

City of Iowa Colony
Balance Sheet
 As of August 31, 2021

	Aug 31, 21
ASSETS	0.00
LIABILITIES & EQUITY	
Equity	
American Rescue Plan Fund	400,545.99
Baseball Field Reserve	587.50
Baymark Pipeline LLC	
Baymark P - Engr/Inspctn/Legal	20,540.04
Baymark Pipeline LLC - Other	182,437.50
Total Baymark Pipeline LLC	202,977.54
Cherry Crushed Concrete	23,200.00
DR Horton/MUD 87	15,569.80
Early Plat- SVW Section 3	-0.01
Early Plat - Sierra V W Sec 5	1,023,560.86
Early Plat SVW Sub Sec 4	516,997.88
Formosa/Lav pipeline-TRC	10,826.04
M2E3/EnterprisePipeline	-24,533.24
Meridiana Escrow	4,455.00
Old Airline Market- Axis Dev.	207.50
Sierra Vista- Land Tejas	-3,442.70
Sierra Vista West- Land Tejas	41,143.17
South Texas NGL Pipeline, LLC	
South TX NGL -Engr/Inspct/Legal	21,027.56
South Texas NGL Pipeline, LLC - Other	183,022.50
Total South Texas NGL Pipeline, LLC	204,050.06
Sterling Lakes - Land Tejas	-8,960.91
1002401 · Capital Contribution-CR 64	1,731,000.00
1002406 · Earlt Platting Escrow Sec. 13	-0.01
1002501 · Property Delq Tax - TIF 100%	-0.30
1002502 · Property Tax TIF-100%	10,148.27
1003600 · Opening Balance Equity	739,319.07
1003601 · Retained Earnings	-95,466.00
Total Equity	4,792,185.51
TOTAL LIABILITIES & EQUITY	4,792,185.51



IOWA COLONY POLICE DEPARTMENT

12003 Iowa Colony Blvd.
Iowa Colony, Texas 77583

Aaron I. Bell
Chief of Police

Phone: (281) 369-3444
Fax: (281) 406-3722

Monthly Report August 2021

Offense	Reported
Burglary	3
Theft	2
Robbery	0
Total Index Crimes Reported	4
Reports Taken	
Misdemeanor	22
Felony	11
Charges Filed/Arrests	
Misdemeanor	5
Felony	2
Outside Agency Warrant Arrest	1
Traffic Enforcement	
Citations	188
Warnings	29
Crash Investigations	
Minor Crashes	4
Major Crashes	3
Fatality Crashes	1
Calls for Service	
Alarms	34
Assist Other Agency	46
Disturbance	7
Fire	1
Other	222
Security Checks	690
Suspicious Activity/Persons	17

Significant Events

- August 2 – A fatality crash occurred on SH 288 just north of Cedar Rapids Pkwy. The driver of a Polaris Slingshot rear-ended another vehicle resulting in his death.
- August 12 – A report was taken in the 2500 block of CR 62 for Deadly Conduct. The complainant stated that a bullet hit their house and caused damage to a window and sheetrock. No suspects were identified at the time of the report.
- August 14 – Officers were dispatched to the 8600 block of Iowa Colony Blvd for a disturbance. An individual was arrested for Assault.



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- August 14 – Officers were notified that an off-duty police officer had witnessed occupants of a vehicle shooting a gun out of the vehicle in the 2500 block of CR 62. The off-duty officer followed the vehicle into Sterling Lakes where Iowa Colony Police officers were able to stop the vehicle. Two occupants in the vehicle were arrested for Deadly Conduct and Unlawful Carrying of a Weapon. These same individuals were believed to be involved in the previous deadly conduct case on August 12. Additional charges are pending further investigation.
- August 16 – Officer was dispatched to assist Brazoria County Sheriff's Office in the 9100 block of Pilgrim Circle for a disturbance. Upon arrival the officer attempted to detain the suspect who then resisted arrested. The subject was arrested for Resisting Arrest and Assault.
- August 23 – Officer was dispatched to the 9400 block of Gold Mountain Dr. in reference to a disturbance. An individual was arrested for Aggravated Assault with a Deadly Weapon.
- August 28 – Officers were dispatched to the 1400 block of Green Paradise Dr. regarding a disturbance. An individual was arrested for Assault.
- August 31 – Officer was dispatched to the 3200 block of Meridiana Pkwy to assist Brazoria County Sheriff's Office for a male subject causing a disturbance. Upon arrival the officer attempted to detain the subject and he resisted. The subject was arrested for Resisting Arrest and Assault on a Public Servent.



