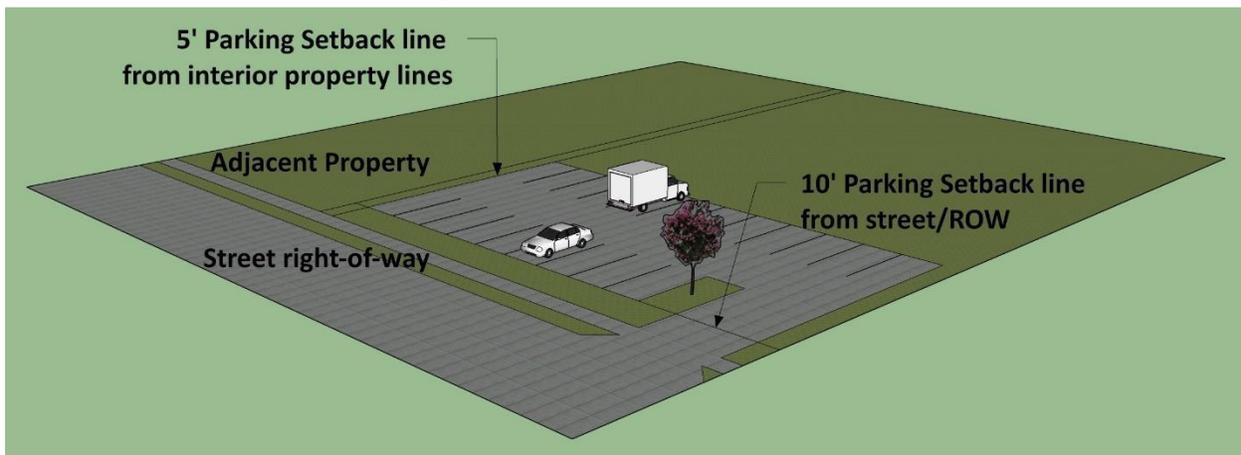
**Figure XXI.2 – Building Setback Lines**



(b) The following minimum Parking Setback lines shall be required:

- (1) Ten feet (10') from street rights-of-way; and
- (2) Five feet (5') from all other interior property lines.

**Figure XXI.3 – Parking Setback Lines**



**Sec. 6-479. – Exterior Building Materials.**

(a) All buildings, columns, and support structures shall consist of a minimum of seventy-five percent (75%) Masonry, glass or a combination thereof; or, for Industrial uses, the Front Building Elevation shall consist of one hundred percent (100%) Masonry, glass or a combination thereof.

(b) All parking lots shall be constructed of reinforced concrete or asphalt pavement.

(c) Screening requirements:

- (1) All utility and mechanical areas, rooftop equipment, outside storage, and loading facilities shall be screened from view from the public street in a manner compatible with the exterior building materials or

site landscaping. Utility and mechanical areas, outside storage, and loading facilities located at the rear of the building shall be acceptable.

(2) All dumpsters shall be screened from view from the public street with a wood, masonry, or chain link fence with slats.

(3) All fencing, except for the purpose of screening dumpsters, shall be constructed of Masonry, concrete, wrought iron, tubular metal, or vinyl coated chain link compatible with the exterior building materials or site landscaping. Additionally, vinyl slats may be used in conjunction with chain link fencing for screening purposes.

**Sec. 6-480. – Landscaping.**

(a) Parking Setback areas shall be comprised of Primary Trees, Secondary Trees, Shrubs, grass, or a combination thereof.

(b) One (1) minimum thirty (30) gallon, one and one half inch (1.5”) caliper Primary Tree shall be required for every forty-five feet (45’) of street frontage in Parking Setback areas along public streets. The minimum height of Primary Trees shall be eight feet (8’) at the time of planting. Trees need not be spaced evenly. *In cases where there are existing overhead utilities, only Secondary Trees shall be used.*

(c) A single row of minimum three (3) gallon or larger Shrubs shall be installed with a maximum spacing of three feet (3’) abutting the fronts of all parking lots in Parking Setback areas along public streets. The minimum height of Shrubs shall be two feet (2’) at the time of planting.

(d) For each 20 parking spaces, or fraction thereof, landscaped areas containing a total of at least 180 square feet must be provided within the parking lot. One Primary or Secondary Tree must be provided in each required landscaped island. The remainder of the island must be landscaped with plants not exceeding three feet in height.

(e) All landscaping required to be installed must, after installation, be maintained in good condition. If the required landscaping becomes diseased, deteriorated, or dies, the owner of the premises must replace the landscaping.

(f) In addition to the parking lot, landscaping shall be provided adjacent to the front entrance of buildings where possible.

(g) Indigenous and drought resistant plant material should be used, but if not used, an irrigation system must be installed.

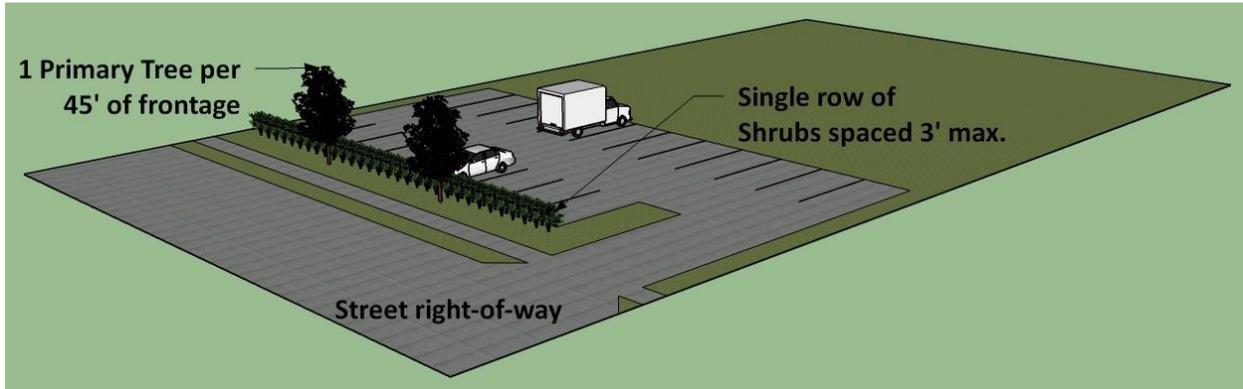
(h) Tree preservation and replacement:

(1) With the exception of existing, single-family residential lots, the clearance of any land containing one or more trees with a caliper size of eight inches or greater, as measured at 4½ feet above ground level, requires the submittal of a landscape plan identifying said trees and providing for their replacement with trees of like size, type, and quantity. The caliper size of multiple smaller trees may be aggregated to reach the equivalent size, provided, however, that the smaller trees must meet the minimum criteria outlined for the definition of Primary Tree in this Article.

(2) Due to the heavily wooded nature of some vacant lots, there may be instances in which it is not feasible to reasonably develop the property while preserving existing trees or matching their aggregated

caliper size. In these instances, prospective developers may submit an alternative plan for tree preservation and replacement, which may be approved by the Community Development Department. If, after reviewing the plan, the Director determines that reasonable efforts to preserve or replace trees have not been exhausted, the Director's decision may be appealed to the City Council, which shall have the final decision.

**Figure XXI.4 – Landscaping**



**Sec. 6-481. – Signage.**

(a) Freestanding Signs:

(1) Regarding their height, size, setbacks, and spacing, freestanding signs shall comply with Code of Ordinances, Chapter 6, Article XIII.

(2) In addition to the requirements of Article XIII, freestanding signs' support structures and columns shall be constructed of materials similar to the materials used in the building elevation.

**Figure XXI.5 – Freestanding Signs**



(b) Wall Signs:

(1) The area of wall signs shall not exceed in the aggregate twenty-five percent (25%) of the area of the wall on which they are located, or 1,000 square feet, whichever is smaller. In no case shall the letters of a wall sign be greater than four feet (4') in height.

(2) No wall sign may extend outside of the boundaries of the wall on which it is mounted.

(c) Animated, moving, flashing or inflatable signs or figures are prohibited.

**Sec. 6-426. - Single-family dwelling units**

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\* \* \*

(2) Single-family dwellings in subdivisions consisting of two (2) or more lots, and for which a completed land plan, preliminary plat, or final plat application has not been submitted to the City of Rosenberg prior to the effective date of this ordinance, shall consist of a minimum of:

(a) Seventy-five (75) percent masonry exterior for structures that are one (1) story in height.

(b) Fifty (50) percent masonry exterior for structures that are two (2) stories and above in height.”

**SUBDIVISIONS**

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## Chapter 25 - SUBDIVISIONS

### FOOTNOTE(S):

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**Editor's note**—Ordinance No. 2001-33, § 1, adopted Aug. 21, 2001, repealed Chapter 25, §§ 25-1—25-137, in its entirety and enacted a new Chapter 25, §§ 25-1—25-137, to read as herein set out. Formerly, such chapter pertained to similar provisions and derived from Ord. No. 98-06, § 1, adopted Feb. 3, 1998; Ord. No. 98-33, § 1, adopted Oct. 20, 1998; and Ord. No. 2000-38, § 1, adopted Sept. 5, 2000. Former Chapter 21 was enacted by Ord. No. 98-06, § 1, adopted February 3, 1998, which repealed previous Chapter 25 and added new provisions in place thereof. The provisions of previous Chapter 25 derived from §§ 20-1—20-29 of the 1960 Code; Ord. No. 89-20, § 1, adopted March 21, 1989; and Ord. No. 90-55, § 8, adopted Sept. 4, 1990. Subsequently, Ord. No. 2005-24, § 1, adopted Oct. 18, 2005, amended Ch. 25, in its entirety, to read as herein set out. See also the Code Comparative Table for a detailed analysis of inclusion.

**Charter reference**— Municipal planning and zoning, § 8.01 et seq.

**Cross reference**— Planning and development, § 2-86 et seq.; location restrictions on alcoholic beverage establishments, § 3-2; consumption or possession of alcoholic beverages restricted, §§ 3-3, 3-4; animals, Ch. 4; pets prohibited from running at large, § 4-2; limitation on the number of dogs and cats, § 4-31; annexations, Ch. 5; buildings and building regulations, Ch. 6; requirements for electrical signs, § 6-151 et seq.; plumbing and gas standards, § 6-171 et seq.; housing code, § 6-231 et seq.; apartment buildings or complexes, § 6-251 et seq.; permits required for construction or reconstruction of driveways, culverts, etc., § 6-326 et seq.; flood prevention and protection, Ch. 12; standards for flood prevention and protection in subdivision proposals, § 12-53; standards for flood prevention and protection for certain subdivision proposals, § 12-55; health, sanitation and nuisances, Ch. 14; rodent control, § 14-50 et seq.; manufactured housing, mobile homes and travel trailers and parks, Ch. 17; mobile home, manufactured housing and travel trailer park plats, § 17-76 et seq.; requirements for manufactured housing, mobile home or travel trailer park, § 17-114; parks and recreation, Ch. 21; solid waste, Ch. 23; streets, sidewalks and other public places, Ch. 24; traffic and vehicles, Ch. 28; utilities, Ch. 29

**State Law reference**— Subdivisions, V.T.C.A., Local Government Code § 212.001 et seq.

### ARTICLE I. - IN GENERAL

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#### Sec. 25-1. - Definitions.

For the purpose of this chapter, the following terms, phrases, words and their derivations shall have the meaning given herein. Definitions not expressly prescribed herein are to be determined in accordance with customary usage in municipal planning and engineering practices. The word "shall" is always mandatory, while the word "may" is merely directory. The city council reserves to itself the power, duty and responsibility to interpret, define and/or provide such modification to this chapter or any provision thereof that the city council shall be called upon from time to time to provide. Such interpretation, definition and/or modification as shall be provided by action of the city council shall constitute an amendment to this chapter.

Access easement shall mean an easement designated on the final plat, whether or not so named, which provides access to platted tracts excepting single-family and duplex residential. The easement shall meet the requirements as set forth in section 25-61(c), and shall be privately maintained.

Administrative officer shall mean the person who is designated by the city manager to administer this chapter and is responsible for coordinating the review of all plats and construction documents.

Alley shall mean a minor public right-of-way not intended to provide the primary means of access to abutting lots, which is used primarily for vehicular service access to the back or sides of properties otherwise abutting on a street.

Amending plat shall mean a plat which is controlling over the preceding plat without vacation of that plat, which is submitted for approval of certain dimensional and notational corrections and lot line adjustments under the provisions of the Texas Local Government Code. An amending plat is a final plat.

Block shall mean a tract or parcel of land designated as such on a duly recorded plat and may be entirely surrounded by public streets or by a combination of public streets and public parks, cemeteries, railroad rights-of-way, or natural or manmade physical features that disrupt what would otherwise be an unbroken landscape (for example, ditches, gullies, ridges, etc.).

Building shall mean any structure which is built for the support, shelter, or enclosure of persons, animals, chattels, machinery, equipment, or movable property of any kind.

Building line or building setback shall mean the line within the property defining the minimum horizontal distance between a building or other structure and the adjacent street line and other property lot lines, including side or rear property lines.

City shall mean the City of Rosenberg, Texas, a home-rule municipal corporation located within Fort Bend County.

City engineer shall mean the registered professional engineer or firm of registered professional consulting engineers that has been specifically designated as such by the city.

Commission shall mean the planning and zoning commission of the city. The commission is appointed by the city council to act on subdivision plats, planning issues, and such other matters as shall be from time to time referred to the commission by the city council.

Comprehensive/master plan shall mean the comprehensive plan, including all its revisions, of the city and adjoining areas as adopted by the city council and the commission as a guide to future development. This plan indicates the general locations recommended for various land uses, transportation routes, public and private buildings, streets, parks, water, sewer, and other private developments and improvements. The comprehensive plan may also be defined as a series of plans such as the thoroughfare plan, water and sewer plan, and annexation plan, among others.

Condominium shall mean joint ownership and control, as distinguished from sole ownership and control of specified horizontal layers of air space; each condominium unit is individually owned, while the common elements of the condominium building, structure or development are jointly owned; may be commercial, industrial, recreational, or residential.

Corner lot shall mean a building lot, not a double front lot, which has frontage on two (2) streets that are perpendicular to each other or within forty-five (45) degrees of being perpendicular to each other.

County shall mean Fort Bend County, Texas.

County commission shall mean the duly and constitutionally elected governing body of Fort Bend County.

Crosswalk shall mean a public right-of-way not more than six (6) feet in width between property lines which provides pedestrian circulation.

Cul-de-sac shall mean a street having but one (1) outlet to another street and terminated on the opposite end by a vehicular turnaround.

Dead end street shall mean a street, other than a cul-de-sac, with only one (1) outlet.

Design standards shall mean such general requirements as shall be from time to time promulgated by the administrative officer for the design of public improvements and private improvements that connect to or affect the public infrastructure.

Developer shall mean any person subdividing a tract or parcel of land to be sold or otherwise handled for their own personal gain or use.

Development shall mean a planning or construction project involving substantial property involvement and usually including the subdivision of land and change in land use character.

Double front lot shall mean a building lot, not a corner lot, which has frontage on two (2) streets that are parallel or within forty-five (45) degrees of being parallel to each other.

Duplex shall mean a building containing two (2) dwelling units to be occupied by two (2) families living independently of each other.

Easement shall mean an area for restricted use on private property upon which a public utility shall have the right to remove and keep removed all or part of any building, fences, trees, shrubs, or other improvements or growths which in any way endanger, tend to endanger, or interfere with the construction or maintenance, or efficiency of its respective systems on any of these easements. The public utility shall at all times have the right of ingress and egress to, from and upon the said easement for the purpose of constructing, reconstructing, inspecting, patrolling, maintaining, and adding to or removing all or part of its respective systems without the necessity of procuring the permission of anyone. The ownership or title to the land encompassed by the easement is retained by the owner.

Engineer shall mean a person duly authorized under the provisions of the Texas Engineering Registration Act, as amended, to practice the profession of engineering and who is specifically qualified to design and prepare construction plans, specifications and documents for subdivision development.

Extraterritorial jurisdiction, within the terms of the Texas Municipal Annexation Act, shall mean the unincorporated area, not a part of any other city, which is contiguous to the corporate limits of the city, the outer boundaries of which are measured from the extremities of the corporate limits of the city outward for such distances as may be stipulated in the Texas Municipal Annexation Act in accordance with the total population of the incorporated city, in which area, within the terms of the act, the city may enjoin the violation of its Code.

Filing date (commission) shall mean the date when all necessary forms, fees, and copies are submitted for review, recommendation and approval by the commission, and such forms, fees and requirements are acknowledged as being complete by letter or certificate issued by the city to or in favor of the developer or applicant.

Filing date (city council) shall mean the date the commission recommends approval of the plat to the city council.

Filing fee shall mean the prescribed plat and lot fee rates, as shall be from time to time established and promulgated by the city manager, to accompany the filing with the commission for preliminary and final subdivision plats.

Final plat shall mean a map or drawing of a proposed subdivision prepared to meet all of the requirements for approval by the commission and city council. Distances shall be accurate to the nearest hundredth of a foot. The final plat of any lot, tract, or parcel of land shall be recorded in the records of the county. An amended plat is also a final plat.

Fire lane shall mean a required access for emergency vehicles to be shown on the plat as a privately maintained easement providing public access.

Front or frontage shall mean that portion of a tract of land which abuts on a public street to which it has direct access.

Front or frontage (corner lot, residential) shall be the side abutting a public street with the narrowest frontage. In a case where both sides abutting a public street are equal in distance, the determination of the front shall be determined by the planning director or his designee after considering the subject tracts relation to the thoroughfare plan.

Industrial lot shall mean a lot utilized for the bulk storage of, or manufacturing processes that use, flammable, explosive or high hazard materials; or a lot utilized in such a manner as to emit odors, noises, dust or vibrations beyond the boundaries of the lot.

Land plan shall mean a general, conceptual or master plan for an area proposed for partial or complete subdivision. The land plan shall show the proposed locations of land uses, streets, phasing of development, important physical features, and other applicable information for the entire area to be subdivided.

Lot shall mean a divided or undivided parcel of land having frontage on at least one (1) public street which is or in the future may be offered for sale, conveyance, transfer or improvement; which is designated as distinct and separate; and which is identified by lot number and block number or symbol in a duly approved subdivision plat which has been properly filed for record.

Lot area shall mean the total area, measured on a horizontal plane, included within the lot or property line.

Lot depth shall mean the length of a straight line connecting the midpoint of the front and rear lot lines.

Lot width shall mean width of the lot at the front building setback line.

Major thoroughfare plan shall mean the comprehensive plan of highways, major thoroughfares, and collector streets as a part of the city's comprehensive plan and adaptations, amendments, or supplements thereto as adopted by the commission and city council.

Multi-family dwelling shall mean a structure designed to contain three (3) or more complete separate living facilities for single-family occupancy. Multi-family dwellings shall include apartments and condominiums and shall be platted accordingly.

One-foot reserve shall mean a buffer strip established within the public street right-of-way and adjacent un-subdivided acreage to prevent access to the public street right-of-way for a street on or parallel to the plat boundary. When the adjacent property is platted the one-foot reserve becomes vested in the public for street right-of-way purposes.

Patio home or zero lot line home shall mean a single-family detached dwelling unit that requires a zero building line on one (1) side and a minimum ten-foot side yard on the other. There shall be right to access from the side yard adjoining the zero lot line for maintenance purposes, and there shall be only one (1) detached dwelling unit per platted lot which shall be individually owned.

Pavement width shall mean the portion of a street available for vehicular traffic. Where curbs are laid it shall be from inside of curb to inside of curb.

Person shall mean any individual, association, firm, corporation, governmental agency, or political subdivision.

Planned unit development shall mean a form of development which promotes the development of a tract of land in a unified manner and which may allow for certain variances from the established development standards for lot sizes, lot width and building lines, as established in this chapter. Town homes, patio homes, cluster homes, condominiums and multi-family developments may be considered a planned unit development.

Plat shall mean a map, drawing, chart, or plan showing the layout of a proposed subdivision into lots, blocks, streets, parks, school sites, commercial or industrial sites, drainage ways, building lots, easements, alleys, or any similar type of plat, which a developer submits for approval and a copy of which he intends to record in final form.

Plat certificate shall mean a certificate issued upon approval and recordation of the subdivision certifying that the subdivision has met all the requirements for a plat.

Preliminary plat shall mean a map or drawing of a proposed subdivision illustrating the features of the development for review and recommendation by the commission, but not suitable for recordation in the county records.

Principal building shall mean the building in which the principal use of the lot which it is located on is conducted. All residential uses are principal uses.

Private street shall mean a private right-of-way, not dedicated to public use, which provides vehicular access to more than two (2) residential dwelling units, or two (2) or more commercial or industrial buildings or parking areas. The right-of-way and pavement shall meet all of the requirements as set forth for a street dedicated to public

use, including but not limited to construction standards, width, building lines, and function, but shall be privately maintained.

Public easement shall mean a right granted or dedicated to the public or governmental agency in, on, across, over, or under property for a specified use by an instrument or map duly recorded in the records of the county.

Public street shall mean a right-of-way dedicated to public use for pedestrian and vehicular traffic and public utility purposes.

Record plat shall mean a plat of any lot, tract or parcel of land that is recorded with the county clerk following final approval by the city council.

Replat shall mean the resubdivision of all or any part of any block or lots of a previously platted subdivision.

Reserve shall mean a tract, parcel, or unit of land not physically divided, which may have frontage on a public street, and which is, or in the future may be, offered for sale, conveyance, transfer, lease, or improvement which is designated as a distinct separate tract and which is identified by a reserve symbol on a duly approved subdivision plat that has been properly recorded with the county.

Sidewalk shall mean a paved pedestrian walkway parallel to a street right-of-way line or street pavement edge, which walkway shall be constructed within the right-of-way of any public street.

Single-family dwelling unit shall mean a building containing one (1) dwelling unit that is designed to be occupied by one (1) family.

Street shall mean a public right-of-way, however designated, which provides vehicular circulation and access to adjacent property.

- (1) A major thoroughfare means a principal traffic artery or traffic way, usually of more or less continuous routing over long distances, whose function is to serve as a principal connecting street with state and federal highways, and shall include each street designated as a major thoroughfare on the major thoroughfare plan of the city or so designated by the commission and city council. Minimum paving width of a major thoroughfare shall be two (2) twenty-four-foot lanes of paved width measured inside curb to inside curb, with a fifteen-foot median for a four-lane divided roadway; or fifty-one-foot paved width measured inside curb to inside curb for a four-lane undivided roadway. Minimum width of right-of-way shall be one hundred (100) feet.
- (2) A collector street means a street whose function is to collect and distribute traffic between major thoroughfares and minor streets. It is not necessarily of continuous routing for long distances, has intersections at grades, provides direct access to abutting property, and shall include each street designated as a collector street on the thoroughfare plan or so designated by the commission and city council. Minimum paving width of a collector street shall be thirty-nine (39) feet measured inside curb to inside curb. Minimum width of right-of-way shall be eighty (80) feet.
- (3) A minor street means a street whose function is to provide access to abutting residential property within neighborhoods, with all intersections at grade, and not of continuous routing for any great distance so as to discourage heavy, through traffic and shall include any public street which is not classified as a major thoroughfare or a collector street. Minimum paving width of a minor street shall be twenty-seven (27) feet measured inside curb to inside curb. Minimum width of right-of-way shall be sixty (60) feet.
- (4) An access street means a public street within or bounding a townhouse or patio home subdivision which serves a townhouse or patio home subdivision and other adjacent property.
- (5) An interior street means a public street not more than six hundred (600) feet long within a townhouse or patio home subdivision which is located and designed to serve a limited area within such subdivision and shall not serve other properties outside the subdivision.

Subdivision means the division of any lot, tract or parcel of land by plat, map or description into two (2) or more parts, lots or sites for the purpose, whether immediate or future, of sale, rental or lease, or division of ownership.

Any dedication in the laying (or realignment) of new streets, or other public or private accessways, with or without lots, shall constitute a subdivision. Subdivision shall also include the resubdivision and replatting of land or lots which are part of a previously recorded subdivision. An "addition" is a subdivision as defined in this section. The term "subdivision" shall also include the division of land, whether by plat or by metes and bounds description, and, when appropriate to the context, shall relate to the process of subdividing or to the land subdivided.

Surveyor shall mean a registered professional land surveyor, as authorized by statutes, to practice the profession of surveying.

Title report shall mean a report, prepared and executed by a title company authorized to do business in the state or an attorney licensed in the state, certifying the true owner of the property and describing all encumbrances of record which affect the property.

Townhouse shall mean a single-family residential unit that shares at least one (1) common or party wall with another unit. There shall be only one (1) such dwelling unit per platted lot. Each unit and the platted lot upon which it stands shall be individually owned, subject to a party wall agreement with the adjacent owner. In addition to individually owned lots as described herein, townhouse developments generally are cluster developments or planned unit developments in which there is land, and in some cases, facilities that are owned in common by all of the townhouse owners within the same subdivision.

Tract shall mean the same as a lot and shall be subject to the same platting requirements.

(Ord. No. 2005-24, § 1, 10-18-05; Ord. No. 2006-32, § 2, 11-7-06; Ord. No. 2008-18, § 1, 8-19-08; Ord. No. 2009-25, § 1, 7-21-09; Ord. No. 2010-12, § 1, 4-6-10)

#### Sec. 25-2. - Authority; scope of provisions.

The commission of the city, under such requirements, limitations and/or restrictions as are provided in this article, shall have the power and authority to recommend to the city council approval of plats for subdivisions within the corporate limits of the city and for a distance surrounding the corporate limits of the city within the extraterritorial jurisdiction of the city as authorized by Chapter 25, Texas Local Government Code.

(Ord. No. 2005-24, § 1, 10-18-05)

#### Sec. 25-3. - Penalties.

The penalty upon conviction for violation of this chapter shall be by fine as provided in section 1-13, Code of Ordinances.

(Ord. No. 2005-24, § 1, 10-18-05)

#### Sec. 25-4. - Interpretation and purpose.

- (a) In the interpretation and application of the provisions of these regulations, it is the intention of the city council that the principles, standards and requirements provided for herein shall be minimum requirements for the platting and developing of subdivisions in the city and its extraterritorial jurisdiction. It is the purpose of this chapter to provide for the orderly, safe, and healthful development of the area within the city and its extraterritorial jurisdiction and to promote the health, safety, morals and welfare of the community.
- (b) The city council at all times reserves to itself the power, duty and responsibility to provide such interpretation, meaning and understanding as shall be from time to time deemed desirable as to the intent, understanding and/or application of this chapter or any provision hereof, and the decision of the city council as may be expressed in any ordinance adopted from time to time shall be deemed controlling on all parties hereto as if the same had been repeated verbatim herein.

(Ord. No. 2005-24, § 1, 10-18-05)

Sec. 25-5. - Application of regulations.

- (a) No plat of a subdivision within the corporate limits or extraterritorial jurisdiction necessary for recording with the county clerk shall be approved by the city or any city official unless the same has been recommended by the commission and approved by the city council. It shall accurately describe the property to be conveyed or developed and be prepared in accordance with the subdivision regulations of this Code, current design standards and other applicable ordinances notwithstanding any other provisions in this Code to the contrary.
- (b) No building permit, certificate of occupancy, plumbing permit, electrical permit, utility tap, or any other permit or authority required or permitted under this Code may be issued or granted, nor shall acceptance of required public improvements within the corporate limits be permitted, without a recorded plat as provided herein.
- (c) Any subdivision within the city and its extraterritorial jurisdiction shall conform to the subdivision regulations, current design standards of the city, and other applicable ordinances and standards that may exist at the date of final enactment of this chapter or any amendments thereto that may be from time to time adopted.
- (d) The following procedures shall be followed before any utility service connection, including but not limited to water, gas, sewer and electricity, may be made or any such utility service provided:
  - (1) Upon written request of an owner of land or a public utility, the city shall make the following determinations regarding the owner's land or the land in which the public utility is interested and that is located within the platting jurisdiction of the city:
    - a. Whether a plan, plat or replat is required by law; and
    - b. If a plan, plat or replat is required, whether it has been prepared as required and approved by the city council.Such request must identify the land by a metes and bounds legal description prepared by a registered professional land surveyor, and the physical, common or street address of the property which is the subject of the request.
  - (2) If the city determines that a plan, plat or replat is not required, the city shall issue to the requesting party notice of that determination. If the city determines that a plan, plat or replat is required and that such a document has been prepared, reviewed and approved by the city council, the city shall issue to the requesting party notice of that determination.
  - (3) For purposes of this subsection only, the following definitions shall apply:
    - a. City shall mean the city engineer or other appropriate city official, as designated from time to time by the city manager.
    - b. Public utility shall mean any entity, other than a municipality, that provides water, sewer, electricity, gas or other utility services.
- (e) No plat shall be approved and/or signed by any city official as a prerequisite for filing with the county clerk or building permit or other legal authority for development or any part thereof unless all improvements have been approved in accordance with the subdivision regulations as set out in Chapter 25 of this Code, the current design standards as may be from time to time prepared and promulgated by the city, or other legal authority.

(Ord. No. 2005-24, § 1, 10-18-05)

Sec. 25-6. - Subject developments.

- (a) The provisions of the subdivision regulations of this Code and the current design standards shall apply to the following forms of land subdivision and development activity:
- (1) The division of land into two (2) or more lots, tracts, reserves, sites or parcels;
  - (2) All subdivision of land which was outside the jurisdiction of the subdivision regulations of the city and which subsequently came within the jurisdiction of the subdivision regulations of the city through annexation or extension of the extraterritorial jurisdiction of the city;
  - (3) The division of land previously subdivided or platted into tracts, sites or parcels and not recorded that were subject to and not in accordance with adopted city subdivision regulations in effect at the time of such subdividing or platting;
  - (4) The combining of two (2) or more contiguous tracts, lots, sites or parcels for the purpose of creating one (1) or more legal lots;
  - (5) The dedication or vacation, when no appropriation by use, entry or improvement has been made, of streets, fire lanes and alleys through any tract of land regardless of the area involved;
  - (6) The vacation of a previously recorded subdivision plat;
  - (7) Permanent public or semi-public spaces such as golf courses, recreational uses, institutional uses, schools, open spaces or park areas, and similar uses; and
  - (8) Any other development on an undeveloped or semi-developed site within the corporate limits or extraterritorial jurisdiction of the city.
- (b) In the event a reasonable question shall exist at any time as to whether a proposed division of land is subject to the provisions of this article, the city council is hereby vested with full power and authority to make such determination and the decision thereon shall be on the property owner thereof.

(Ord. No. 2005-24, § 1, 10-18-05)

Sec. 25-7. - Exemptions.

- (a) The provisions of the subdivision regulations of this Code shall not apply to:
- (1) Land legally platted and approved prior to the effective date of the subdivision regulations of this Code except as otherwise provided herein (construction of facilities shall conform to the current design standards in effect at the time of construction);
  - (2) Existing cemeteries complying with all state and local laws and regulations (exemptions do not apply to new cemeteries or expansion of existing cemeteries);
  - (3) Divisions of land created by order of a court of competent jurisdiction;
  - (4) Divisions of land into parts greater than five (5) acres where each part has access and no public improvement is being dedicated (see Section 212.004(a) of the Texas Local Government Code);
  - (5) Subdivision development that is exempt by other law;
  - (6) Two (2) or more adjoining lots or tracts of land within the City of Rosenberg, with common ownership, which the owner of the lots or tracts wishes to merge such lots or tracts into one (1) lot or tract in order to avoid the creation of a technical violation of the city's building and subdivision regulations relating to building setback lines. This exemption is only applicable if the joinder of lots or tracts does not require or necessitate the dedication or removal of any public rights-of-way, public easements or other public improvements, and the owner agrees, in writing and on a form approved by the city, that the merged lot

or tract may not be divided in the future unless a subdivision plat authorizing such division has been first approved by the city and filed of record in accordance with applicable state laws and city ordinances governing plats and the subdivision of land. The form must also inform and declare that any subsequent purchaser will be bound by the requirements of this exemption; and

- (7) A lot or tract of land within the City of Rosenberg that does not have a subdivision plat filed of record or does not otherwise have a valid plat that may be filed of record, which the owner of the lot or tract seeks a building permit, certificate of occupancy, plumbing permit, electrical permit, utility tap, or any other permit or authority required or permitted under this Code, may avoid the necessity of recording a subdivision plat as required by this Code, so long as the permit or other authority or other requirements by the city sought does not require or necessitate the dedication or removal of any public rights-of-way, public easements or other public improvements, and the owner agrees, in writing and on a form approved by the city, that the lot or tract may not be divided in the future unless a subdivision plat authorizing such division has been first approved by the city and filed of record in accordance with applicable state laws and city ordinances governing plats and the subdivision of land. The form must also inform and declare that any subsequent purchaser will be bound by the requirements of this exemption.
- (b) If platting is not required, the city may, upon proper application and the submission of such information as shall be deemed necessary authorize the issuing of building permits or site plan approval.

(Ord. No. 2005-24, § 1, 10-18-05; Ord. No. 2010-07, § 1, 2-16-10)

#### Sec. 25-8. - Variances.

- (a) The commission shall review the variance request and make a recommendation to the city council. The city council may then authorize a variance from these regulations when in its opinion undue hardship will result from requiring strict compliance. The applicant shall have the responsibility of proving that compliance would create a hardship. In granting a variance, the city council may prescribe conditions that it deems necessary or desirable to the public interest. Any conditions that are prescribed shall be deemed continuing and shall be placed of record in the office of the county clerk either on the face of the subdivision plat or as an attachment thereto. The city council shall take into account the nature of the proposed use of land involved and existing uses of the land in the vicinity, the number of persons who will reside or work in the proposed subdivision, and the probable effect of such variance upon traffic conditions and upon public health, safety, convenience, and welfare in the vicinity. No variance will be granted unless the city council finds that an undue hardship exists. The following conditions must be present for consideration:
  - (1) There are special circumstances or conditions affecting the land involved such that the strict application of the provisions of this chapter would deprive the applicant of the reasonable use of his land;
  - (2) The granting of the variance will not be detrimental to the public safety or welfare, or injurious to other property in the area;
  - (3) The granting of the variance will not have the effect of preventing the orderly subdivision of other lands in the area in accordance with the provisions of this chapter; and
  - (4) A more appropriate design solution exists which is not currently allowed in this chapter.
- (b) A variance may not be granted in such cases where the only evidence for the granting of the variance is the loss of a potential profit at the time of the lot development and build out. Economic hardship to the subdivider, standing alone, shall not be deemed to constitute undue hardship.
- (c) Such recommendations of the commission and findings of the city council, together with the specific facts on which such findings are based, shall be incorporated in the official minutes of the commission and the city council meetings at which such variance is recommended or granted. Variances may be granted only when in harmony with the general purpose and intent of this chapter so that the public health, safety and welfare may

be secured and substantial justice done. The city council may reach a conclusion that a hardship exists if it finds that:

- (1) The applicant complies strictly with the provisions of this chapter, and no other reasonable use of the property may be made except for the use that is proposed and recommended;
  - (2) The hardship to which the applicant complains is one suffered by the applicant rather than by neighbors or the general public;
  - (3) The hardship relates to the applicant's land, rather than personal circumstances;
  - (4) The hardship is unique to the property, rather than one shared by many surrounding properties; and
  - (5) The hardship is not the result of the applicant's own actions or neglectful conduct.
- (d) In granting variances, the city may impose such reasonable conditions as will ensure that the use of the property to which the variance applies will be as compatible as practicable with the surrounding properties. All conditions as are imposed shall be placed of record on the face of the subdivision plat or may, as an alternative thereof, be placed of record by separate instrument duly filed for record with the subdivision plat in the office of the county clerk.
- (e) A variance may, at the sole discretion of the city council, be issued for an indefinite duration or for a specified period of time.
- (f) All conditions imposed by the city council are enforceable in the same manner as any other applicable requirement of this Code.

(Ord. No. 2005-24, § 1, 10-18-05)

#### Sec. 25-9. - Duty of owner, subdivider.

It is the responsibility of the applicant for a subdivision plat to obtain such information and/or documentation as shall be necessary to ensure that the application is in accord with the provisions of this Code and all other law. In this regard, it is suggested that the applicant for a subdivision plat first confer with the city and obtain such written information as may be available from the city prior to making an application for subdivision plat approval and/or submitting any documents to the city for approval. The applicant shall be solely responsible for knowledge of all applicable law, policies and/or procedures as may be then promulgated by the city.

(Ord. No. 2005-24, § 1, 10-18-05)

#### Sec. 25-10. - Application for approval.

Before a subdivision of any tract of land shall occur where the same is divided into two (2) or more tracts to sell or develop the same into separate parcels, or before any permit for the erection or placement of a structure, or for any other reason as may be required by this Code, the subdivider, owner, or proper agent thereof shall apply in writing to the city for initial consideration by the commission for approval of a land subdivision. The application of the subdivider, owner or agent shall conform to requirements of this chapter.

(Ord. No. 2005-24, § 1, 10-18-05)

#### Sec. 25-11. - Signs in residential subdivisions.

- (a) Signs shall not be permitted in residential subdivisions except as specifically authorized in this section. No person shall cause a sign to be erected, constructed, relocated, altered, repaired or maintained until a special

sign permit for such has been issued by the city manager or his designee, and the requisite fee paid, except as otherwise provided in this section.

For purposes of this section the term "sign" shall refer to the area where graphics are displayed, including the immediate supporting structure. "Graphics" shall refer to the lettering and or logos that will be attached to, or engraved into a sign. "Graphics area" shall be measured by drawing a rectangle around the largest area of actual lettering and or logos and measuring the inside area.

- (b) All applications for a special sign permit under this chapter shall include a drawing to scale of all proposed signs, all existing signs maintained on the premises and visible from the right-of-way, a drawing of the plot plan indicating the proposed location of the sign(s), and specifications. All applications for signs in the right-of-way shall contain a provision where the applicant shall hold the city harmless from any and all claims, demands or cause of action brought by anyone or any entity for damages either directly or indirectly relating to the placement or existence of the proposed sign in the right-of-way. The city manager or his designee may at any time in the appropriate case determine that there exists special circumstances and conditions necessitating the applicant provide the city with additional security or impose additional conditions he determines necessary under the specific circumstances. The permit may also contain special conditions the city manager or his designee determines are necessary to insure compliance with this article or to protect the public and public property. It is unlawful for any person doing work under a permit to violate any special condition or other provision of the permit.
- (c) To identify a single-family residential development, two (2) detached identification signs may be constructed at each subdivision street entrance on opposite sides. A street intersection with an esplanade may also include a blade sign in compliance with this section. For purposes of this section a "blade sign" shall refer to as a sign placed in the median of a boulevard street.