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CODE COMPLIANCE / ANIMAL CONTROL

Completed a total of 46 Calls for Service, for Code Compliance and Animal Control.

City Ordinance Violations	14	<ul style="list-style-type: none">• 3500 Bay Dr. – Junk Vehicle - Pending• Meridiana Subdv. – Food Truck/No Permit• 4200 Cedar Rapids – Fill Dirt – Permit Required – Abated• ICB @ Iowa School – High Weeds - Abated
Stake Signs	3	<ul style="list-style-type: none">• Total of (10) Stake/Bandit Signs picked up and disposed of at City Hall - Abated
Special Assignment	5	<ul style="list-style-type: none">• Working ICPD Dispatch, 8-2-21 / 8-6-21
Bite Case	1	<ul style="list-style-type: none">• 1300 Paradise Found – Case Closed
Animal Complaints	17	<ul style="list-style-type: none">• (2) Animal at Large• (12) Close Patrol – Sterling Lakes/ Meridiana• Lost Animal Report• Assist BCSO/ACO – with aggressive K-9's• Animal Bite Report
Loose Livestock	6	<ul style="list-style-type: none">• Livestock put back up in their pastures

NO.	LOCATION	DESCRIPTION
A	SIGNAGE	
1	Brister pkwy @Pursley blvd	add street marker (Brister)
2	Brister pkwy @Pursley blvd	Add street marker (Pursley Blvd)
3	Brister pkwy @Pursley blvd	Add street marker Holder
4	Brister pkwy @Pursley blvd	Strighten pole
5	Meridiana @ Iowa Colony	School Zone
6	Meridiana @ Iowa Colony	School Zone
7	Iowa Colony @ Meridiana	School Zone
8	Iowa Colony @ Meridiana	School Zone
9	Iowa Colony @ Meridiana	School Zone
5	Meridiana @ Iowa Colony	School Zone
6	Meridiana @ Iowa Colony	School Zone
7	Iowa Colony @ Meridiana	School Zone
8	Iowa Colony @ Meridiana	School Zone
9	Iowa Colony @ Meridiana	School Zone
15	Ames @ Meridiana	School Zone
16	Ames @ Meridiana	School Zone
17	Ames @ Sterling Lakes	School Zone
18	Ames @ Sterling Lakes	School Zone
19	Ames @ Sterling Lakes	School Zone
20	Ames @ Sterling Lakes	School Zone
15	Ames @ Meridiana	School Zone
16	Ames @ Meridiana	School Zone
17	Ames @ Sterling Lakes	School Zone
18	Ames @ Sterling Lakes	School Zone
19	Ames @ Sterling Lakes	School Zone
20	Ames @ Sterling Lakes	School Zone
27	Observation Way @ Meridiana	add stop sign
28	Observation Way @ Meridiana	add stop sign
29	Observation Way @ Meridiana	add stop sign
30	Observation Way @ Meridiana	add stop sign
31	Observation Way @ Meridiana	add stop sign ahead
32	Observation Way @ Meridiana	add stop sign ahead
33	Observation Way @ Meridiana	add stop sign ahead
34	Observation Way @ Meridiana	add stop sign ahead
35	Observation Way @ Meridiana	add post
36	Observation Way @ Meridiana	add post
37	Observation Way @ Meridiana	add post
38	Observation Way @ Meridiana	add post
39	Observation Way @ Meridiana	add post
40	Observation Way @ Meridiana	add post
41	Observation Way @ Meridiana	add Flags
42	Observation Way @ Meridiana	add Flags
43	Observation Way @ Meridiana	add Flags
44	Observation Way @ Meridiana	add flags

45 Observation Way @ Meridiana

add Flags

B.	DEBRIS REMOVAL	
	1 Cedar Rapids dr	Trash pick up
	2 Davenport dr	Trash pick up
	3 Cedar Rapids dr	Trash pick up
	4 Iowa Colony @ Shaw Rd	Trash Pick up
	5 Meridiana@ Iowa Colony	Trash pick up
	6	
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	19	