Such signs will be subject to the following minimum conditions and restrictions:

- (1) Building wall signs are prohibited.
- (2) The signs must be of a masonry composition for permanent identification of a subdivision.
- (3) Blade signs shall not exceed three and one-half (3.5) feet in height above finished grade within a distance of fifteen (15) feet of the nose of the esplanade. Outside of this area, the height of the blade sign shall not exceed seven (7) feet in height above finished grade. Finished grade at a blade sign shall not exceed an elevation as determined by a 4:1 (horizontal: vertical) slope from the top of curb.
- (4) Signs that are setback zero (0) to nine and ninety-nine hundredths (9.99) feet from the street right-of-way shall not exceed one hundred (100) square feet in area; graphics area shall not exceed fifty (50) square feet.
- (5) Signs that are setback ten (10) to nineteen and ninety-nine hundredths (19.99) feet from the street right-of-way shall not exceed three hundred (300) square feet in area; graphics area shall not exceed eighty (80) square feet.
- (6) Signs that are setback over twenty (20) feet from the street right-of-way shall not have a specific limitation on area but shall be reviewed by the city manager or his designee, premised upon safety and the objectives of this section, but the graphics area shall not exceed one hundred (100) square feet.
- (7) The bottom of a sign shall not exceed a height of eighteen (18) inches above adjacent (natural) grade.
- (8) The sign shall not be illuminated except by reflective flood light type illumination. There shall not be any flashing or intermittent lights. Lights which are not effectively shielded to prevent beams of light from being directed at any portion of the traveled way and/or brilliance as to cause glare or impair vision, or which otherwise interfere with the driver's operation of motor vehicle, are prohibited. All lighting shall comply with Fort Bend County regulations and all other state, local and federal regulations and requirements.
- (9) The sign shall meet the wind load requirements of the building code.

- (10) All signs shall be located in such a manner to: (i) avoid conflicts with utility lines; (ii) not encroach upon traffic visibility and appropriate sight distances necessary for the safe movement of traffic and pedestrians; and (iii) any other related safety concerns as determined by the city manager or his designee.
- (11) All signs, trees, shrubs, flowers, grass, vegetation, ferns, watering systems, lighting systems, ornamental gates, columns, or other ornamental features, materials and related landscaping denoting the entrance to a neighborhood or subdivision shall be maintained by the applicant or applicant's assignees, with any such assignment requiring prior authorization of the city manager.
- (d) [Reserved.]
- (e) The city manager or his designee may suspend or revoke any permit issued under the provisions of this section whenever he shall determine that the permit is issued in error or on the basis of incorrect or false information supplied, or whenever such permit be issued in violation of any of the provisions of this section or any other ordinance of this city or laws of this state or the federal government. Such suspension or revocation shall be effective when communicated in writing to the person to whom the permit is issued, or the owner of the sign facilities or the responsible party of the premises upon which the sign facility is located. If a permit is revoked the city may remove or cause to be removed the sign facilities with out liability to the owner thereof. The city shall upon removal not be responsible for the storage and/or safe keeping of the sign facilities or remnants thereof and shall have no liability to preserve the same or to exercise reasonable care for the removed sign or parts thereof.
- (f) Any sign located in the public right-of-way may be temporarily or permanently removed, destroyed, or relocated at any time as determined by the city without compensation to the person owning or placing the sign.
- (g) The city council may consider appeals on the basis that such regulations and/or standards will, by reason of exceptional circumstances, aesthetics or surroundings, constitute a practical difficulty or unnecessary hardship. The appeal must be submitted in writing to the city manager or his designee within seventy-two (72) hours of the action being appealed. The city council in addressing such appeal may, in the interest of the public welfare and to ensure compliance with this section may establish conditions of operation, location, arrangement, proportionality scale, materials and construction of any use for which a permit is authorized herein. In authorizing the location of any use listed for a special sign permit, the city council may impose such development standards and safeguards as the conditions and location indicate important to the welfare and protection of adjacent property from glare, offensive view or other undesirable conditions. The revocation and appeal provisions in this section govern over any other conflicting provision in this Code.

(Ord. No. 2005-24, § 1, 10-18-05; Ord. No. 2007-15, § 1, 5-15-07)

Secs. 25-12—25-30. - Reserved.

## **ARTICLE II. - PROCEDURES AND REQUIREMENTS**

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Sec. 25-31. - Purpose.

The purpose of this article is to establish the procedures and requirements for the submittal, review, recommendation, consideration and action by the commission and the city council on a request for subdivision plat approval and to provide the procedures necessary to ensure the orderly processing of the application for subdivision plat approval in the city and its extraterritorial jurisdiction.

(Ord. No. 2005-24, § 1, 10-18-05)

Sec. 25-32. - Pre-application.

Prior to submitting an application for subdivision plat approval, the applicant or subdivider may contact the city to obtain information and assistance in land subdivisions before preparing a land plan or the preliminary plat and filing a formal application for approval with the city.

(Ord. No. 2005-24, § 1, 10-18-05)

Sec. 25-33. - Land plan approval.

- (a) General requirements. A land plan consisting of a general plan, master plan, and/or concept plan shall be submitted to the city manager or designee for review by the commission prior to or in conjunction with the submittal of any preliminary plat, except as noted below, for any tract of land over fifty (50) acres in size. If the city manager or designee determines that an area less than fifty (50) acres contains unique features or is surrounded by existing or proposed subdivisions with potential limited access, a land plan may be required to be reviewed prior to the preliminary or final plat submittal. The decision of the city manager or designee to require a land plan shall be deemed final and binding as a condition prerequisite to further review of the proposed subdivision plan.
- (b) Purpose. The purpose of the land plan is to allow the commission to review the proposed major thoroughfare and collector street patterns, land use, environmental issues, conformance to the comprehensive master plan, the property's relationship to adjoining subdivisions or properties, as well as such additional developmental or infrastructure review as deemed necessary by the city.

While certain items may be required or supplied without requirement, recommendation of approval of a land plan by the commission to proceed is granted only for infrastructure, thoroughfare and collector street patterns, land use (not density or lot layout), environmental issues, conformance to the master plan, and relationship to adjacent properties. The commission cannot recommend approval beyond this scope.

- (c) Partial development. Where a phased or partial development is proposed, the land plan area shall include the entire property from which the initial or any subsequent phase is being subdivided. Where the applicant can demonstrate that natural or manmade features, such as creeks and thoroughfares, make unnecessary the inclusion of the entire property in the land plan to adequately review the proposed subdivision for compliance with all of the terms and provisions of this Code, the subdivider may request approval from the commission for a submittal of a smaller land plan area. Boundaries such as thoroughfares (existing or proposed), creeks, political subdivisions, or other such natural or man-made features may be used to delineate the smaller land plan area.
- (d) Not required. A land plan shall not be required if the preliminary plat(s) contains sufficient information to provide for the proper coordination of development.
- (e) Application and fees.
  - (1) The land plan shall be accompanied by the completed application and appropriate fees at least twenty-one (21) days prior to the commission meeting at which it is to be considered.
  - (2) Two (2) copies of prints of the proposed subdivision, drawn on sheets at a size of twenty-four (24) inches by thirty-six (36) inches and twelve (12) copies of the print reduced to a size of eleven (11) inches by seventeen (17) inches shall be submitted. After an administrative review of the land plan, a revised submittal may be required. If required, the revised land plan shall be submitted seven (7) days prior to the commission meeting and shall include seven (7) copies of the plan drawn on sheets at a size of twenty-four (24) by thirty-six (36) and eleven (11) copies of the plan reduced to a size of eleven (11) inches by seventeen (17) inches.
- (f) Traffic impact analysis. Any land plan or subdivision plat involving a change to a thoroughfare plan or is seventy-five (75) acres or more in size must accompany with its application a traffic impact analysis in such format and

under such procedures as the city manager or designee may from time to time require or specify. Failure to provide a traffic impact analysis and/or traffic study or to meet any other requirements that may be imposed by the city manager or designee shall be grounds to deny the filing of any subdivision plat tendered or offered for filing.

Additionally, a traffic impact analysis may be required by the city manager or designee, or by the commission, to address the following:

- (1) Increased traffic loadings on existing streets.
  - (2) Traffic patterns and street classifications within proposed development.
  - (3) Traffic control devices within the proposed development and on adjacent streets.
- (g) Effect of approval. The recommendation by the commission to proceed in relation to the land plan shall not be deemed to grant or vest in the applicant any approvals or grants other than as specifically provided in this Code and does not constitute approval of the subsequent plats within the plan boundaries.

The land plan recommendation does not exempt a developer from meeting all ordinances in effect at the time of the recommendation and any and all amendments or newly-adopted ordinances after recommendation and prior to final plat approval, unless agreed to by the city council under a separate development or utility agreement.

- (h) Length of recommendation. Unless agreed to by the city council under a separate development or utility agreement, the recommendation of a land plan shall be valid for a period of eighteen (18) months. Extension(s) may be approved by the commission for up to an additional six (6) months for a total of two (2) years. Upon approval by the city council of a final plat of individual sections of the development, the land plan approval is automatically extended for an additional eighteen (18) months. However, unless agreed to by the city council under a separate development or utility agreement, the approval of a land plan shall not be valid for a combined period of more than five (5) years.

- (i) Graphic requirements. The following are the graphic requirements of a land plan:

- (1) A scale of one (1) inch = two hundred (200) feet or one (1) inch = four hundred (400) feet.
- (2) A title block within the lower right corner of the land plan.
- (3) A vicinity or location map that delineates the location of the proposed subdivision with respect to major thoroughfares, freeways, water courses and ditches. The vicinity map shall be located in the upper right corner of the drawing or map.
- (4) Proposed name of the development.
- (5) The name and address of the subdivider and the land planner, engineer, or surveyor responsible for the design or survey.
- (6) A graphic scale indicating the scale at which the drawing is prepared.
- (7) Date of the drawing.
- (8) The legal description of the tract according to the abstract and survey records of the county.
- (9) North clearly indicated to the top or left of the plan.
- (10) The perimeter of the boundary drawn in a bold solid line.
- (11) The names of adjacent additions or subdivisions with respective recording information and/or owners of adjoining parcels of unplatted land with respective recording information.
- (12) The existing zoning on adjoining land, where applicable.
- (13) The location, width and names of all existing or platted streets or other public rights-of-way within and/or adjacent to the tract.

- (14) Existing permanent buildings.
  - (15) Railroad rights-of-way.
  - (16) Topography with contours at five-foot intervals.
  - (17) Existing drainage channels or creeks and other important natural features.
  - (18) Existing pipelines, fee strips and easements.
  - (19) Adjacent political subdivisions and corporate limits.
  - (20) Applicable district boundaries.
  - (21) The proposed layout and width of proposed thoroughfares, collector streets and minor streets.
  - (22) Designation of tracts as lots or reserves in accordance with anticipated usage.
  - (23) A table indicating the number of typical lot sizes and the percentages of each by phase or sections and total development.
  - (24) The city shall be provided with an electronic file of the land plan in the format(s) designated by the city.
- (j) Changes to land plan. Changes to the land plan may be acceptable up through the platting procedures as long as the changes are minor and are not critical or greatly affect the configuration of thoroughfares and collector streets, drainage or other infrastructure, entrances, land uses, etc. The city manager or his designee will determine if a change is minor or if there is a need for a new land plan.

(Ord. No. 2005-24, § 1, 10-18-05)

Sec. 25-34. - Preliminary plat.

- (a) General requirements. A preliminary plat of any proposed subdivision shall be submitted for commission review and recommendation for approval in compliance with the schedule and requirements set forth in this chapter and as set forth below.
  - (1) The preliminary plat shall be accompanied by the completed application and appropriate fees at least twenty-six (26) days prior to the commission meeting at which it is to be considered.
  - (2) Two (2) copies of prints of the proposed subdivision, drawn on sheets at a size of twenty-four (24) inches by thirty-six (36) inches and twelve (12) copies of the print reduced to a size of eleven (11) inches by seventeen (17) inches shall be submitted. After an administrative review of the preliminary plat, a revised submittal will be required. The revised preliminary plat shall be submitted nine (9) days prior to the commission meeting and shall include seven (7) copies of the plat drawn on sheets at a size of twenty-four (24) inches by thirty-six (36) inches and eleven (11) copies of the plat reduced to a size of eleven (11) inches by seventeen (17) inches. An electronic copy of the revised plat in the format(s) required by the city shall also be submitted.
  - (3) The preliminary plat shall show all designated land uses, lots or reserves, on the face of the plat in accordance with the approved land plan and all approved comprehensive, water, sewer, and thoroughfare plans
  - (4) The preliminary plat shall be prepared by a licensed professional engineer or a licensed professional land surveyor.
  - (5) The preliminary plat shall include preliminary plans for the following:
    - a. Water distribution system;
    - b. Sewerage collection system; and

- c. On-site and off-site drainage system.
- (6) The administrative officer shall be furnished with copies of letters from the officers and individuals named herein verifying contact and specifying that review has occurred and the activity as herein specified has been successfully completed:
  - a. All applicable utility companies including gas, electrical and telephone, stating that these companies have knowledge of the proposed subdivision and are currently negotiating the necessary service easements and acknowledging receipt of the preliminary plat for the purpose of establishing easements.
  - b. Any other applicable district or entity with jurisdiction in the area verifying adequate capacities and applicable fees.

These verification letters must be received by the administrative officer either prior to final plat approval by the commission or at such other time as may be specified by the administrative officer.

- (b) Study and report. The administrative officer shall initiate a study of the preliminary plat and give a written report to the commission before its consideration for recommendation. The subdivider or his designated representative shall be provided, upon request, with a copy of this report prior to the commission meeting.
- (c) Action by commission. Following review of the preliminary plat and other material submitted, as well as discussions with the subdivider on changes deemed advisable and the kind and extent of improvements to be made by him, the commission may act thereon as submitted, or modified, if found by the commission to be in full compliance with the terms and provisions of this Code and in the best interest of the city in accordance with the requirements of law as follows:
  - (1) Recommend approval;
  - (2) Recommend approval contingent upon conditions, corrections or changes to be made to the final plat; or
  - (3) Recommend disapproval.
- (d) Effect of recommended approval. Recommendation of a preliminary plat by the commission shall be deemed an expression of conditional recommended approval to the layouts submitted on the preliminary plat as a guide for the preparation of the final plat and the future installation of streets, water, sewer, and other required improvements and utilities and to the preparation of construction plans.
- (e) Duration of recommended approval. Recommendation of a preliminary plat shall be effective for one hundred eighty (180) days. The applicant who submitted the preliminary plat may request a one-time extension of the previously recommended preliminary plat. The request shall be made in writing on a prescribed form to the city manager or his designee at least thirty (30) days before the preliminary plat's expiration. The request shall state the reasons for the extension, the amount of time to reasonably accommodate the need, and acknowledgement that there are no additional extensions. The maximum extension shall not exceed one hundred eighty (180) days, and must be justified as determined by the city manager or his designee. Only one (1) extension will be granted regardless of the amount of time for the extension or additional extensions requested.
- (f) Commencement of work. No construction work shall begin on the proposed improvements in the proposed subdivision prior to the approval by the commission and the city council and recordation of the final plat. The subdivider may at his own risk undertake certain ground excavations for clearing, grading and drainage purposes. Any required permits shall be issued prior to commencement of work.
- (g) Not required. A preliminary plat shall not be required if the proposed subdivision meets the criteria as set forth for short form final plats.
- (h) Additional requirements. Any plat within the extraterritorial jurisdiction of the city shall also be subject to county platting requirements and the more restrictive requirements shall govern.

- (i) Variances. A variance request, if applicable and there is justification for same, shall be provided on the application form provided by the city.
- (j) Graphic requirements. Preliminary plats which do not include the following data and information will be considered incomplete and may not be accepted for submission by the city. The required copies or prints of the proposed subdivision shall include the following:
  - (1) The preliminary plat shall be drawn to a minimum scale of one hundred (100) feet to the inch. In cases of large developments which would exceed the dimensions of the sheet of one hundred (100) feet to the inch scale, preliminary plats may be two hundred (200) feet to the inch or a scale approved by the administrative officer. A graphic scale shall be shown on the plat.
  - (2) A vicinity or location map that delineates the location of the proposed subdivision with respect to major thoroughfares, freeways, water courses and ditches. The vicinity map shall be located in the upper right corner of the drawing.
  - (3) The boundary lines, abstract lines, survey lines, corporate boundaries, district boundaries, existing or proposed highways, and streets.
  - (4) The name and location of all adjoining subdivisions or property owners shall be drawn to the same scale and shown in dotted lines adjacent to the tract proposed for subdivision in sufficient detail to show accurately the existing streets, easements and alleys and other features that may influence the layout of development of the proposed subdivision. Adjacent unplatted land shall accurately delineate property lines and owners of record.
  - (5) The location and widths of all streets, alleys, railroads and easements existing or proposed within the subdivision limits, and the manner in which such streets, alleys and easements may eventually connect with those of the nearest existing subdivision.
  - (6) Proposed street names are suggested but not required. Street names are required at the time the final plat is approved.
  - (7) The location of all existing property lines, existing lot and block numbers and date recorded; existing buildings; existing drainage facilities, utilities, and pipelines showing pipe sizes and capacities of sewer or water mains, gas mains, or other underground structures, whether public or private, easements of record; or other existing features within the area proposed for subdivision. When appropriate, a separate submittal for utilities may be allowed by the administrative officer.
  - (8) Proposed arrangement of lots (including lot and block numbers in accordance with a systematic, consecutive numbering arrangement) and proposed use of same and their relationship to streets, alleys and easements in adjacent subdivisions. Any nonresidential reserves shall also be shown.
  - (9) The title under which the proposed subdivision is to be recorded; the name of the city, county, and state in which the subdivision is located; the name and complete address of the owner; and the name and complete address of the land planner, engineer, or registered professional land surveyor preparing the drawing shall be located in the lower right corner. The subdivision name shall not be duplicated, but phasing identification is allowed. The administrative officer shall determine if the proposed subdivision identification will be in conflict with existing plats. The description of the property shall include the approximate acreage.
  - (10) Sites, if any, to be reserved or dedicated for parks, playgrounds, schools, or other public use.
  - (11) North arrow, date, scale, and other pertinent data oriented to the top of the sheet.
  - (12) All physical features of the property to be subdivided including location and size of all natural and artificial water courses, ditches, ravines, culverts, and bridges; one hundred (100) year flood plain according to Federal Emergency Management Agency information; the outline of major wooded areas or the location, species and sizes of major specimen trees of thirty (30) inches or greater in diameter; and other structures or features pertinent to subdivision.

- (13) All preliminary plats shall be submitted in legible format on a good grade blue line or black line paper.
- (14) Location(s) of any existing structures to be retained shall be shown on the plat.
- (15) A copy of the proposed subdivision restrictions and/or covenants that are anticipated to be filed for record and will constitute encumbrances on the subject property shall be provided, if available.

(Ord. No. 2005-24, § 1, 10-18-05; Ord. No. 2007-18, § 1, 6-5-07)

Sec. 25-35. - Final plat.

- (a) General requirements. The final plat and engineering construction drawings and specifications are required for any area in the city or its extraterritorial jurisdiction and shall meet the following requirements:
  - (1) The final plat shall be in general conformance with the preliminary plat as recommended and shall incorporate all conditions, changes, directions and additions recommended by the commission and if not directly incorporated, the terms or provisions thereof shall be inscribed on the face of the plat and/or set out on separate writing to be filed for record with the plat. The final approval of the plat shall be by the city council. If the subdivision is in the city's extraterritorial jurisdiction, it shall also be approved by the county commission. The final plat shall not be submitted for city council approval until detailed engineering construction plans have been submitted for approval by the city.
  - (2) The final plat shall constitute only that portion of the approved preliminary plat which the subdivider proposes to record and then develop. Such portion shall conform to all the requirements of the regulations of this Code.
  - (3) The final plat and construction plans shall be submitted for review at least twenty-six (26) calendar days prior to a regularly or specially scheduled commission meeting at which they are to be considered.
  - (4) Two (2) copies of prints of the proposed subdivision on sheets at a size of twenty-four (24) inches by thirty-six (36) inches and drawn to a minimum scale of one hundred (100) feet to the inch and twelve (12) copies of the print reduced to a size of eleven (11) inches by seventeen (17) inches shall be submitted. The submittal shall include the following:
    - a. Completed application form;
    - b. Copies and reductions of the plat;
    - c. Transmittal letter;
    - d. Fees;
    - e. Tax certificates, in a form acceptable to the county clerk for plat recordation;
    - f. Title commitment of specific tract of land; and
    - g. Engineering construction plans.
  - (5) All public utility easements shall be included as required for utility companies by the city.
  - (6) The final plat (and any replats) shall be prepared by a registered professional land surveyor. After an administrative review of the final plat, a revised submittal may be required. If required, the revised final plat shall be submitted nine (9) days prior to the commission meeting and shall include seven (7) copies of the plat drawn on sheets at a size of twenty-four (24) inches by thirty-six (36) inches and eleven (11) copies of the plat reduced to a size of eleven (11) inches by seventeen (17) inches. An electronic copy of the revised plat in the format(s) required by the city shall also be submitted.

After an administrative review of the final plat, a revised submittal may be required. If required, the revised final plat shall be submitted seven (7) days prior to the commission meeting and shall include seven (7) copies of the plat drawn on sheets at a size of twenty-four (24) inches by thirty-six (36) inches and eleven (11) copies

of the plat reduced to a size of eleven (11) inches by seventeen (17) inches. An electronic copy of the revised plat in the format(s) required by the city shall also be submitted.

- (b) Recommendation. The administrative officer shall review the final plat for compliance with these regulations and make recommendation to the commission.
- (c) Action by commission. The commission will consider the final plat and the written recommendation and may take one (1) of the following actions:
  - (1) Recommend approval;
  - (2) Recommend approval contingent upon corrections or changes to be made to the plat; or
  - (3) Recommend disapproval.
- (d) Effect of approval. In the event the commission should grant approval of a plat contingent upon corrections, the subdivider or his designated representative shall then submit the final plat with the required changes to the administrative officer for review and approval at least twelve (12) calendar days prior to a regularly or specially scheduled city council meeting. The submittal shall include the following:
  - (1) Eleven (11) full size copies and reductions of the plat;
  - (2) Resolution of any contingency items recommended by the commission;
  - (3) Current title report for the specific tract;
  - (4) Performance bonds, letter of credit for the cost of the public improvements, or assurance of completion of the public improvements.
- (e) Administrative review. The administrative officer shall review the submittal for compliance with the regulations and recommendations of the commission and place the final plat on the city council agenda. Failure of the subdivider to provide any of the required items may cause disapproval of the plat.
- (f) Action by city council. The city council shall take action on the plat within the time period specified by the filing date pursuant to subsection (g). The action shall consist of:
  - (1) Approval;
  - (2) Approval, contingent upon corrections or changes to be made to the plat; or
  - (3) Disapproval of the plat.
- (g) Filing date. The filing date of an application for final plat approval with the city council shall be the date the commission recommends approval of the plat. However, if the commission recommends approval with contingencies, the plat will not be considered as "filed" until all contingencies have been met by the applicant. The administrative officer shall certify when contingencies have been addressed. The statutory thirty-day time period shall begin when all contingencies and all submittal requirements have been completed as certified by the administrative officer.
- (h) Resubmittal. A substantial change to the approved final plat prior to recordation shall require resubmittal to the city council. With the approval of the administrative officer, minor changes including addition of easements, correction of clerical errors or omissions may be made prior to submittal for signature and recordation.
- (i) Duration of approval. Recommendation for approval of the final plat by the commission is valid for one (1) year from the date of approval. Final approval by the city council shall expire if the plat is not recorded within such time. An extension of approval may be requested in writing at least thirty (30) days prior to the expiration date and submitted to the appropriate body for consideration and approval.
- (j) Construction plans. Prior to the submittal of the final plat for city council approval, engineering construction plans showing paving and design details of streets, alleys, culverts, bridges, storm sewers, water mains, sanitary sewers and other engineering details of the proposed subdivision shall be submitted to the administrative officer for review by the city engineer. One (1) copy shall be submitted with the final plat. Such plans shall be

prepared by a registered professional engineer and shall conform to the current design standards, this Code and applicable ordinances adopted by the city.

- (k) Signature and recordation. Following approval by the city council, the specified number of originals may be submitted for signature and the placement of the city seal. If the final plat is within the city limits, the originals shall be accompanied by the filing fee and the city shall record the final plat at the county clerk's office. If the final plat is in the extraterritorial jurisdiction, the plat originals shall be forwarded by the city to the office of the county engineer for review and action by the county commission court and recordation.
- (l) Commencement of work. No construction work shall begin on the proposed improvements in the proposed subdivision prior to the approval and recordation of the final plat except as provided herein. The subdivider may undertake certain ground excavations for grading and drainage purposes if required permits are issued. Any excavation prior to approval of the final plat shall be at the subdivider's risk and any work done is to facilitate the subdivider's schedule and does not imply approval of the work. Engineering and construction plans shall also be submitted according to the current design standards, in addition to the requirements set forth herein.
- (m) Graphic requirements. In addition to the graphic requirements for a preliminary plat the final plat shall include the following:
  - (1) All final plats shall be submitted on sheets no larger than twenty-four (24) inches by thirty-six (36) inches and to a scale not greater than one hundred (100) feet to the inch.
  - (2) The exterior boundary of the subdivision shall be indicated by a distinct bold line and corner marked by individual symbols.
  - (3) The length and bearing of all straight lines, and the radii, arc lengths, chord length, tangent length and central angles of all curves shall be indicated along the lines of each lot or in a curve or line table. The curve data pertaining to block or lot boundaries may be placed in a curve table showing curve number, radius, delta, arc length, chord length, and chord bearing.
  - (4) The names and recording information of all adjoining subdivisions, all abutting lots, lot and block numbers and other recorded information.
  - (5) Course and distance.
  - (6) The names, accurate location and widths of all adjacent streets, watercourses, railroads, alleys, easements, city and utility district boundaries.
  - (7) Street names shall be shown and shall not duplicate existing street names in the City or the extraterritorial jurisdiction. Extensions of streets shall have the same name as the existing street. Similar spelling or pronunciations should be avoided to prevent confusion.
  - (8) The location and dimension of any utility easement adjoining or abutting the subdivision or proposed within the subdivision shall be shown. It shall be applicant's responsibility to coordinate with appropriate utility companies for placement of utility easements.
  - (9) In all subdivisions and additions, sufficient permanent monuments shall be established at points to represent or reference boundary corners, angle points, and points of curvature or tangency along all street rights-of-way in the subdivision. Survey monuments shall be an iron rod or pipe not less than five-eighth (5/8) inches in diameter and thirty-six (36) inches long. Monuments shall be set flush with the top of the ground or curb. Each monument set by the surveyor shall include a cap with the surveyor's identification attached to it.
  - (10) The final plat shall show a title block in the lower right corner of the sheet. The name of the subdivision, the name, address, and telephone numbers of the subdivider and engineer or surveyor, the scale and location of the subdivision, and reference to original land grant or survey and abstract numbers shall be indicated. If more than one (1) page is required for the plat, the title block may be reduced in size on the subsequent sheets. The vicinity map is required on only one (1) sheet.

- (11) An owner's dedication block or acknowledgment shall be attached to and be a part of the final subdivision plat and shall contain a minimum of information as required by the city. Examples of the information required on the final plat which would meet the above requirements shall be provided by the city.
- (12) A statement signed by the owner and acknowledged before a notary public as to the authenticity of the signatures.
- (13) Lien holder's certification and notarization.
- (14) A signed registered professional land surveyor's certificate.
- (15) Plat approval block for the signature of the mayor or person designated by city council and a place for the city secretary to attest such signature. A plat approval block shall also be provided for the signatures of the chairman and secretary of the commission.
- (16) Any proposed reserve uses and the property dimensions shall be shown on the plat. The use of the reserve shall be specific if required by the city council.
- (17) Any special restrictions shall be noted on the plat or referenced accordingly or in the general notes.
- (18) General notes shall be included on the final plat as specified by the city. These notes shall appear on the same page with the layout of the subdivision and shall include, but are not limited to the following:
  - a. Standard abbreviations;
  - b. Finished floor elevations;
  - c. Reference to U.S.C. & G.S. benchmark and description and temporary benchmark within five hundred (500) feet of the subdivision;
  - d. Elevation data;
  - e. Flood zone information;
  - f. District boundaries;
  - g. Zoning district, if applicable;
  - h. Location of aerial easements; and
  - i. Building permit note (if applicable).
- (n) Additional requirements. The final plat shall comply with the following additional requirements:
  - (1) The subdivision plat boundaries shall be tied to existing monuments with coordinates using Texas State Plane Coordinate System, South Central Zone.
  - (2) The city shall be provided with an electronic file of the final plat in the format(s) designated by the city.
  - (3) A copy of the proposed subdivision restrictions and/or covenants that are anticipated to be filed for record and will constitute encumbrances on the subject property shall be provided.

(Ord. No. 2005-24, § 1, 10-18-05; Ord. No. 2007-18, § 2, 6-5-07)

**Sec. 25-36. - Short form final plats (combination preliminary and final plat).**

The city manager or his designee may allow a final plat without the necessity of a preliminary plat (as required in section 25-34) for currently platted property or replats if requested by the applicant.

- (1) Application fees for short form platting shall be paid at the time of application.
- (2) The final plat meets all of the conditions and requirements as outlined under the Texas Local Government Code, as amended, as well as the following:

- a. No more than four (4) lots, tracts or reserves are included.
  - b. The area to be platted lies within an existing public street circulation system already approved by the city council.
  - c. The plat does not propose to vacate public street rights-of-way or easements.
  - d. The plat does not propose creation or extension of public rights-of-way.
  - e. The proposed development does not require any significant drainage improvements and, if contained wholly or partially within the one hundred-year flood plain, conforms to Federal Emergency Management Agency flood plain management rules.
  - f. The proposed development is consistent with the thoroughfare plan and creates no significant traffic congestion on the existing public street system.
- (3) The short form plat shall meet all of the requirements for a final plat in section 25-35
  - (4) Evidence that the proposed subdivision is adequately served by all existing utilities, including gas, water, sewer, electricity, etc., and is acknowledged as acceptable by the city engineer and public works director at the time the short form final plat is submitted.
  - (5) If it is a replat, a public hearing is held in accordance with the requirements of law for replats before final approval of the final plat.

(Ord. No. 2005-24, § 1, 10-18-05)

#### Sec. 25-37. - Administrative (minor) plat.

The administrative or minor plat, as specified in the Texas Local Government Code, as amended, may be used in a limited manner in order to adjust property lines and/or easements as defined in the plat for the purpose of development flexibility. When requested by an applicant, the city manager or his designee, at his discretion, may allow an applicant to submit an administrative (minor) plat and follow such procedures.

The administrative (minor) plat must meet the following requirements:

- (1) Is for currently unplatted property, a replat, or amending a plat that meets the following conditions:
  - a. Involves four (4) or fewer lots.
  - b. All property after proposed adjustments has the required access on existing streets.
  - c. Does not require the creation of any new street or public right-of-way.
  - d. Does not require the extension or relocation of any utilities or municipal facilities.
  - e. Does not propose to eliminate or vacate public street rights-of-way or easements.
  - f. Does not include the creation of any new lots or lines.
- (2) Shall meet all requirements of a short form final plat with the exception of only requiring approval of city council, without need of review by the commission.
- (3) Evidence that the proposed subdivision is adequately served by all existing utilities, including gas, water, sewer, electricity, etc., and is acknowledged as acceptable by the city engineer and public works director at the time the short form final plat is submitted.
- (4) If it is a replat, a public hearing is held in accordance with the requirements of law for replats before final approval of the final plat.

(Ord. No. 2005-24, § 1, 10-18-05)

Sec. 25-38. - Vacating of plat.

- (a) A plat or any part of a plat may be vacated by request of the owners of all the lots in the plat. In addition to the procedure outlined in Chapter 212, Texas Local Government Code, as amended, the submittal requirements for the vacation to the commission and city council are the same as for approval of a final plat.
- (b) A vacated plat shall be recommended by the commission and approved by the city council. The city council may reject any vacation instrument which abridges or destroys any public rights in improvements, easements, streets, alleys or similar public areas which are deemed by the city council necessary to serve the surrounding area.
- (c) An approved vacated plat must be recorded and operates to destroy the effect of the recording of the vacated plat and to divert all public rights to the streets, alleys and other public areas laid out or described in the plat.

(Ord. No. 2005-24, § 1, 10-18-05)

Sec. 25-39. - Replat.

- (a) A replat is a redesign of all or a part of a recorded plat or subdivision of land which substantially changes the elements of the plat. The same procedures shall be followed as for preliminary, final or short form plat. The replat must be in accordance with Chapter 212, Texas Local Government Code. A public hearing shall be required before the commission or the city council on all residential replats when the previous plat is not vacated in compliance with the Texas Local Government Code.
- (b) All proposed replats which are governed by the provisions of Chapter 212 of the Texas Local Government Code must be submitted with the following items in addition to those required for a preliminary, final or short form plat.
  - (1) A written statement indicating intent to seek commission approval under the requirements of Chapter 212 of the Texas Local Government Code.
  - (2) A current (not more than thirty (30) days old) title report, statement, opinion, title policy, certificate or letter from a title company authorized to do business in the State of Texas or from an attorney licensed as such in the State of Texas which indicates the name of the record owner of fee simple title for every piece of property required to be given written notice of such replat under the provisions of Chapter 212 of the Texas Local Government Code.
  - (3) A certified list (not more than thirty (30) days old) of all owners of property as such ownership appears on the last approved ad valorem tax rolls of either the city or county in which such property is located, which are required to be given written notice of such replat under the provisions of Chapter 212 of the Texas Local Government Code. Certification for the purpose of this subsection shall be made by a title company authorized to do business in the State of Texas or an attorney licensed as such in the State of Texas.
  - (4) One (1) stamped envelope addressed to each landowner indicated on either the title report or the tax roll list as required above. Each envelope shall contain a copy of the required notice as set out in Chapter 212 of the Texas Local Government Code.
  - (5) An affidavit in separate writing signed by all the owners of property within the proposed replat which attests that the proposed replat "does not attempt to alter, amend or remove covenants or restrictions."
  - (6) The administrative officer will authorize the publication of the required notification of public hearing by the city secretary after the commission establishes a date for said public hearing.
- (c) If action on a residential replat application must be deferred because sufficient written protest has been submitted, the thirty-day period in which action must be taken by the city council is extended by the period of time necessary to verify the written protest.

- (d) The replat of a subdivision shall meet all the requirements for a new subdivision that may be pertinent, as provided for herein. It shall show the existing property being re-subdivided. No preliminary plat shall be required on replats if waived by the administrative officer.
- (e) The title shall identify the documents as "Lots \_\_\_\_\_, being a replat of Lots \_\_\_\_\_ of Block \_\_\_\_\_ of the \_\_\_\_\_ Subdivision." A reason for the replat shall also be stated on the plat.
- (f) A partial replat of only the affected lots will be accepted when the conditions and/or opinions allowed by the amending plat procedure are not applicable.

(Ord. No. 2005-24, § 1, 10-18-05)

#### Sec. 25-40. - Amending plat.

The amending plat procedure shall be in accordance with Chapter 212, Texas Local Government Code, as may be amended.

- (1) An amending plat shall meet all of the informational requirements set forth for a final plat.
- (2) Where an amending plat meets the requirements for an administrative plat as specified in this chapter, it does not require the review of commission.
- (3) In no instance may an amending plat be submitted that creates more than four (4) lots.

(Ord. No. 2005-24, § 1, 10-18-05)

#### Sec. 25-41. - Recordation.

Following the approval of the city council, a plat shall follow the following procedures for recordation:

- (1) Within one (1) year following the approval of the final plat by the city council, the subdivider shall submit the required number of originals to the city for signatures and recordation. The originals shall be on at least four (4) mil camera positive matte finish (both sides) film. All signatures shall be clearly affixed in permanent black ink. All seals shall be affixed in permanent black ink or a raised seal.
- (2) A current title report for the specified tract and current tax certificate, in a form acceptable to the county clerk for plat recordation, shall be submitted and verified prior to the city signatures and seals being affixed on the plat.
- (3) If the subdivision is within the city, the city shall record the plat in the county clerk's office. The subdivider shall forward a check for the appropriate amount with the submittal of the originals for signatures. If the plat is in the extraterritorial jurisdiction, the plat originals shall be forwarded by the city to the county for approval and recordation. One (1) recorded original shall be returned to the city.
- (4) All requirements of applicable ordinances shall have been met.
- (5) The final plat shall not be submitted for recordation until detailed engineering plans have been approved by the city and/or the public improvements are complete. The approval of the plat and construction plans shall be valid for one (1) year, after which time they must be re-approved by the city, subject to current requirements before recordation.
- (6) The restrictive covenants shall be provided and the recording information shall be shown in a note on the plat.
- (7) An address map shall be provided. All addresses shall be coordinated with the appropriate utility company or the city.

(Ord. No. 2005-24, § 1, 10-18-05)

Secs. 25-42—25-50. - Reserved.

### **ARTICLE III. - SUBDIVISION DESIGN REQUIREMENTS (STANDARDS)**

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#### **DIVISION 1. - GENERALLY**

Sec. 25-51. - Conformity to comprehensive master plan.

The proposed subdivision shall conform to the projected future land use pattern as outlined by the comprehensive master plan that has been formulated and adopted by the city council.

(Ord. No. 2005-24, § 1, 10-18-05)

Sec. 25-52. - City policy and general requirements.

- (a) City policy. The city council shall require that all land subdividers and developers shall, on all subdivisions of land in the city and within its extraterritorial jurisdiction, as that term is defined in the Texas Local Government Code, adhere to and be governed by the policies that have been established for the provision and construction of underground utilities, street improvements, alleys or easements.
- (b) General requirements.
  - (1) Water lines, sewer lines and storm sewers.
    - a. The subdivider or developer shall be required to construct, at his own expense, all water lines, sewer lines, storm sewer lines, drainage ditches, detention facilities, if required, and structures in accordance with the current design standards in effect at the time of construction. This shall include all engineering costs for design, layout and construction supervision. Preliminary plans and layouts for all such utility lines shall be submitted by the subdivider or developer to the commission for study along with the submission of the preliminary plat of the subdivision. Final construction plans will be submitted by the subdivider at the time of filing his final plat with the commission in the same number of copies as required of the subdivision plat.
    - b. There will be no participation by the city in the cost of any of the underground utility lines or drainage facilities within the subdivision except in the event of the requirement for oversize lines to serve land areas and improvements beyond the subdivision in question, or to serve other subdivisions. Each installation of this character and the terms and extent of city participation will be considered individually upon the merits of each facility and the conditions involved.
    - c. Trunk lines of such systems to serve the subdivision under consideration will be considered upon each facility's individual merits for each subdivision.
  - (2) Street improvements, curb and gutter, pavement.
    - a. The subdivider shall be required to construct, at his own expense, concrete curb and gutter streets in accordance with current design standards in effect at the time of construction. This shall include all engineering costs for design, layout and construction supervision. Preliminary plans for such improvements shall be submitted to the commission for study and for tentative approval before any work is started in the subdivision. Detailed construction plans, including plan and profile for each street, shall be filed with the submission of the final plat in the same number of copies as required of the final subdivision plat.
    - b. The city may participate in the cost of street surfacing and construction of arterial streets or thoroughfares in excess of the standard width and thickness of pavement for residential or service streets required to be constructed by the subdivider.