C.	MOWING/TREE TRIMMING	
	1 City of Iowa Colony	Cut Grass
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D.	STREET REPAIRS	
	1 Oak @ Iowa Colony Blvd.	Pot Hole
	2 Karsten Blvd. @ Cedar Rapids	Gate
	3 Ruth Rd	overlay

4 Karsten Blvd.	add stop post on road
5	
6	
7	
8	
9	

E.	POWER LINES MAINTENANCE	
1		

	Ditch Drainage issue	
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1 Iowa School Rd .	Grade Ditches
2	
3	
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	Parks	
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1 Parks	Trash pick up
2 Parks	Grass cut
3 Parks	Grass cut
4	
5	
6	
7	
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10	
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12	
13	
14	
15	
16	

	Miscellaneous Works	
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1 City Hall	New Lock on Door
2 City Hall	new Soap tray

3 City Hall	Cut Grass
4 City Hall	Cut Grass
5 Meridiana@heyes creek	Died Cow

6

7

8

9

10

11

12

13

14

15

16

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[illegible]

Done

mental	Done
tire	Done
sofa set	Done
Basketball goal	Done
tire	Done

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	Done

	Done
Fix gate damage	Done
	Done

Done

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sent it in to the countyDone

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Done
Done
Done

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Done
Done

Done
Done
Done

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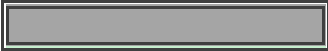
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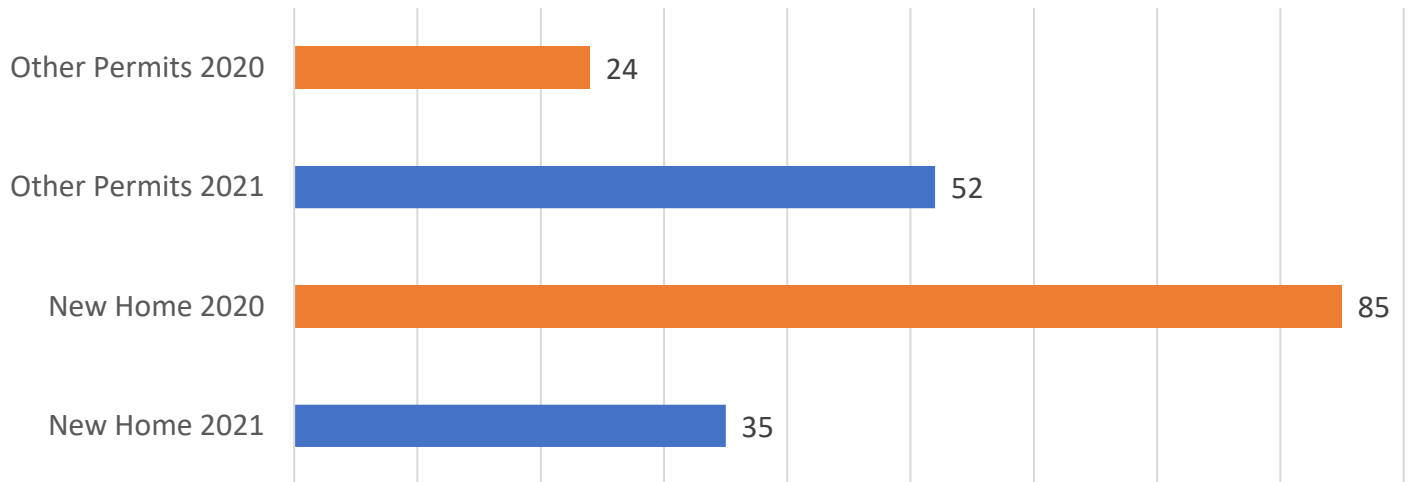
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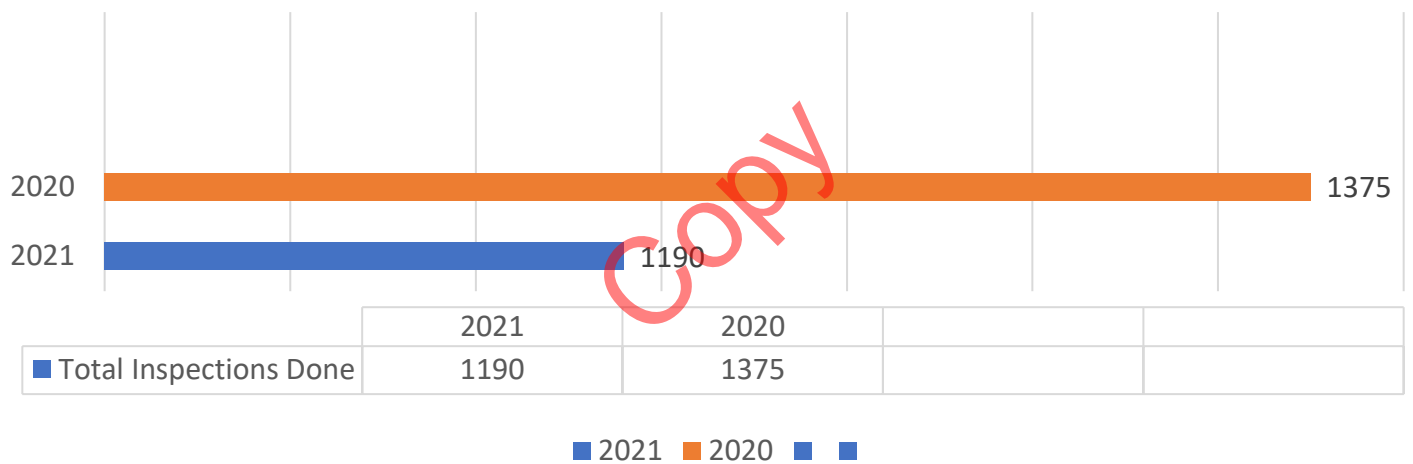
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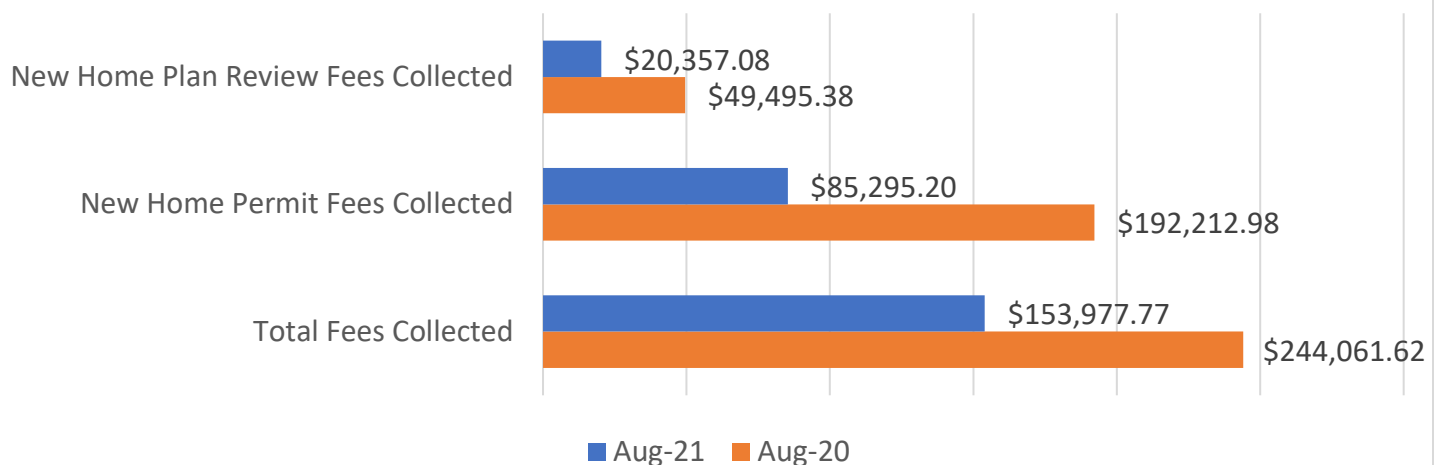
Permits Issued - August



Inspections Completed - August



Fees Collected – August



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09/16/21

Accrual Basis

City of Iowa Colony
Profit & Loss Budget vs. Actual
October 2020 through August 2021