- c. Each street installation project will be considered by the city upon the individual merits of each project prior to construction.
  - d. Subdivisions abutting on main arterial shall have fences erected on the common property line with the public street right-of-way which shall be of wood or metal construction, not less than six (6) feet in height, and shall be constructed of materials designed to prevent visual invasion by any person upon the public street right-of-way with any person or property located upon any part of the subdivision. The degree of visual blockage shall not be less than ninety (90) percent.
- (3) Alleys and easements.
- a. The city may require in a new subdivision twenty-foot wide easements in lieu of alleys except in certain cases as may be determined by the commission.
  - b. If a subdivider desires to include alleys in a subdivision, the expense of development of the same shall be borne by the owner of the subdivision or the developer, and the same shall be constructed in accordance with current design standards for city streets in effect at the time of construction.
  - c. Any construction plans related to this type of improvement shall be submitted to the commission along with the final plat of the subdivision.
- (4) Water and sewer facilities; land subject to flooding and otherwise inhabitable.
- a. The commission may refuse to approve a plat when it is evident that adequate water and sewer facilities cannot be supplied within a reasonable time.
  - b. Land subject to flooding and land deemed by the commission to be uninhabitable shall not be platted for residential occupancy nor shall it be platted for such other uses as may increase danger to health, safety, life or property or aggravate the flood hazard, but such land within the plat shall be set aside for such uses as shall not be endangered by periodic or occasional inundation and shall not produce unsatisfactory living conditions.

(Ord. No. 2005-24, § 1, 10-18-05; Ord. No. 2009-08, § 1, 3-3-09)

Sec. 25-53. - Changes or amendments to the design standards.

The current design standards will, from time to time require revisions and updates to allow for changing construction technology. The design standards referenced herein shall mean the current standards as of the date of adoption of this Code amendment, to-wit, October 18, 2005, or as they may be revised from time to time.

(Ord. No. 2005-24, § 1, 10-18-05)

Secs. 25-54—25-60. - Reserved.

DIVISION 2. - SPECIFIC REQUIREMENTS

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Sec. 25-61. - Streets.

- (a) General requirements. The arrangement, character, extent, width, grade, and location of all streets shall conform to the city thoroughfare plan and the current design standards manual and shall be considered in their relation to existing and planned streets or driveways, to topographical conditions, to public safety and in their appropriate relation to the proposed uses of the land to be served by such streets. Unless required by the city, strips of land controlling access to or egress from other property, or to or from any street or alley, or having the effect of restricting or damaging the adjoining property for subdivision purposes or which will not be taxable or accessible for special improvements shall not be permitted in any subdivision. All streets shall be

paved in accordance with the current design standards. All lots, tracts and reserves shall have frontage on an approved public right-of-way or access easement(s).

Exception: Rural streets for rural lots as provided in section 25-67 (Lots, tracts, reserves) Subsection (7)(b), may be constructed in accordance with section 25-61 Streets (p), provided that open side ditches used for drainage meet all applicable specifications provided by the city and the county.

- (b) Private streets. Private streets or any similar privately maintained access ways are prohibited in single-family residential developments.
- (c) Access. Primary access through a mutual access easement in a commercial, town home or condominium development shall conform to all design and construction standards stated herein and in current design standards.
  - (1) If the easement contains public utilities, including but not limited to water lines, sanitary sewer lines, storm sewer lines, electrical lines, or gas lines, the easement shall meet all of the requirements set forth for a public street, including but not limited to construction standards, width, curves, building lines, sight distance visibility and landscape maintenance.
  - (2) If the easement does not contain public utilities, then the easement shall meet the following requirements:
    - a. The minimum width of the easement shall be thirty (30) feet.
    - b. The minimum pavement width shall be thirty (30) feet, back-of-curb to back-of-curb.
    - c. The geometry and construction standards shall meet all of the requirements for a public street, with the exception that asphalt surfacing shall not be permitted.
    - d. The pavement shall have a standard six-inch reinforced concrete curb in accordance with the current design standards.
    - e. Access to the easement shall be via approved curb cuts with spacings in accordance with current design standards. No direct parking access shall be allowed to the easement.
    - f. Building lines and parking setbacks shall be measured from the back-of-curb.
    - g. The minimum parking setback shall be ten (10) feet.

Any mutual access agreement between the property owners and/or lessors shall be submitted to the city for approval and filed of record with the county clerk's office, and so noted on the plat prior to recordation of the plat. A note shall be placed on the plat defining the accessibility to the access easement by police, fire and emergency vehicles, utility operations and maintenance personnel.

- (d) Streets not on plan. When a street is not on the thoroughfare plan, the arrangement of streets in a subdivision shall:
  - (1) Provide for the continuation or appropriate protection of existing streets in surrounding areas; or conform to a plan for the neighborhood as adopted by the city to meet a particular situation where topographical or other conditions make continuance or conformity to existing streets impracticable.
  - (2) Provide for future access to adjacent vacant areas which will likely develop in the future.
  - (3) Resolve alignment with existing right-of-way and driveway openings.
- (e) Minor streets. Minor residential streets shall be so designed that their use by through traffic will be discouraged.
- (f) Geometric street design. Standards for curvature, intersecting streets, and offset intersections are detailed in the design standards.

- (g) Street widths. Street right-of-way widths shall be shown on the thoroughfare plan and shall be designed in accordance with the design standards. Lane widths and median widths shall also be in accordance with the design standards.
- (h) Half streets. Half streets shall be prohibited, except when essential to the reasonable development of the subdivision in conforming to the other requirements of these regulations and the thoroughfare plan, and where the city council finds it will be practical to require the dedication of the other one-half (½) when the adjoining property is subdivided. When a partial street has been platted previously along a common property line, the other portion of the street shall be dedicated. Construction of half streets and improvements made to all on-site facilities are defined in the design standards.
- (i) Cul-de-sacs. A cul-de-sac street may be provided where the shape of a portion of the proposed subdivision or where the terrain of the land would make it difficult, uneconomical or unreasonable to plat with connecting streets. These cul-de-sacs shall be so arranged as to provide access to all lots and shall conform to the most current design standards.
- (j) Dead end streets. Dead end streets are temporary in nature and are not allowed except to provide for access to adjacent land areas and in no case shall be more than two hundred fifty (250) feet in length or equal to one (1) lot depth, whichever is greater. A temporary turnaround shall be provided and indicated on the plat and built in accordance with the design standards.
- (k) Reserves. A one-foot reserve shall be established along the side or the end of a street that abuts acreage tracts. A note shall be on the plat to define the one-foot reserve.
- (l) New streets. New streets which are an extension of existing streets shall bear the names of existing streets and shall be dedicated with appropriate transitions and widths.
- (m) Street names. No new street names shall be used which will duplicate or be confused with the names of existing streets. All street names shall demonstrate good judgment and character on behalf of the subdivider based upon commonly accepted use of names and places. Street names shall be subject to the approval of the city council at the time of final plat approval.
- (n) Points of access. Single-family residential subdivisions, including patio home and townhouse subdivisions, shall have an adequate number of access points to provide for an orderly and safe movement of vehicular traffic. The minimum number of points of access from said subdivisions shall be as follows:
  - (1) Subdivisions with fifty (50) or fewer lots—One (1) point of access
  - (2) Subdivisions with fifty-one (51) to one hundred twenty-five (125) lots—Two (2) points of access, or one (1) point of access if that access is via a boulevard street section with no lots having direct access to the divided boulevard street section serving as said access
  - (3) Subdivisions with one hundred twenty-six (126) to two hundred fifty (250) lots—Two (2) points of access, with at least one (1) point of access via a boulevard street section of at least one hundred twenty (120) feet in length (end of median to end of median), with no lots having direct access to the boulevard street section serving as said access, and at least one (1) point of access being directly to a collector or major thoroughfare.
  - (4) Subdivisions with more than two hundred fifty-one (251) lots—The number of access points shall be determined by the city; however, there must be at least two (2) points of access, with at least one (1) point of access via a boulevard street section of at least one hundred twenty (120) feet in length (end of median to end of median), with no lots having direct access to the boulevard street section serving as said access, and at least one (1) point of access being directly to a collector or major thoroughfare.
  - (5) For the purposes of this subsection, a boulevard street shall mean a divided four-lane street with a minimum fifteen-foot wide median and minimum eighty-foot right-of-way.

- (o) Construction. All streets dedicated within a subdivision in the city or its extraterritorial jurisdiction shall be constructed in accordance with paving widths and specifications as set forth in the current design standards of the city at the time at which the final plat is recorded.
- (p) Future streets. When a tract of land is subdivided into parcels that are larger than normal building lots, such parcels shall be arranged to permit the opening of future streets and a logical ultimate resubdivision.
- (q) Rural streets. Rural streets may be provided in subdivisions where lots conform to the minimum requirements for rural lots (section 25-67(h)(2) Rural Lots). A rural street shall have a minimum seventy-foot right-of-way with a twenty-eight-foot pavement, which may be asphalt or concrete, provided applicable city and county standards are met. Curbs are not required and open road side ditches may be used for drainage. No parking shall be allowed along a rural street right-of-way.
- (r) Points of access. Multi-family dwelling subdivisions, including apartment and condominium subdivisions, shall have an adequate number of access points to provide for an orderly and safe movement of vehicular traffic. The minimum number of points of access from said subdivisions shall be as follows:
  - (1) Subdivisions with fifty (50) or fewer dwelling units—One (1) point of access.
  - (2) Subdivisions with fifty-one (51) to one hundred twenty-five (125) dwelling units—Two (2) points of access, or one (1) point of access if that access is via a boulevard street section with no dwelling units having direct access to the divided boulevard street section serving as said access.
  - (3) Subdivisions with one hundred twenty-six (126) to two hundred (200) dwelling units—Two (2) points of access, with at least one (1) point of access via a boulevard street section of at least one hundred twenty (120) feet in length (end of median to end of median), with no dwelling units having direct access to the boulevard street section serving as said access, and at least one (1) point of access being directly to a collector or major thoroughfare.
  - (4) For the purposes of this subsection, a boulevard street shall mean a divided four-lane street with a minimum fifteen-foot wide median and minimum eighty-foot right-of-way.

(Ord. No. 2005-24, § 1, 10-18-05; Ord. No. 2006-33, § 1, 11-7-06; Ord. No. 2009-25, § 2, 7-21-09)

#### Sec. 25-62. - Alleys.

- (a) Alleys may be allowed in commercial and industrial districts, except that the city council may require that definite and assured provision is made for service access, such as off-street loading, unloading and parking consistent with and adequate for the use proposed. Service alleys in commercial and industrial districts shall conform to the most current design standards or as may be established by the commission or the city council. An access easement may be substituted upon approval of the city council if the easement is also a fire lane easement.
- (b) Residential alleys may not be required, except that the same may be required where alleys of adjacent subdivisions already platted would be closed or dead-ended by failure to provide alleys in the new subdivision. Residential alleys shall conform to the most current design standards or as may be established by the commission and or the city council.
- (c) Dead end alleys shall be avoided where possible, but, if unavoidable, shall be provided with adequate turnaround at the dead end as determined by the city council.
- (d) Alleys may not exceed a maximum length of fourteen hundred (1,400) feet unless otherwise waived by the city council.

(Ord. No. 2005-24, § 1, 10-18-05)

Sec. 25-63. - Easements.

- (a) All utility easements, including those for water, sewer, storm sewer and fire lanes, shall be shown on the final plat.
- (b) Easements across lots or centered on or adjacent to rear or side lot lines shall be provided for utilities where necessary and shall be of such widths as may be reasonably necessary for the utility or utilities using same. It shall be the subdivider's responsibility to determine appropriate easement widths as required by the current design standards.
- (c) Where a subdivision is traversed by a watercourse, ditch, drainage way or channel, there shall be provided a storm water easement or drainage right-of-way conforming substantially with such course and of such additional width as may be designated by the city and/or the county drainage district, subject to determination using proper engineering considerations. Maintenance easements shall also be specified. Approved utilities are permitted within the drainage easement if specified and approved as drainage and utility easement.
- (d) Fire lane easements shall be specified on all multi-family and nonresidential plats and shall conform to the design standards. The design and paving material in the fire lane shall conform to the design standards.
- (e) In all cases, easements shall connect with already established easements in adjoining property, and utilities shall be located within such easements and conform to the design standards.

(Ord. No. 2005-24, § 1, 10-18-05)

Sec. 25-64. - Curb radii at intersections.

Curb radii at street intersections shall conform to current design standards and property lines shall be adjusted accordingly.

(Ord. No. 2005-24, § 1, 10-18-05)

Sec. 25-65. - Blocks.

- (a) The length, width, and shape of blocks shall be determined with due regard to:
  - (1) Provision of adequate building sites suitable to the special needs of the type of use contemplated; and
  - (2) Needs for convenient access, circulation, control and safety of street traffic.
- (b) Lengths and widths shall be in conformance with the design standards. In general, intersecting streets determining the lengths and widths of the blocks shall be provided at such intervals as to serve cross-traffic adequately and to meet existing streets or customary subdivision practices.
  - (1) Minimum block length shall be five hundred (500) feet; however, this standard may be varied in cases where physical barriers or property ownership creates conditions where it is appropriate that these standards be varied having due regard for connecting streets, circulation of traffic and public safety.
  - (2) Maximum block length shall be twelve hundred (1,200) feet, except where no existing subdivision controls, the block length may increase to fourteen hundred (1,400) feet.
  - (3) When possible, the block width or depth shall allow two (2) tiers of lots, back-to-back, except when prevented by the size of the property or the need to back on an identified thoroughfare. When adjacent to a thoroughfare, the subdivider may not double front lots.
- (c) Blocks shall be numbered consecutively within the overall plat and shall be consistent with adjacent plats.

(Ord. No. 2005-24, § 1, 10-18-05)

Sec. 25-66. - Sidewalks.

Sidewalks shall be required as provided in section 25-52(b)(2)d.

(Ord. No. 2005-24, § 1, 10-18-05)

Sec. 25-67. - Lots, tracts, reserves.

Lots, tracts and reserves within the city, unless the commission, for cause, may otherwise approve, shall conform to the following minimum requirements:

- (1) Each residential lot, tract or reserve shall front on and have access from a dedicated public street; provided however, such access may be provided from a private street or access easement where permitted by this chapter. Any residential lot, tract or reserve having access only from an alleyway shall not be permitted. No residential lot shall have access to a major thoroughfare or collector street, except as permitted below.
  - a. The lot shall have a minimum frontage on the major thoroughfare of collector street of one hundred seventy-five (175) feet, and
  - b. The lot shall contain a minimum area of three (3) acres, and
  - c. The lot shall be provided access to the major thoroughfare or collector street via one (1) driveway only, having a maximum width of twenty (20) feet, measured at the right-of-way line, and shall have a minimum radius of twenty-five (25) feet at the point of connection to the paving of the major thoroughfare or collector street, and
  - d. Access driveways shall be located in accordance with the following:
    1. Greater than one hundred (100) feet from a street intersection as measured from the center of the driveway to the right-of-way line of the street intersecting the major thoroughfare or collector street,
    2. Greater than sixty-five (65) feet from a property line as measured from the centerline of the driveway.
- (2) The width of a lot shall be measured at the front building line. Cul-de-sac and radial lots shall also meet additional specified minimum width requirements as measured at the property/right-of-way line using the chord or straight line distance.
- (3) The depth of the lot shall be measured as an average between the side lot lines from the property-line/right-of-way.
- (4) A lot area size shall be computed inclusive of all easements. There shall be a minimum buildable area, exclusive of easements, for each lot to meet the requirements set forth herein.
- (5) Corner lots shall be increased in size whenever necessary so as to provide that any structure to be placed thereon shall conform to the building line requirements of each street.
- (6) No lots may be split by any jurisdictional boundary lines.
- (7) Residential lots, tracts or reserves shall conform to the following requirements:
  - a. Urban lots.
    1. Lot widths.
      - i. Single-family subdivisions of any size.
        - A. A minimum lot width of sixty (60) feet.

- B. Cul-de-sac/radial—Fifty (50) feet at the street right-of-way with a minimum width of sixty (60) feet at the front building line.
  - ii. Patio home subdivisions—See Division 4, Patio Home Subdivisions.
  - iii. Townhouse Subdivision—See Division 3.
  - iv. Duplex Subdivision—See Division 6, Duplex Subdivisions.
2. Lot size—Minimum.
- i. Single-family subdivisions of any size—Average area of all lots within each section shall be a minimum of seven thousand (7,000) square feet. However, the minimum area of any lot shall not be less than six thousand five hundred (6,500) square feet.
  - ii. Patio home subdivision—See Division 3, Patio Home Subdivisions.
  - iii. Townhouse subdivision—See Division 4, Townhouse Subdivisions.
  - iv. Duplex subdivision—See Division 6, Duplex Subdivisions.
- b. Rural lots. Rural lot subdivisions for single-family detached dwellings may be approved, provided that each lot within the proposed subdivision has an area of at least one (1) acre and said development conforms to applicable state law, and other applicable codes and ordinances of the city and the county.
- (8) All reserves shall be labeled with their appropriate use. Landscape and detention reserves may also be designated as utility easements. When in the determination of the city council the proposed land use is essential to the signage of public facilities, the city council may require the intended use of the reserve to be specified.
- (9) All nonresidential and multifamily tracts or reserves shall front on a dedicated public street or dedicated access/fire lane easement. The design of driveways, access easements and fire lanes shall be in conformance with the current design standards.
- (10) In no case shall a rectangular or irregularly shaped lot contain less than the minimum square footage as designated.

(Ord. No. 2005-24, § 1, 10-18-05; Ord. No. 2006-05, § 1, 2-28-06; Ord. No. 2006-37, § 1, 11-21-06)

**Sec. 25-68. - Building lines—Single-family lots.**

Building lines or setback lines shall be established for all single-family residential lots and so indicated on all subdivision plats as stipulated below:

- (1) Corner lots. The setback lines for corner lots shall be as follows:
  - a. A minimum building setback of twenty-five (25) feet shall be provided on the front and fifteen (15) feet on the side of all corner lots where such lots side upon minor streets.
  - b. A minimum building setback of twenty-five (25) feet shall be provided on the front and twenty (20) feet on the side of all corner lots where such lots side upon collector streets.
  - c. A minimum building setback of twenty-five (25) feet shall be provided on the front and twenty-five (25) feet on the side of all corner lots where such lots side upon major thoroughfares.
- (2) Corner lots less than fifty (50) feet in width. The setback lines for corner lots less than fifty (50) in width shall be as follows:

- a. A minimum building setback of twenty-five (25) feet shall be provided on the front and five (5) feet on the side of all corner lots where such lots sides upon a street containing the required right-of-way for its classification according to the City of Rosenberg's Thoroughfare Plan.
  - b. This provision shall not apply to a lot within a townhouse subdivision or patio home subdivision as defined by this chapter.
- (3) Interior lots. A minimum building setback of twenty-five (25) feet shall be provided on the front and five (5) feet on each side of all interior lots fronting on minor and collector streets and major thoroughfares.

(Ord. No. 2005-24, § 1, 10-18-05; Ord. No. 2010-12, § 2, 4-6-10)

Sec. 25-69. - Building lines—Commercial lots.