	Oct '20 - Aug 21	Budget	\$ Over Budget	% of Budget
Income				
4100 · GENERAL REVENUE				
4109 · Mixed Beverage Tax	556.71	2,000.00	-1,443.29	27.8%
4110 · City Sales Tax	388,065.09	350,000.00	38,065.09	110.9%
4120 · Property Tax	1,950,946.14	1,164,165.53	786,780.61	167.6%
4121 · Delinquent Property Tax	39,499.31	35,000.00	4,499.31	112.9%
4130 · Property Tax - TIF - 70%	730,282.19	0.00	730,282.19	100.0%
4131 · Delinquent Tax - TIF - 70%	3,611.02	0.00	3,611.02	100.0%
4132 · City Property TIF 30%	312,978.10	0.00	312,978.10	100.0%
4133 · City Property Delinquent TIF 30%	1,547.57	0.00	1,547.57	100.0%
4134 · Intermodel Ship. Container	3,316.49	2,000.00	1,316.49	165.8%
Total 4100 · GENERAL REVENUE	3,430,802.62	1,553,165.53	1,877,637.09	220.9%
4122 · OTHER REVENUE				
4124 · Accident Reports	146.00	0.00	146.00	100.0%
4126 · MUD 31 Annexation				
MUD 31 Pub. Safety Contr.	0.00	250,000.00	-250,000.00	0.0%
MUD 32 Pub. Safety Contr.	0.00	250,000.00	-250,000.00	0.0%
4126 · MUD 31 Annexation - Other	0.00	0.00	0.00	0.0%
Total 4126 · MUD 31 Annexation	0.00	500,000.00	-500,000.00	0.0%
4122 · OTHER REVENUE - Other	4,602.82	0.00	4,602.82	100.0%
Total 4122 · OTHER REVENUE	4,748.82	500,000.00	-495,251.18	0.9%
4125 · Arrest Fees	39.76	0.00	39.76	100.0%
4200 · BUILDING & CONSTRUCTION PERMITS				
4201 · Building Construction Permits	1,742,382.92	1,375,000.00	367,382.92	126.7%
4202 · Trade Fees	72,374.20	40,000.00	32,374.20	180.9%
4203 · Reinspection Fees	36,200.00	25,000.00	11,200.00	144.8%
4204 · Signs	600.00	2,500.00	-1,900.00	24.0%
4205 · Misc Permits	6,159.44	1,000.00	5,159.44	615.9%
4206 · Dirt Work Permits	250.00	1,500.00	-1,250.00	16.7%
4207 · Driveway Permits	1,150.00	3,000.00	-1,850.00	38.3%
4210 · Culvert Permit	450.00	1,000.00	-550.00	45.0%
4211 · Commercial Vehicle Permit	500.00	3,000.00	-2,500.00	16.7%
4212 · Park Use Permit	2,075.00			
4213 · Mobile Food Unit Permit	1,350.00			
Total 4200 · BUILDING & CONSTRUCTION PERMITS	1,863,491.56	1,452,000.00	411,491.56	128.3%
4300 · PLAT FEES				
4301 · Preliminary Plat Fees	74,120.00	75,000.00	-880.00	98.8%
4302 · Final Plat Fees	40,120.00	40,000.00	120.00	100.3%
4303 · Abbreviated Plat Fees	10,540.00	2,000.00	8,540.00	527.0%
4304 · Plat Re-Check Fee	0.00	0.00	0.00	0.0%
4305 · Admin Fee- Early Plat Recording	103,815.71	300,000.00	-196,184.29	34.6%
Total 4300 · PLAT FEES	228,595.71	417,000.00	-188,404.29	54.8%

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Accrual Basis

City of Iowa Colony
Profit & Loss Budget vs. Actual
October 2020 through August 2021