Building lines or setback lines shall be established for all commercial lots and indicated on all subdivision plats as provided below:

- (1) Corner lots. The setback lines for corner lots shall be as follows:
  - a. A minimum building setback of twenty-five (25) feet shall be provided on the front and fifteen (15) feet on the side of all corner lots that side upon minor streets.
  - b. A minimum building setback of twenty-five (25) feet shall be provided on the front and twenty (20) feet on the side of all corner lots that side upon collector streets.
  - c. A minimum building setback of twenty-five (25) feet shall be provided on the front and twenty-five (25) feet on the side of all corner lots that side upon major thoroughfares.
  - d. A minimum building setback of thirty (30) feet shall be provided, for all commercial structures up to fifty (50) feet in height, on the side and rear of all corner lots that are adjacent to a residential use. An additional one (1) foot of setback shall be required for every additional one (1) foot in height of the commercial structure above fifty (50) feet. Side and rear setbacks for lots lines that are not adjacent to a street, thoroughfare, or residential use, shall be established in accordance with the most recently adopted version of the International Building Code. The minimum building setback for the side and rear of all corner lots adjacent to a residential use shall be inclusive of one-half (½) the width of any adjacent platted and recorded public alley or easement, provided that:
    - 1. The minimum width of the alley or easement is twenty (20) feet; and
    - 2. The alley or easement is, and remains accessible, unenclosed and unobstructed.
- (2) Interior lots. The setback lines for interior lots shall be as follows:
  - a. A minimum building setback of twenty-five (25) feet shall be provided on the front of all interior lots that front upon minor and collector streets and major thoroughfares.
  - b. The minimum building setback requirements on the sides of interior lot lines shall be established in accordance with the most recently adopted version of the International Building Code.
  - c. A minimum building setback of thirty (30) feet shall be provided, for all commercial structures up to fifty (50) feet in height, on the rear of all interior lots that are adjacent to a residential use. An additional one (1) foot of setback shall be required for every additional one (1) foot in height of the commercial structure above fifty (50) feet. The minimum building setback for the rear of all interior lots adjacent to a residential use shall be inclusive of one-half (½) the width of any adjacent platted and recorded public alley or easement, provided that:
    - 1. The minimum width of the alley or easement is twenty (20) feet; and
    - 2. The alley or easement is, and remains accessible, unenclosed and unobstructed.

- (3) Variance procedure for lots of record. Lawfully preexisting lots on the date of adoption of this section, which are of a size that strict compliance with the setback requirements set forth in this section would create an undue hardship by significantly affecting the development of the tract for commercial purposes, are hereby entitled to seek a variance from the provisions hereof, as authorized under section 25-8 of this Code.
- (4) The Downtown Area, as defined in Chapter 6 of this Code, is exempt from the setback requirements set forth in this subsection; however, all structures constructed in the Downtown Area shall comply with all setback requirements established in the International Building Code and the International Fire Code, as adopted.

(Ord. No. 2005-24, § 1, 10-18-05; Ord. No. 2008-06, § 1, 5-20-08; Ord. No. 2008-18, § 2, 8-19-08; Ord. No. 2008-24, § 5, 8-5-08)

#### Sec. 25-70. - Building lines—Industrial lots.

Building lines or setback lines shall be established for all industrial lots and indicated on all subdivision plats as provided below:

- (1) Corner lots. The setback lines for corner lots shall be as follows:
  - a. A minimum building setback of twenty-five (25) feet shall be provided on the front and fifteen (15) feet on the side of all corner lots that side upon minor streets.
  - b. A minimum building setback of twenty-five (25) feet shall be provided on the front and twenty (20) feet on the side of all corner lots that side upon collector streets.
  - c. A minimum building setback of twenty-five (25) feet shall be provided on the front and twenty-five (25) feet on the side of all corner lots that side upon major thoroughfares.
  - d. A minimum building setback of sixty (60) feet shall be provided, for all industrial structures up to sixty (60) feet in height, on the side and rear of all corner lots that are adjacent to a residential use. An additional one (1) foot of setback shall be required for every additional one (1) foot in height of the industrial structure above sixty (60) feet. Side and rear setbacks for lots lines that are not adjacent to a street, thoroughfare, or residential use, shall be established in accordance with the most recently adopted version of the International Building Code.
- (2) Interior lots. The setback lines for interior lots shall be as follows:
  - a. A minimum building setback of twenty-five (25) feet shall be provided on the front of all interior lots that front upon minor and collector streets and major thoroughfares.
  - b. The minimum building setback requirements on the sides of interior lot lines shall be established in accordance with the most recently adopted version of the International Building Code.
  - c. A minimum building setback of sixty (60) feet shall be provided, for all industrial structures up to sixty (60) feet in height, on the rear of all interior lots that are adjacent to a residential use. An additional one (1) foot of setback shall be required for every additional one (1) foot in height of the industrial structure above sixty (60) feet.
- (3) The Downtown Area, as defined in Chapter 6 of this Code, is exempt from the setback requirements set forth in this subsection; however, all structures constructed in the Downtown Area shall comply with all setback requirements established in the International Building Code and the International Fire Code, as adopted.

(Ord. No. 2008-06, § 3, 5-20-08; Ord. No. 2008-18, § 4, 8-19-08; Ord. No. 2008-24, § 6, 8-5-08)

Sec. 25-71. - Street lights.

Each subdivision shall have street lights installed with a maximum spacing of three hundred (300) feet between each light, and arranged so that one (1) light is installed at every street intersection. The wiring shall be placed underground and the light mounted on a steel standard. The light intensity of each lamp shall be a minimum of sixteen thousand (16,000) lumens and the light shall be high pressure sodium vapor. Each subdivider will be required to pay to the city, annually for three (3) years (beginning from the date the lights are installed), a fee equal to the actual cost to the city for the upcoming year of installing and maintaining newly installed streetlights requested by such subdivider, which cost will be established by the city's power provider in the beginning of each year.

(Ord. No. 2005-24, § 1, 10-18-05; Ord. No. 2008-06, § 2, 5-20-08; Ord. No. 2008-18, § 3, 8-19-08)

**Note—** Formerly § 25-70

Sec. 25-72. - Subdivision—Unit of a larger tract.

Where the proposed subdivision constitutes a unit of a larger tract owned by the subdivider which is intended to be subsequently subdivided as additional units of the same subdivision, the preliminary and final plats shall be accompanied by a layout of the entire area showing the tentative proposed layout of streets, blocks, drainage, water, sewer and other improvements for such area. The overall layout, if approved by the commission, shall be attached to and filed with a copy of the approved subdivision plat in the permanent files of the city. Thereafter, plats of subsequent units of such subdivisions shall conform to such approved overall layout, unless changed by the commission. However, except where the subdivider agrees to such change, the commission may change such approved overall layout only when the commission finds:

- (1) That adherence to the previously approved overall layout will hinder the orderly subdivision of other land in the area in accordance with this chapter; or
- (2) That adherence to the previously approved overall layout will be detrimental to the public health, safety or welfare, or will be injurious to other property in the area.

(Ord. No. 2005-24, § 1, 10-18-05)

Sec. 25-73. - Large-scale neighborhood development.

The standards and requirements of the regulations contained in this chapter may be modified by the commission and city council in the case of a plan and program of development of a new town, a complete large residential community of neighborhood units, or mass housing project, which contains adequate provisions for circulation, recreation, light, air and service needs of the tract when fully developed and populated and equal to or better than the detailed requirements of the regulations of this Code and which also provides such covenants or other legal provisions as will assure conformity to the comprehensive master plan of the city.

(Ord. No. 2005-24, § 1, 10-18-05)

Secs. 25-74—25-85. - Reserved.

## DIVISION 3. - TOWNHOUSE SUBDIVISIONS

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### Sec. 25-86. - Definitions.

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

Open space shall mean private property under common ownership designated for recreation area, private park, play lot area, plaza area, and ornamental area open to general view and within the subdivision. Open space does not include streets, alleys, utility easements, and required building setbacks.

Townhouse or row house shall mean a structure which is one (1) of a series of dwelling units designed for single-family occupancy, which are connected or immediately adjacent to each other. However, a townhouse or row house shall not include a mobile home, manufactured housing and/or travel trailer.

Townhouse subdivision shall mean those developments in which it is proposed to partition land into individual lots and construct townhouses which may be individually owned.

(Ord. No. 2005-24, § 1, 10-18-05)

### Sec. 25-87. - Procedural requirements.

All persons proposing or intending to develop a townhouse subdivision within the city or within its extraterritorial jurisdiction shall comply with the procedural requirements set out in Article II of this chapter.

(Ord. No. 2005-24, § 1, 10-18-05)

### Sec. 25-88. - Streets and other public ways.

- (a) Interior streets shall have a minimum right-of-way width of fifty (50) feet and shall be developed with a minimum of a twenty-seven-foot paving section (inside of curb to inside of curb) with concrete curb and gutter in accordance with the current design standards. For the purposes of this section, interior streets may be public or private streets.
- (b) Access streets shall have a minimum right-of-way width of fifty (50) feet and shall be developed with a minimum of a thirty-six-foot pavement section (inside of curb to inside of curb).
- (c) All townhouse subdivisions shall have direct access streets to at least one (1) dedicated and accessible public street having a right-of-way width of not less than sixty (60) feet.
- (d) All townhouse lots shall have direct access to an interior street, an access street, or a rear access easement having a width of thirty-eight (38) feet and a twenty-eight-foot paving section (inside of curb to inside of curb). Dead-end access easements shall not be greater than two hundred (200) feet in length. All rear access easements shall not be dedicated as public rights-of-way, but shall be private rights-of-way and shall be privately maintained.
- (e) In the event private interior streets or private rear access easements are utilized in a townhouse subdivision, provisions shall be included in the restrictive covenants for such subdivision to ensure that there is adequate funding for the perpetual maintenance of such private streets and rear access easements.

(Ord. No. 2005-24, § 1, 10-18-05)

Sec. 25-89. - Building setback.

- (a) Building setback lines of twenty-five (25) feet shall be required on all lots fronting or backing on an access street.
- (b) Building setback lines of twenty (20) feet shall be required on all lots siding on access streets or upon a plat boundary.
- (c) No building setback lines shall be required on the sides of lots abutting interior streets, except where traffic safety or other factors necessitate the establishment of such setbacks.
- (d) Where townhouse lots and dwelling units are designed to face upon an open or common access court rather than upon a street, such open or common court shall be at least forty (40) feet wide and not more than two hundred (200) feet long, measured from the street upon which the court must open. Such court may not include vehicular drives or parking area in front of dwelling units.

(Ord. No. 2005-24, § 1, 10-18-05)

Sec. 25-90. - Lots.

- (a) Lot area shall be a minimum of two thousand five hundred (2,500) square feet.
- (b) Lot width shall be a minimum of twenty-five (25) feet.
- (c) Dwelling units may be constructed up to side lot lines, and openings shall not face a side lot line unless the side wall of the dwelling unit is at least ten (10) feet from the side lot line.
- (d) Lot size may be reduced under the provisions that open space be dedicated according to the following schedule:

For every one hundred (100) square feet of open space per lot, provided the minimum lot area may be reduced by two hundred (200) square feet. No lot shall, however, have a lot area of less than two thousand (2,000) square feet, and a width of less than twenty-five (25) feet.

| Open Space<br>Per Dwelling | Minimum Lot<br>Area (sq. ft.) |
|----------------------------|-------------------------------|
| 0                          | 2,500                         |
| 100                        | 2,300                         |
| 200                        | 2,100                         |
| 250                        | 2,000                         |
| 300                        | 1,900                         |
| 350                        | 1,800                         |

(e) The subdivision shall include two and one-half (2.5) parking spaces per townhouse lot. Garage parking spaces up to two (2) spaces per lot may be included in the total number of required spaces. All off-street parking shall be designated as such and comply with sections 6-416—6-418, Code of Ordinances.

(Ord. No. 2005-24, § 1, 10-18-05)

Sec. 25-91. - Utilities.

All utilities such as sanitary sewer, water, gas, telephone, television cable and electrical, shall be placed underground.

(Ord. No. 2005-24, § 1, 10-18-05)

Sec. 25-92. - Other requirements.

A townhouse subdivision shall meet all requirements of Divisions 1 and 2 of this article as well as all other requirements in this chapter, the provisions of this division being variations permitted especially for townhouse subdivisions.

(Ord. No. 2005-24, § 1, 10-18-05)

Secs. 25-93—25-105. - Reserved.

DIVISION 4. - PATIO HOME SUBDIVISIONS

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Sec. 25-106. - Definitions.

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

Open space shall mean private property under common ownership designated for recreation area, private park, play lot area, plaza and ornamental area open to general view within the subdivision. Open space does not include streets, alleys, utility easements and required building setbacks.

Patio home shall mean a structure which is a series of dwelling units designed for single-family occupancy, which are constructed on a lot which shall have a minimum area of six thousand (6,000) square feet and shall have a zero offset on one (1) side of the lot. However, a patio home shall not include a mobile home, manufactured housing and/or travel trailer.

Patio home subdivision shall mean those developments in which it is proposed to partition land into individual lots and construct patio homes which shall be individually owned and where the offset of a structure shall be zero on one (1) side of the lot with an easement of ten (10) feet granted on the opposite side to the adjoining property owner for maintenance purposes.

(Ord. No. 2005-24, § 1, 10-18-05)

Sec. 25-107. - Procedural requirements.

All those persons proposing or intending to develop a patio home subdivision shall comply with the procedural requirements set out in article II of this chapter.

(Ord. No. 2005-24, § 1, 10-18-05)

Sec. 25-108. - Streets and other public ways.

- (a) Access streets shall have a minimum right-of-way width of sixty (60) feet and shall be developed with a minimum of a thirty-six-foot paving section (inside of curb to inside of curb) with concrete curb and gutter in accordance with current design standards.
- (b) Interior streets shall have a minimum right-of-way width of sixty (60) feet and shall be developed with a minimum of a twenty-eight-foot paving section (inside of curb to inside of curb) with concrete curb and gutters in accordance with current design standards.

(Ord. No. 2005-24, § 1, 10-18-05)

Sec. 25-109. - Reserved.

Sec. 25-110. - Lots.

- (a) Lot area shall be a minimum of six thousand (6,000) square feet.
- (b) Lot width shall be a minimum of fifty-five (55) feet. Cul-de-sac/radial lot width shall be a minimum of forty-five (45) feet at the street right-of-way with a minimum width of fifty-five (55) feet at the front building line.
- (c) Dwelling units shall be constructed with a zero lot line clearance on one (1) side of lot. Doors shall not be installed in sides with zero lot line clearance.
- (d) Ten (10) feet must be maintained between sides of any two (2) dwelling units placed on adjacent lots.
- (e) Deed restrictions for zero lot line clearance must provide a ten-foot easement to the owner whose dwelling unit is on the property line for maintenance purposes.
- (f) Deed restrictions must provide that: "No autos, trucks, boats, campers, other trailers, or vehicles of any kind shall ever be left parked on the grass or yard except as provided for in paved off-street parking space and then only as temporary parking incident to the contemporaneous use of such vehicle or object, nor shall same be left parked on any lot unless parked inside a garage."

(Ord. No. 2005-24, § 1, 10-18-05)

Sec. 25-111. - Utilities.

All utilities such as sanitary sewer, water, gas, telephone, television cable, and electrical service shall be placed underground.

(Ord. No. 2005-24, § 1, 10-18-05)

Sec. 25-112. - Other requirements.

- (a) A patio home subdivision shall meet all requirements of division 1 and 2 of this article as well as all other requirements in this chapter, the provisions of this division being variations permitted especially for patio home subdivisions.
- (b) A patio home subdivision shall contain no less than twenty (20) lots and shall be located on no less than three (3) acres.

(Ord. No. 2005-24, § 1, 10-18-05)

## DIVISION 5. - PLANNED UNIT DEVELOPMENT

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### Sec. 25-113. - Planned unit development.

A planned unit development (PUD) promotes the development of a tract of land in a unified manner and may allow for deviation from the development standards in this Code and in such other ordinances as may exist. Variances to the established criteria for lot widths, lot depths, building lines and location of open space may be considered for recommendation and approval as part of a PUD when the following requirements are met:

- (1) All single-family residential lots shall front on a public street right-of-way.
- (2) Provision shall be made for adequate separation between the fronts of buildings.
- (3) Lot widths and depths shall be adequate for residential construction in accordance with established building codes.
- (4) Building lines shall be established to provide adequate off-street parking for each residential unit.
- (5) Provision shall be made for compensating open space with the PUD.
- (6) Justification shall be made for the design of the subdivision.
- (7) A finding shall be made that there is no negative impact on health, safety or welfare in the area.

(Ord. No. 2005-24, § 1, 10-18-05)

## DIVISION 6. - DUPLEX SUBDIVISIONS

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### Sec. 25-114. - Duplex subdivision.

For purposes of this chapter, "duplex" shall be defined as a building containing two (2) dwelling units to be occupied by two (2) families living independently of each other. A duplex subdivision shall meet all of the requirements of division 1 and 2 of this article, as well as all other requirements in this chapter, the provisions of this division being variations permitted specifically for duplex subdivisions. The following building lines, set back lines, and parking requirements shall be established for all duplexes/duplex subdivisions, and so indicated on all subdivision plats as delineated below:

- (1) Minimum lot size. The minimum lot size shall be eight thousand (8,000) square feet.
- (2) Minimum lot width. The minimum lot width shall be eighty (80) feet.
- (3) Minimum rear setback. The minimum rear setback shall be twenty-five (25) feet.
- (4) Setback—Corner lots.
  - a. A minimum building setback of twenty-five (25) feet shall be provided on the front and fifteen (15) feet on the side of all corner lots where such lots side upon minor streets.
  - b. A minimum building setback of twenty-five (25) feet shall be provided on the front and twenty (20) feet on the side of all corner lots where such lots side upon collector streets.
  - c. A minimum building setback of twenty-five (25) feet shall be provided on the front and twenty-five (25) feet on the side of all corner lots where such lots side upon thoroughfares.
- (5) Setback—Interior lots. A minimum building setback of twenty-five (25) feet shall be provided on the front and ten (10) feet on each side of all interior lots fronting on minor and collector streets and thoroughfares.
- (6) Minimum on-site parking. There shall be a minimum of four (4) on-site covered parking spaces per duplex within the required building lines, setback requirements.

- (7) Access restriction. There shall be no driveway access permitted to any lot from a collector or thoroughfare street.

(Ord. No. 2005-24, § 1, 10-18-05)

Sec. 25-115. - Reserved.

**ARTICLE IV. - PARK LAND, PUBLIC SITES AND OPEN SPACES**

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Sec. 25-116. - Areas for public use.

The subdivider shall give consideration to suitable sites for parks, playgrounds, schools, and other areas for public use so as to conform to with the recommendations of the city council and comprehensive master plan. Any provisions for schools, parks, and other public uses, shall be indicated on the preliminary plat.

(Ord. No. 2005-24, § 1, 10-18-05; Ord. No. 2006-08, § 2, 5-16-06)

Sec. 25-117. - Park land dedication.

- (a) Purpose of land dedication requirements. This section is enacted in accordance with the home rule powers of the city, granted under the Texas Constitution, and the Statutes of the State of Texas, including, but not by way of limitation, Texas Local Government Code, Chapter 212, as amended. It is hereby declared by the city council that open space and recreational areas in the form of parks are necessary for the health, safety, and welfare of the public. It is further ;declared by the city council that the only procedure to provide for such open space and recreational areas is by integrating such a requirement into the procedure for the planning and development of property or subdivisions in the city limits or extraterritorial jurisdiction of the city. All single-family and multiple-family residential subdivisions, therefore, shall be required to comply with this section.

The primary purpose of the parkland requirements is to ensure that the need for parkland that arises from new development is satisfied by the development, so that those who generate the need for park areas and recreation facilities contribute their proportionate share. Accordingly, when new development occurs, a reasonable contribution is to be made for open space for those who live in the new development so that they may engage in active and passive recreational activities within or near the new development. In some instances, the need for parks resulting from new development may be addressed most effectively through the development and acquisition of community or regional parks, or the improvement or expansion of an existing park, serving several neighborhoods.

It shall be required that a developer of any residential subdivision set aside and convey to the public sufficient and suitable lands for the purpose of parkland, or contribute cash in lieu of land conveyance, or a combination thereof, as determined by the planning and zoning commission.