	Oct '20 - Aug 21	Budget	\$ Over Budget	% of Budget
4400 · ENGINEERING FEES				
4401 · Infrastructure Plan Review Fee	87,436.55	150,000.00	-62,563.45	58.3%
4402 · Recheck Fee	0.00	0.00	0.00	0.0%
4403 · Civil Site Plan Review Fee	212,268.12	300,000.00	-87,731.88	70.8%
4404 · Other	0.00	0.00	0.00	0.0%
Total 4400 · ENGINEERING FEES	299,704.67	450,000.00	-150,295.33	66.6%
4500 · ZONING FEES				
4501 · Rezoning Fees	0.00	3,000.00	-3,000.00	0.0%
4502 · Misc Zoning Fees	0.00	0.00	0.00	0.0%
4503 · Specific Use Permit	0.00	2,000.00	-2,000.00	0.0%
Total 4500 · ZONING FEES	0.00	5,000.00	-5,000.00	0.0%
4600 · FRANCHISE				
4601 · Franchise Tax - Electric	94,155.20	110,000.00	-15,844.80	85.6%
4602 · Franchise Tax - Gas	0.00	20,000.00	-20,000.00	0.0%
4603 · Telecommunications Fee-Sales Tax	35,922.00	10,000.00	25,922.00	359.2%
4600 · FRANCHISE - Other	0.00	0.00	0.00	0.0%
Total 4600 · FRANCHISE	130,077.20	140,000.00	-9,922.80	92.9%
4700 · CITATIONS				
4701 · Citations / Warrants	366,004.40	200,000.00	166,004.40	183.0%
4702 · Delinquent Court Collection	0.00	5,000.00	-5,000.00	0.0%
4703 · Court Security Fee	6,501.87	2,000.00	4,501.87	325.1%
4704 · Court Technology Fee	5,943.03	2,500.00	3,443.03	237.7%
4700 · CITATIONS - Other	241.00			
Total 4700 · CITATIONS	378,690.30	209,500.00	169,190.30	180.8%
4800 · SPECIAL FUNDS				
4803 · State & Federal Grants	106,002.48	0.00	106,002.48	100.0%
4805 · Park Reserves	0.00	35,000.00	-35,000.00	0.0%
Total 4800 · SPECIAL FUNDS	106,002.48	35,000.00	71,002.48	302.9%
4900 · INVESTMENT INCOME				
4910 · Interest Income	40.01	1,000.00	-959.99	4.0%
Total 4900 · INVESTMENT INCOME	40.01	1,000.00	-959.99	4.0%
Total Income	6,442,193.13	4,762,665.53	1,679,527.60	135.3%
Gross Profit	6,442,193.13	4,762,665.53	1,679,527.60	135.3%
Expense				
MUD 31 Expense	1,000,617.98			

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Accrual Basis

City of Iowa Colony
Profit & Loss Budget vs. Actual
October 2020 through August 2021

	Oct '20 - Aug 21	Budget	\$ Over Budget	% of Budget
10 - ADMINISTRATION				
10-5101 - Salaries - Full-Time	70,550.04	62,831.00	7,719.04	112.3%
10-5102 - Salaries - Part-Time	0.00	17,680.00	-17,680.00	0.0%
10-5104 - Salaries - Overtime	0.00	0.00	0.00	0.0%
10-5106 - Social Security/Medicare	7,179.22	13,248.88	-6,069.66	54.2%
10-5107 - TMRS	8,082.54	18,202.06	-10,119.52	44.4%
10-5108 - Health & Life Insurance	-1,291.18	11,660.00	-12,951.18	-11.1%
10-5110 - Texas Workforce Commission	587.94	486.00	101.94	121.0%
10-5111 - Vehicle Allowance Expense	900.00			
10-5113 - Payroll-City Manager	75,569.01	100,000.00	-24,430.99	75.6%
10-5114 - Merit pool (For all employees)	0.00	0.00	0.00	0.0%
10-5115 - Longevity	180.00	240.00	-60.00	75.0%
10-5117 - Certificate Pay	0.00	0.00	0.00	0.0%
10-5121 - Payroll Expenses/Direct Dep Fee	747.67	0.00	747.67	100.0%
10-5200 - Professional Services	0.00	0.00	0.00	0.0%
10-5210 - Legal Delinquent Citations	0.00	0.00	0.00	0.0%
10-5211 - Legal	101,450.50	100,000.00	1,450.50	101.5%
10-5212 - Audit	30,200.00	22,000.00	8,200.00	137.3%
10-5213 - Tax Appraisal & Collection	40.00	0.00	40.00	100.0%
10-5214 - Legislative & Admin Action	0.00	5,000.00	-5,000.00	0.0%
10-5219 - Management Professional Service	5,816.50	10,000.00	-4,183.50	58.2%
10-5220 - Website - Professional				
Website Domain	434.99	400.00	34.99	108.7%
10-5220 - Website - Professional - Other	4,935.00	5,500.00	-565.00	89.7%
Total 10-5220 - Website - Professional	5,369.99	5,900.00	-530.01	91.0%
10-5225 - Equipment Maintenance	277.00			
10-5227 - Hosting BCCA Meeting	0.00	0.00	0.00	0.0%
10-5228 - Property Taxes Collection Fee	0.00	7,000.00	-7,000.00	0.0%
10-5229 - BCAD Fee	15,058.33	6,000.00	9,058.33	251.0%
10-5240 - Building Maintenance				
Prof Cleaning Services	10,800.00			
10-5240 - Building Maintenance - Other	10,147.06	50,000.00	-39,852.94	20.3%
Total 10-5240 - Building Maintenance	20,947.06	50,000.00	-29,052.94	41.9%
10-5245 - Technology	10,144.64	16,000.00	-5,855.36	63.4%
10-5246 - Software Maintenance / License	14,184.63	7,500.00	6,684.63	189.1%
10-5250 - Utilities	5,156.55	9,000.00	-3,843.45	57.3%
10-5260 - Equipment Rentals	3,328.90	3,000.00	328.90	111.0%
10-5320 - Supplies / Printing	7,390.03	12,000.00	-4,609.97	61.6%
10-5321 - Postage	206.90	750.00	-543.10	27.6%
10-5322 - Advertising & Legal Notices	6,493.70	5,000.00	1,493.70	129.9%
10-5323 - Telephone Expense	13,805.21	10,000.00	3,805.21	138.1%
10-5325 - Miscellaneous	526.50	0.00	526.50	100.0%
10-5326 - Uniforms	96.61			
10-5327 - Well Permit Fee	130.00	30.00	100.00	433.3%
10-5411 - Travel & Training	4,026.16	2,400.00	1,626.16	167.8%
10-5412 - Seminars/BCCA	240.00	200.00	40.00	120.0%
10-5413 - Staff Recognition	693.18	2,000.00	-1,306.82	34.7%
10-5439 - Election Costs	5,564.20	8,000.00	-2,435.80	69.6%
10-5481 - Mayor's Special Expense	46.25	500.00	-453.75	9.3%
10-5495 - Dues	1,335.95	2,000.00	-664.05	66.8%
10-5630 - Equipment	1,732.15	500.00	1,232.15	346.4%
10-5710 - Insurance - Windstorm	7,126.00	7,500.00	-374.00	95.0%