The requirements for the conveyance of parkland established by this section are based in part on the goals and recommendations, needs and standards set forth in the parks and recreation master plan, as amended from time to time, and adopted by the city council. The master plan describes the needs prioritization and implementation plan, standards for parks and recreation units, as well as goals and objectives.

- (b) Application. This section applies to all property within the city limits and extraterritorial jurisdiction of the city. This section also applies to subdivision applications submitted after the effective date of this section, for which plat approval is sought under Chapter 25, Subdivision Regulations, of the Code of Ordinances, as may be amended from time to time.
- (c) Exemptions. This section shall not apply and have no effect on the following:
  - (1) Any subdivision that a final plat application has been filed prior to the passage of this section.

- (2) A division of land into parts greater than five acres, where each part has access and no public improvement is being dedicated, pursuant to Texas Local Government Code, Section 212.004, Plat Required, Subchapter A, Regulation of Subdivisions.
- (3) Alterations or expansion of an existing residential unit or building of multiple units where no additional residential units are created and where the use is not changed.
- (4) The construction of accessory buildings or structures.
- (5) The installation of a replacement HUD-Code manufactured home.
- (6) The replacement of a destroyed or partially destroyed residential unit or building of multiple units with a new building of the same size and use.

Any claim of exemption shall be made no later than the time of application for preliminary plat approval. Any claim not so made shall be deemed waived.

(d) Definitions.

- (1) Cash contribution refers to an equivalent cash value contribution to the city for parkland property acquisition or parkland development costs in lieu of dedication of actual parkland property.
- (2) Community park refers to a larger park that serves a broader purpose than other types of parks. The main focus is on meeting community-based recreation needs, as well as preserving valued landscapes and open spaces. The location of community parks is determined by the quality and suitability of the site, relevant to its proximity to new development and other parks and open spaces. A community park serves two or more neighborhoods and has a primary service area within one mile of its location. A community park is sized to meet its needs and is typically a minimum of ten to 25 acres.
- (3) Effective date refers to the date upon which the city council adopted the ordinance enacting this section.
- (4) Land plan refers to a general master plan for an area proposed for partial or complete subdivision. The land plan shows the proposed locations of land uses, streets, phasing of development, important physical features, and other applicable information for the entire area to be subdivided.
- (5) Mini-park is intended for passive use and limited recreational activity of the immediate neighbors. They are typically developed within apartment complexes, manufactured home parks, and other heavily populated developments and are designed to serve the needs of the immediate population.
- (6) Neighborhood park refers to the basic unit of the park system, which is intended to serve as a recreational focus of the neighborhood. It is typically one quarter to one half mile distance from all areas it serves and uninterrupted by arterial roads, highways, and other barriers to safe use. The site should be accessible from throughout its service area by way of interconnecting sidewalks or trails. The minimum size of a neighborhood park is five acres. The shape of the parkland shall be conducive to meeting its purpose as an area for both active and passive recreation.
- (7) Open space is parkland that is to be kept essentially unimproved and dedicated for public or private use. The primary function of this type of parkland is to preserve vegetated areas and tree lines as well as to conserve sensitive resources. Open space may be required for dedication to the public or restricted by conservation easement in the favor of the city.
- (8) Parkland refers to the actual property on which the public park will be situated. It is also referred to as the property to be dedicated by the property owner to the city pursuant to these parkland dedication requirements.
- (9) Parkland contribution refers to the actual dedication of parkland property to the city by way of plat note and/or general warranty deed.

- (10) Parkland improvements include those improvements to the city-owned parkland that allow the parkland to be utilized as public parks, including, but not limited to, new construction, renovation, and replacement of existing facilities that are functionally obsolete or unsafe.
  - (11) Private park is one that is owned in fee and fully maintained by a homeowners' association or other designated organization. They are designed and constructed by the developer and for use of residents only within the neighborhood.
  - (12) Regional parks are large acreages that usually have distinct natural qualities for outdoor recreation, such as nature observance and habitat conservation, as well as active recreational areas for swimming, picnicking, hiking, fishing, boating, camping, and other uses. These facilities are a minimum of 150 acres in size and attract visitors within a one hour driving distance.
- (e) Park zones. Park zones established by the city council, after recommendation from the parks board, and shown on the parks and recreation system plan, which is included in the adopted Rosenberg Parks and Recreation Master Plan, shall be prima facie proof that any park located therein is within such a convenient distance from any residence located therein. The primary costs of neighborhood and community parks should be borne by the ultimate residential property owners who, by reason of the proximity of their property to such parks, shall be the primary beneficiaries of such facilities.

Therefore, the following requirements are established to effect the purposes stated above and shall apply to any land to be used for residential purposes.

- (f) Parkland dedication, fee in-lieu, and public or private development. Dedication of land suitable for parkland and recreation purposes or a contribution of cash in lieu of parkland shall be required for a subdivider who proposes to plat land under the city's subdivision regulations, as may be amended from time to time.

Subsequent change. If the actual number of completed dwelling units exceeds the figure upon which the original dedication or cash contribution was completed, such additional dedication or cash contribution shall be required, and shall be made by payment of cash in lieu of land, or by conveyance of an equivalent land area. All new lots within a replat or addition to an existing subdivision shall comply with the parkland dedication or cash contribution requirements as outlined in this subsection, as specified below.

Methods of dedication, contribution, or development:

- (1) Parkland dedication. Whenever a final plat is filed of record with the County Clerk of Fort Bend County for residential development in accordance with the platting regulations of the City, such plat shall contain a clear fee simple dedication of an area of land to the City for park purposes.
  - a. On-site conveyance of parkland. The amount of land required to be dedicated for parkland will be calculated at a rate of six and one-quarter acres of parkland per 1,000 residents, or an equivalent ratio thereof. The following formula shall be used to determine the amount of parkland to be dedicated:

$$6.25 \times (\text{No Units}) \times (\text{Persons/Unit}) = \text{Acres to be dedicated } 1,000$$

The number of persons per unit is based on an average household size of 3.00 persons per household.<sup>1</sup> This ratio shall be reviewed and adjusted from time to time, as necessary.

<sup>1</sup> Source: U.S. Census Bureau.

- i. Land plan. Parkland to be conveyed or privately owned shall be designated on the land plan with its general location and acreage denoted.
- ii. Preliminary and final plats. Parkland to be conveyed shall be designated as a reserve on both the preliminary and final plats as "Parkland Dedicated to the City of Rosenberg" with the perimeter dimensions and acreage denoted. A note referencing the dedication shall be placed

on the final plat. Parkland to be privately owned shall be designated as a private park reserve and so noted on both the preliminary and final plat.

- iii. Deed required. Prior to recording the final plat, the subdivider shall deliver to the city a deed, in a form approved by the city attorney, conveying parkland shown on the final plat as approved by the planning and zoning commission. The parkland deeded to the city shall not be subject to reservations of record, encumbrances or easements that will interfere with the use of the land for park purposes. The deed delivered to the city shall be recorded in conjunction with the recordation of the final plat.
- b. Off-site conveyance of parkland. Upon affirmative recommendation from the parks board and planning and zoning commission and approval of the city council, the city may accept parkland that is not part of a subdivision in order to meet the parkland requirement, subject to the following:
  - i. The site proposed to meet the parkland requirement is within the same park zone as that ordinarily required within the subdivision; and
  - ii. The site meets the park development standards of this section, as described in (g) below; and,
  - iii. The site exceeds that required by the subdivision or addition, as specified in (d)(1) above by 20 percent, and
  - iv. A deed shall be required in accordance with the provisions of 1.a.ii above.
  - v. No park less than ten acres in size shall be conveyed to the city.
- c. Park improvements required. Parkland conveyed to the city shall be improved as required by this paragraph. The subdivider shall indicate the proposed parkland improvement(s), which shall be constructed in accordance with the site plan, as required in (i) below. Such improvements shall be completed by the subdivider within the time period specified for construction of public improvements in (i) below. An improved park shall, at a minimum, include the following:
  - i. Paved frontage with curbs and gutters for all required street frontages abutting the outside perimeter of the parkland;
  - ii. A sidewalk or trail installed in the park, and/or sidewalk installed along all street frontage of the park with the location approved according to the approved site plan;
  - iii. Water, wastewater, electrical services, and all other utilities provided to the remainder of the subdivision shall be provided to the park as part of standard subdivision improvements;
  - iv. Lighting along those portions of the required street frontage(s) as well as ample overhead and/or bollard lighting within and throughout the park to provide for a safe and secure environment; and,
  - v. The grading of site and installation of grass with irrigation.
  - vi. Permanently constructed restroom facilities built to city standards and the requirements of the American's with Disabilities Act (ADA). Restroom facilities are required for parks that are three acres or larger in size. Developments for which the cumulative required park acreage is less than three acres in size shall pay a fee equal to 60 percent of the development fee required under subsection (f)(2) below;
  - vii. One playscape structure and edged fall surface area with a minimum capacity of 15 children, per industry standards;
  - viii. Covered picnic table, grill, and trash container at a rate of one per acre, or portion thereof;
  - ix. Drinking fountain at a rate of 0.25 per acre, but no less than one per park; and,
  - x. Park benches at a rate of two per acre, but no less than two per park.

All park areas and playground equipment shall be in accordance with the U.S. Consumer Products Safety Commission, Publication 325, as currently amended.

- (2) Cash in lieu of parkland. The city requires a dedication of land to satisfy at least a portion of the requirements of this section. The amount of parkland that must be dedicated shall equal at least 50 percent of the parkland dedication requirements, provided that the area of such amount equals at least 5,000 square feet. The city may, at its option, require a parkland fee to satisfy the remaining amount of parkland conveyance required, under the following circumstances:
- a. When less than five acres is required to be conveyed;
  - b. Where the proposed parkland does not meet the standards set forth in (g) below;
  - c. When a replat or amending plat within the city limits is submitted with increased density; or,
  - d. The city determines that sufficient park area is already in the public domain in the zone of the proposed development, or the potential for that area would be better served by expanding or improving an existing park or constructing a larger community or regional park suitable for several neighborhoods.

In-lieu fee amount. Where the payment of a fee-in-lieu of parkland dedication is required or acceptable to the city council as provided for in this section, such fee shall be in an amount of \$950.00 per residential dwelling unit.

Development fee. In addition to the fee in-lieu of land dedication, there shall also be a fee in the amount of \$750.00 per residential dwelling unit, which is equivalent to the amount of required improvements as specified in (f)(1)c. above.

Timing of payment. Such payment in lieu of land shall be made at or prior to the time of filing the final plat for record in the county deed records at the courthouse.

Use of cash contribution. Cash payments may be used only for acquisition or improvement of a neighborhood park located within the same park zone as the development. However, it is hereby provided that all fees may be applied to any type of park site if all requisite criteria for the other types of park facilities have been met, as determined by the city. Fees paid in lieu of land for neighborhood parks may be utilized for a community or regional park if such use satisfies the purposes of land dedication as provided for herein, as determined by the city.

Special fund; right to refund:

- a. There is hereby established a special fund for the deposit of all sums paid in lieu of parkland dedication under this section, which fund shall be known as the "Parkland Dedication Fund." Funds shall only be released from the parkland dedication fund upon city council approval of a plan to utilize the funds to build or enhance a park within the park zone from which the funds originated.
  - b. The city shall account for all sums paid in lieu of land dedication under this section with reference to the individual plats involved. Any funds paid in lieu of land must be expended by the city within ten years after the filing of the final plat, or the filing of the final plat of each phase or section of the contributing subdivision, if a phased development. Such funds shall be spent on a first in, first out basis for each area. If not so expended, the owner(s) of the property on the last day of such period shall be entitled to a pro rata refund of such sum, computed on a square footage of area basis. The owner(s) of such property must request such refund within one year of entitlement, in writing, or such right shall be barred.
- (3) Private parkland credit. Where park areas and recreational facilities are to be provided in a proposed subdivision, and where such areas and facilities are to be privately owned and maintained by the future

residents of the subdivision, these areas and facilities may satisfy the requirement of parkland dedication if the following standards are met:

- a. The private ownership and maintenance of such areas and facilities are adequately provided for by recorded written agreement, conveyance, or restrictions.
- b. The use of such areas and facilities are restricted for park and recreational purposes by a recorded covenant, which runs with the land in favor of the future owners of property and which cannot be defeated or eliminated without the consent of the city council.
- c. Such areas and facilities for which credit is given shall include improvements for the basic needs of a local park. These improvements must be equivalent to that required in (f)(1)c. above to ensure that new neighborhood parks are provided with minimum standard amenities. These improvements shall be required before the final acceptance of the subdivision by the city council after recommendation from the planning and zoning commission.
- d. All park areas and playground equipment shall be in accordance with the U.S. Consumer Products Safety Commission, Publication 325, as currently amended.
- e. Dedicated parkland must be established with grass by the developer. This grass and an irrigation system must be installed and approved by the city building official or designee. The homeowners' association is responsible for the irrigation and maintenance of the property.

Required documentation. In order to receive the private parkland credit, the subdivider shall provide documents to the city at the time of final plat filing sufficient to establish that the requirements of (c) above have been satisfactorily met. In the event that the subdivider proposes to construct the improvements at a later date, as in a phased development, the city shall require that the subdivider obtain a surety bond, performance bond, or other form of guarantee that the recreational amenities will be installed concurrent with the build-out of the subdivision, and in no case greater than two years. The city planner and parks director shall evaluate and approve the documentation submitted prior to any credit being given. In cases where the equivalency of the improvements are disputed, the required level of improvements shall be as finally determined by the city council.

Partial fee required. Subdividers who propose to provide private "resident only" parkland shall pay to the city an amount equal to ten percent the amount of the mandatory dedication determined in accordance with (f)(2) above for deposit in the city's parkland dedication fund for purposes of defraying the financial burden private subdivisions impose on public parks elsewhere in Rosenberg. The value of the dedication provided under this section shall be calculated as specified in (f)(2) above.

Dual park and easement, stormwater drainage facility, or nature reserve. Land that is encumbered by easements, detention areas, lake and drainage channel borders, or other similar characteristics will qualify for private neighborhood parkland in accordance with the following calculation. Twenty-five percent of encumbered private parkland will qualify for private neighborhood parks (0.25:1 ratio), up to 50 percent credit. Additional conditions apply to encumbered parkland, including:

- a. Detention areas shall have (i) side slopes of a 5:1 ratio unless otherwise approved by the city, (ii) gravity flow or a pumping system designed to remove all algae, (iii) a bottom with a minimum area of 50 feet by 100 feet in dimension unless otherwise approved by the city, and (iv) field areas with a level, domed design suitable for field sports. Plans with proposed amenities must be approved by the city council, after recommendation from the planning and zoning commission. Plans with proposed amenities must be submitted with the preliminary plat in order to receive credit for detention areas.
- b. Drainage ditches and lake borders shall have (i) side slopes of a 5:1 ratio unless otherwise approved by the city council, (ii) hike/bike all-weather paths, landscaping and sodding installed according to the construction standards of the city, (iii) an average minimum width of 30 feet and a minimum

width of 20 feet beyond top of bank, and (iv) drainage ditches and lake borders with meandering, natural contour appearances.

- c. Ten percent of lakes and nature reserves or land, which is generally undeveloped and unsuitable for organized recreational activities without substantial development effort, but which provides desirable aesthetic qualities, such as wetlands and other wooded areas, will qualify for private neighborhood parkland (0.10:1 ratio) up to 50 percent credit. Dry bottom detention ponds do not meet the definition of a lake or nature reserve.
- (4) City purchase of parkland. The city may from time to time decide to purchase land in or near the area of actual or potential development for a community park to serve such actual or potential development. If the city purchases parkland in a park zone, sufficient in size to entirely meet the needs of that zone, subsequent parkland dedications for that park zone shall be in cash. Such cash contribution shall be in the amount as specified in (2) above, which shall go toward reimbursement of the city for its costs to acquire and develop the land as a park.
- (g) Park development standards. Parkland conveyed to the city as provided in this section shall meet each of the standards set forth below:
- (1) The parkland shall have frontage on a street equal to or greater than the square root of the total square footage of park area to be conveyed.
  - (2) Unless otherwise approved by the city planner and parks director, parkland that is adjacent to a designated trail shall be designed and located within a subdivision or addition to allow for an extension or connection of a public park or public recreation facility within an abutting subdivision.
  - (3) A minimum of 50 percent of the dedicated parkland within a subdivision or addition shall be outside of the 100-year floodplain and shall have a size configuration and topography to be developable for active park purposes.
  - (4) Parkland shall not be encumbered with existing or proposed public utility easements or drainage channels that would unduly restrict the development of the site for recreational purposes.
  - (5) A proposed subdivision adjacent to a park or open space area shall not be designed to restrict reasonable access or visibility into the park. No lots shall have their rear yard abutting a public park unless public access is provided each 400 feet, or portion thereof.
  - (6) Street connections between residential neighborhoods shall be provided, wherever practicable, to provide reasonable access to parks and open space areas to all residents within reasonable proximity to such parks and open space areas. Proposed access and public availability of parkland, both physical and visual, shall be recommended by the planning and zoning commission and approved by the city council.
  - (7) In any instance where acreage is dedicated to the city or a homeowners' association as a park or greenway under this section, the dedicating party shall also dedicate a cleared access of at least 20 feet in width from a publicly dedicated street to the park or greenway. The city may waive this requirement if it determined that public street access is sufficient to meet the intent of this requirement.
  - (8) Areas within a school site may be utilized to partially meet the parkland dedication requirements upon approval of the planning and zoning commission and approval of the city council, as well as the school district board. Areas in a school site may receive a credit toward the required land dedication subject to approval by the planning and zoning commission and final approval by the city council. Such credit shall be on a case-by-case basis and subject to standards as may be determined and considered necessary and appropriate by the city.
  - (9) The location of dedicated parkland may be required at the edge of a subdivision so that additional land may be added at such time as adjacent land is subdivided or acquired for public use. Otherwise, a centralized location is preferred.

- (10) Any residential street built adjacent to a park shall be constructed to collector width to ensure access and prevent traffic congestion.
  - (11) Sites should have and retain existing trees or other scenic elements.
  - (12) Where a non-residential use must directly abut a park, the use must be separated by a screening wall or fence and landscaping. Access points to the park from the non-residential use may be allowed by the planning and zoning commission if a public benefit is established.
- (h) Parks and recreation master plan considerations. The parks and recreation master plan is intended to provide the city with a guide upon which to base future decisions. Because of the need to consider specific characteristics in the site selection process, the park locations indicated in the plan are general. The actual locations, sizes, and number of parks will be determined when development occurs. The plan will also be used to locate desirable park sites before development occurs, and those sites may be purchased by the city or received as donations.

Park zones are established in the parks and recreation system plan of the adopted Rosenberg Parks and Recreation Master Plan. These zones are configured to indicate the service areas for community parks. Neighborhood parks shall have a minimum separation of one-half mile from the boundaries of other neighborhood or community parks and shall, to the extent practicable, be distributed evenly across the designated park zones. The appropriate location and spacing of neighborhood parks shall be determined by the planning and zoning commission through the subdivision development process. Zone boundaries are established that follow, to the extent practicable, key topographic features such as major thoroughfares, streams, and city limit and extraterritorial jurisdiction (ETJ) lines.

- (i) Site plan submission and approval. A site plan must be submitted to the city planner and parks director for review, which shall be approved by the planning and zoning commission prior to final plat submittal or upon application of a building permit, as applicable. Such site plan shall include the following:
- (1) North arrow and scale.
  - (2) Vicinity map indicating the general location of the site and its relationship with adjacent and nearby streets, watercourses and similar features in all directions from the site to a distance of 200 feet.
  - (3) Existing and finished grades or contours at one foot intervals.
  - (4) Identification of any areas on the site or within 200 feet that is within the 100-year floodplain.
  - (5) Sufficient dimensions to indicate relationship between buildings, property lines, parking areas, fields and courts, playground areas, and other elements of the plan.
  - (6) Proposed location of buildings and other structures, fields and courts, playground areas, parking areas, drives, screening, drainage patterns, public streets and any existing easements.
  - (7) Location, massing and pattern of existing vegetation and the general extent and character of proposed landscaping and tree preservation.
  - (8) Existing streams, drainage channels, and other bodies of water.
  - (9) Focal points and site amenities.
  - (10) Existing structures on the site and within 100 feet of the site.
  - (11) Street and traffic patterns affecting the site including the location of traffic control devices.
  - (12) Pedestrian and vehicular circulation patterns and improvements.
  - (13) Surrounding uses, activities and influences of the site and adjacent properties within 200 feet, including:
    - a. Any public streets.

- b. Any drives that exist or which are proposed to the degree that they appear on plans on file with the city.
  - c. Any buildings that exist or are proposed to the degree that their location and size are shown on plans on file with the city. One- and two-family residences may be shown in approximate location and general size and shape.
  - d. The location, size, cross-section and calculation of any drainage structures, such as culverts, paved or earthen ditches or storm sewers and inlets.
- (14) Typical building elevations depicting the style, size and exterior construction materials of the buildings proposed. Where several building types are proposed on the plan a separate sketch shall be prepared for each type.
  - (15) The boundary lines of the area included in the site plan, including bearings, dimensions and reference to a point on a recorded plat.
  - (16) Proposed utility connection layouts for water, sewer and electricity.
  - (17) Name and address of the land owner, applicant, architect, landscape architect, planner, engineer, surveyor, or other person involved in the preparation of the plan.
  - (18) Date of preparation of the site plan.
  - (19) Signature block for appropriate city officials.

Within 12 months from the date of site plan submission, the subdivider or landowner shall submit detailed plans and specifications for review and approval, which shall be in substantial compliance with the site plan. The construction of all improvements shall be complete within 12 months from the date of approval of the plans and specifications.

Completion and acceptance. Park development will be considered complete and a certificate of completion will be issued after the following requirements are met:

- (1) Improvements have been constructed in accordance with the approved plans.
- (2) All parkland upon which the improvements have been constructed have been dedicated as required by this section.
- (3) All manufacturer warranties have been provided for any equipment.

Upon issuance of a certificate of completion, subdivider or landowner warrants the improvements for a period of one year. The subdivider and/or landowner shall be liable for any costs required to complete park development if:

- (1) Subdivider fails to complete the improvements in accordance with the approved plans.
  - (2) Subdivider fails to complete any warranty work.
- (j) Consideration and approval. Unless provided otherwise in this section, an action by the city shall be by the city council, after consideration of the recommendations of the planning and zoning commission and, as applicable, the parks board.
  - (k) Review of dedication requirements. The city shall review the fees set forth in this section each year. The city shall take into account inflation as it affects land and park development costs as well as the city's targeted level of service for parkland per 1,000 population.

(Ord. No. 2005-24, § 1, 10-18-05; Ord. No. 2006-08, § 2, 5-16-06; Ord. No. 2007-28, § 1, 8-21-07)

Sec. 25-118. - School sites.

School sites for public schools shall be coordinated with the appropriate school district within whose jurisdiction the plat lies.

(Ord. No. 2005-24, § 1, 10-18-05; Ord. No. 2006-08, § 2, 5-16-06)

Sec. 25-119. - Public facilities.

Public facilities such as fire stations, libraries, municipal, schools, county, and municipal utility district buildings shall be indicated on a plat. The location of these facilities shall be coordinated with the applicable governing body and in compliance with the comprehensive plan of the city.

(Ord. No. 2005-24, § 1, 10-18-05; Ord. No. 2006-08, § 2, 5-16-06)

Sec. 25-120. - Wetlands.

If there are any areas previously designated which constitute wetlands by federal law, these areas shall be indicated on the plat and any restrictions on these areas shall be noted on the plat.

(Ord. No. 2005-24, § 1, 10-18-05; Ord. No. 2006-08, § 2, 5-16-06)

Secs. 25-121—25-130. - Reserved.

**ARTICLE V. - IMPROVEMENTS AND ACCEPTANCE OF THE SUBDIVISION**

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Sec. 25-131. - Improvements.

- (a) The requirements of the subdivision regulations as set forth below are designed and intended to ensure that for all subdivisions of land within the scope of the subdivision regulations, all improvements as required herein are installed in a timely manner in order that:
  - (1) The city can provide for the orderly and economical extension of public facilities and services;
  - (2) All purchases of property within the subdivision shall have a usable buildable parcel of land.
  - (3) All required improvements are constructed in accordance with city standards.
- (b) The public improvements required by the city for the acceptance of the subdivision by the city shall include, but are not limited to the following:
  - (1) Water and sewer facilities;
  - (2) Drainage facilities;
  - (3) Streets;
  - (4) Street lights;
  - (5) Street signs;
  - (6) Traffic control devices required as part of the project and appurtenances to the above, and any other public facilities required as part of the proposed subdivision; and
  - (7) Public land or public park construction.

- (c) All aspects of the design and implementation of public improvements shall comply with the current design standards and any other applicable city codes and ordinances, including preparation and submittal of construction plans and construction inspection.
- (d) All subdivisions in the extraterritorial jurisdiction shall also be reviewed and approved by the county engineer's office and the county commission.
- (e) Prior to the final approval of construction of the streets and utilities, monumentation for the subdivision shall be in place for the perimeter, right-of-way corners, angle points, and points of curvature using an iron pipe or rod of not less than five-eighths (5/8) inch in diameter and thirty-six (36) inches long and set flush with finished grade or top of curb. Plat boundary corners shall be set and shall include a cap or tag with the surveyor's identification. Acceptance by the city shall be contingent upon proper documentation. All lot corner monuments shall be set prior to the issuance of a building permit or the beginning of principal building construction. The lot corner monuments shall be iron rods not less than one-half (1/2) inch in diameter and twenty-four (24) inches in length.
- (f) The final approval of the construction and acceptance of the improvements in a subdivision shall be in accordance with the guidelines established in the current design standards.
- (g) The city shall not issue any permits for construction within the subdivision, within the corporate limits, except permits to construct public improvements until such time as all public improvements of the subdivision have been constructed and accepted by the city or a certified check, performance bond or letter of credit is provided to and accepted by the city. A notation stating the above shall appear on each final plat.
- (h) Before considering the final plat of a subdivision located all or partially within the city and/or the city's extraterritorial jurisdiction, the city council must be satisfied that all public improvements required will be constructed in accordance with the design standards requirements. The subdivider shall, unless the city council has determined otherwise, guarantee these public improvements will be constructed in one (1) of the following ways:
  - (1) Deposit a certified check with, and payable to, the city in an amount equal to the cost to complete such public improvements, including the cost of remaining engineering and inspection services.
  - (2) Furnish the city with a performance bond executed by a surety company authorized to do business in the State of Texas in an amount equal to the cost to complete such public improvements. The performance bond shall be subject to the approval of the city attorney and must be executed by a corporate surety in conformance to Article 5160 V.A.C.S.; or
  - (3) The subdivider shall furnish the city with a letter of credit payable by an acceptable financial institution to the city in a form approved by the city attorney, guaranteeing the payment of an amount equal to the cost to complete such public improvements. The letter of credit shall be irrevocable and shall be for a term sufficient to cover the twelve-month period plus an additional thirty (30) calendar days and require only that the city present the issuer a letter signed by an authorized representative of the city certifying to the city's right to draw or collect funds under the specific terms of the letter of credit.
  - (4) As an alternative to providing one (1) of the above financial securities, the following may occur:
    - a. Upon approval of the final plat by the city council and prior to it being signed by the city council members, and before said final plat shall be allowed to be recorded in the plat records of the county, the subdivider requesting final plat approval shall, within the time period for which the final plat has been approved by the city, construct all improvements as required by these subdivision regulations and provide a surety instrument guaranteeing their maintenance as required herein. In the event that all public improvements have not been constructed at the time the subdivider requests plat recordation, the subdivider shall provide financial security as described in paragraphs 1., 2. or 3., above in the amount of the improvements not previously constructed. Prior to city council granting this specific approval, the subdivider must request in a letter to the city that the plat will not be

recorded in the deed records of the county until such public improvements are constructed or otherwise guaranteed.

- b. In all instances the original copy of the final plat without benefit of required signatures of city officials shall be held in escrow by the administrative officer and shall not be released for any purpose until such time as the conditions of the approval are complied with.
- c. Upon the requirements of this section being satisfied, the final plat shall be considered fully approved, except as otherwise provided for in these regulations. The original copy of the final plat shall be signed by the appropriate city officials and the administrative officer shall cause said final plat to be filed in the plat records of the county, or forwarded to the county for final approval and recordation.
- d. In the event that a performance bond or a letter of credit is the method selected by the subdivider for guaranteeing such improvements, such document shall be subject to the condition that the public improvements will be completed within twelve (12) months after approval of the final plat by the city council, unless a longer time shall be approved by the city council upon the determination that such longer time period would not be unreasonable. In the event that the required public improvements guaranteed by such performance and/or such letter of credit are not or will not be completed within the time specified by the city council, the city council shall have the authority to extend the time period within which the subdivider shall complete the public improvements, subject to the extension of the expiration date of the approval of the plat and the performance bond or letter of credit.

(i) Security.

- (1) Waiver of security. The city council may waive all or a portion of the security requirements of this section if it finds that the public health, safety and general welfare will not be harmed by such waiver. The city council shall take into consideration the extent of public improvements to be installed, the likelihood that such improvements will be installed by the subdivider within the twelve-month period, the impact that may result if such improvements are not timely installed, and the hardship to the subdivider if the security requirements are imposed.
- (2) Release of security. As a portion of the public improvements are completed in accordance with the design standards, the subdivider may make application to the administrative officer to reduce the amount of the original letter of credit, performance bond or certified check. If the city council is satisfied that such portion of the public improvements has been completed in accordance with current design standards, the city council may cause the amount of the letter of credit, performance bond or certified check to be reduced by such amount that the city council deems appropriate, so that the remaining amount of the letter of credit, performance bond or certified check adequately insures the completion of the remaining public improvements.
- (3) Determination of amount. A professional engineer licensed to practice in the State of Texas shall furnish estimates of the costs of engineering and construction of all required improvements to the administrative officer who shall review the estimates in order to determine the adequacy of the guarantee instrument for insuring the construction of the required facilities.
- (4) Coordination with county. If the project is located in the extraterritorial jurisdiction and is subject to county bonding requirements, the subdivider may provide the financial security conforming to the above requirements in the name of the county, provided that the current county regulations stipulate that the security will not be reduced or released without written approval by the administrative officer, and provided that the instrument is transferable from the county to the city upon annexation.

(j) Approval of final plats shall be deemed to have expired in subdivisions for which no assurances for completion have been posted or the improvements have not been completed within the period of one (1) year. In those cases where a surety instrument has been required and improvements have not been completed within the

terms of said surety instrument, the city shall declare the surety to be in default and require that all the improvements be installed, unless extended under the provisions of this section.

- (k) The city shall inspect all required improvements to ensure compliance with city requirements and approved construction plans. When all required improvements have been satisfactorily completed, the city shall either accept, in writing, the improvements as having been satisfactorily completed, or shall issue a punch list to the developer denoting items remaining to be completed. The city shall not accept dedications of required improvements nor release or reduce a performance bond or other assurance until such time as it determines that:
  - (1) All improvements have been satisfactorily completed;
  - (2) The required number of "as built" plans, in both hard copy and electronic formats, have been submitted to and accepted by the city;
  - (3) The required maintenance guarantee has been provided; and
  - (4) Any and all other requirements identified in this chapter or other city codes and ordinances have been satisfied.
- (l) Before the release of any instrument guaranteeing the construction of required subdivision improvements or the signing of the final plat where subdivision improvements were made prior to the filing of the final plat for recordation, the subdivider shall furnish the city, if in the city limits, or the county, if in the extraterritorial jurisdiction, with a maintenance bond or other surety instrument to assure the quality of materials, workmanship and maintenance of all required improvements. The maintenance bond or other surety instrument shall be approved by the city attorney as to form, sufficiency, and manner of execution. Said bond shall be in compliance with the design standards. Whenever a defect or failure of any required improvement occurs within the period of coverage, the city may require that a new maintenance bond or surety instrument be posted for a period of one (1) full calendar year sufficient to cover the corrected defect of failure.

(Ord. No. 2005-24, § 1, 10-18-05)

Sec. 25-132. - Flood damage prevention.

The lowest elevation of the first floor of all principal buildings is to be constructed at least one (1) foot above the one hundred-year floodplain. All public streets are to be designed such that the lowest top of curb elevation is equal to or above the one hundred-year floodplain elevation. The one hundred-year floodplain is considered to be the one hundred-year water surface elevation in the outfall channel or receiving stream designated to receive storm runoff from the proposed development. For levied areas subject to multiple outlet condition analysis conforming to the county's criteria, the aforementioned requirement is to be met for all conditions. Special consideration may be given to tracts containing natural aesthetic amenities within existing developed areas and served by existing outfall drainage facilities, where the addition of fill would result in the destruction of the amenities, and for which there is no other feasible method to meet the aforementioned criteria.

(Ord. No. 2005-24, § 1, 10-18-05)

Secs. 25-133—25-135. - Reserved.

**ARTICLE VI. - MISCELLANEOUS**

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**Sec. 25-136. - Map update.**

The developer shall submit to the city a digitized copy of the entire subdivision at a scale appropriate to update the city maps and subdivision map. This copy shall comply with requirements established in section 25-35, Final Plat, subsection (n)(2).

(Ord. No. 2005-24, § 1, 10-18-05)

**Sec. 25-137. - Schedule of fees.**

The following fees shall be charged and paid by any applicant seeking any authority under this chapter. All fees must be paid at the time an application for authority hereunder is made in accordance with the provisions of this chapter and in the amounts as herein specified:

- (1) Land plan/conceptual plan .....\$200.00
- (2) Preliminary plat:
  - a. Base .....500.00
  - b. Plus, per lot .....2.00
  - c. Plus, per acre of reserve .....10.00
- (3) Final plat:
  - a. Base .....300.00
  - b. Plus, per lot .....1.00
  - c. Plus, per acre of reserve .....5.00
- (4) Variance request .....200.00
- (5) Plan review fee—In an amount as determined by Chapter 6, section 6-27(7)(e) of the Code of Ordinances
- (6) Inspection fee, for water, sanitary sewer, drainage, and street improvements. Applicant shall provide estimated costs, and supporting information for determination of the cost of the project. These fees shall be payable on the earlier of the time of platting or upon request for a building permit. The fee shall be as follows:
  - a. One (1) percent of actual construction cost of projects of ten thousand dollars (\$10,000.00) or less, or
  - b. One hundred dollars (\$100.00) plus three-fourths ( $\frac{3}{4}$ ) of one (1) percent of actual construction cost on the incremental project value over ten thousand dollars (\$10,000.00) but less than fifty thousand dollars (\$50,000.00), or
  - c. Four hundred dollars (\$400.00) plus one-half ( $\frac{1}{2}$ ) of one (1) percent of actual construction cost on the incremental project value in excess of fifty thousand dollars (\$50,000.00).
- (7) An applicant seeking authority under this Chapter 25, "Subdivisions" shall not be required to pay the fee for a building permit for the construction of water, sanitary sewer, drainage, and street improvements. However, the applicant shall be required to obtain a building permit before any construction is commenced.
- (8) Adjustments.

- a. Adjustments to the above referenced fees and charges for application for authority hereunder shall be established from time to time by ordinance by the city council.
- b. Such fees and charges shall be imposed on all applications seeking authority under this chapter regardless of the action taken by the commission and city council thereon. Additional fees shall be collected for the purpose of defraying the costs of administrative, clerical, inspection services and professional fees necessary to properly investigate the request for authority hereunder, as required prior to any final approval.

(Ord. No. 2005-24, § 1, 10-18-05)

**Exhibit "B"**  
**Ordinance No. 2014-01**  
**Adopted 1-21-2014**

**Table 14**

**\*EFFECTIVE (COLLECTED) IMPACT FEES FOR VARIOUS WATER METER SIZES  
CITY OF ROSENBERG**

| METER TYPE | METER SIZE  | MULTIPLIER | <u>EFFECTIVE (COLLECTED) IMPACT FEE</u> |              |                |
|------------|-------------|------------|---|--------------|----------------|
|            |             |            | WATER                                   | SEWER        | BOTH           |
| SIMPLE     | 5/8" X 3/4" | 1.000      | \$3,471.00                              | \$1,234.00   | \$4,705.00     |
| SIMPLE     | 3/4"        | 1.500      | \$5,206.50                              | \$1,851.00   | \$7,057.50     |
| SIMPLE     | 1"          | 2.500      | \$8,677.50                              | \$3,085.00   | \$11,762.50    |
| SIMPLE     | 1-1/2"      | 5.000      | \$17,355.00                             | \$6,170.00   | \$23,525.00    |
| SIMPLE     | 2"          | 8.000      | \$27,768.00                             | \$9,872.00   | \$37,640.00    |
| COMPOUND   | 2"          | 8.000      | \$27,768.00                             | \$9,872.00   | \$37,640.00    |
| TURBINE    | 2"          | 10.000     | \$34,710.00                             | \$12,340.00  | \$47,050.00    |
| COMPOUND   | 3"          | 16.000     | \$55,536.00                             | \$19,744.00  | \$75,280.00    |
| TURBINE    | 3"          | 24.000     | \$83,304.00                             | \$29,616.00  | \$112,920.00   |
| COMPOUND   | 4"          | 25.000     | \$86,775.00                             | \$30,850.00  | \$117,625.00   |
| TURBINE    | 4"          | 42.000     | \$145,782.00                            | \$51,828.00  | \$197,610.00   |
| COMPOUND   | 6"          | 50.000     | \$173,550.00                            | \$61,700.00  | \$235,250.00   |
| TURBINE    | 6"          | 92.000     | \$319,332.00                            | \$113,528.00 | \$432,860.00   |
| COMPOUND   | 8"          | 80.000     | \$277,680.00                            | \$98,720.00  | \$376,400.00   |
| TURBINE    | 8"          | 160.000    | \$555,360.00                            | \$197,440.00 | \$752,800.00   |
| COMPOUND   | 10"         | 115.000    | \$399,165.00                            | \$141,910.00 | \$541,075.00   |
| TURBINE    | 10"         | 250.000    | \$867,750.00                            | \$308,500.00 | \$1,176,250.00 |
| TURBINE    | 12"         | 330.000    | \$1,145,430.00                          | \$407,220.00 | \$1,552,650.00 |

\* Landscape Irrigation Meters - No Impact Fee shall be collected for water taps exclusively for Landscape Irrigation systems.

Reference Ordinance No. 2014-03 - Section 29-269(e) Code of Ordinances adopted 1-24-14.

**EFFECTIVE JANUARY 1, 2014, THE  
RECENTLY ADOPTED 2012 INTERNATIONAL  
CODES WILL BE ENFORCED:**

***All plans submitted after January 1, 2014 must  
be designed to the following codes:***

2012 International Building Code  
2012 International Residential Code  
2012 International Mechanical Code  
2012 International Plumbing Code  
2012 International Fire Code  
2012 International Fuel Gas Code  
2012 International Existing Building Code  
2012 International Swimming Pool and Spa Code  
2009 International Energy Code  
2011 National Electrical Code