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09/16/21

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City of Iowa Colony
Profit & Loss Budget vs. Actual
October 2020 through August 2021

	Oct '20 - Aug 21	Budget	\$ Over Budget	% of Budget
10-5720 · Insurance - Liability/Prop/ WC	25,667.00	20,000.00	5,667.00	128.3%
10-5721 · Bank Fees	-6.00	100.00	-106.00	-6.0%
10-5722 · credit card fees	335.14	4,000.00	-3,664.86	8.4%
10-5725 · Grant Admin	0.00	15,000.00	-15,000.00	0.0%
10-5730 · Building Renovations	0.00	0.00	0.00	0.0%
5113 · Payroll - Office Manager	0.00	0.00	0.00	0.0%
Total 10 · ADMINISTRATION	449,888.32	555,727.94	-105,839.62	81.0%
15 · FINANCE				
15-5101 · Salaries - Full-Time	64,895.89	70,004.00	-5,108.11	92.7%
15-5106 · Social Security/Medicare	4,779.12	5,355.31	-576.19	89.2%
15-5107 · TMRS	7,543.31	7,357.42	185.89	102.5%
15-5108 · Health & Life Insurance	2,574.94	5,830.00	-3,255.06	44.2%
15-5109 · Worker's Comp	0.00	3,052.00	-3,052.00	0.0%
15-5110 · Texas Workforce Commission	252.00	162.00	90.00	155.6%
15-5115 · Longevity Pay	0.00	0.00	0.00	0.0%
15-5117 · Certificate Pay	0.00	0.00	0.00	0.0%
15-5320 · Supplies/Printing	656.49	2,000.00	-1,343.51	32.8%
15-5321 · Postage	161.05	200.00	-38.95	80.5%
15-5410 · Technology	2,981.63	8,000.00	-5,018.37	37.3%
15-5411 · Training & Travel	275.00	5,000.00	-4,725.00	5.5%
15-5495 · Dues	0.00	2,500.00	-2,500.00	0.0%
15-5630 · Equipment	0.00	0.00	0.00	0.0%
Total 15 · FINANCE	84,119.43	109,460.73	-25,341.30	76.8%
20 · POLICE DEPARTMENT				
20-5101 · Salaries - Full-Time	475,403.09	589,213.50	-113,810.41	80.7%
20-5102 · Salaries - Part-Time	0.00	0.00	0.00	0.0%
20-5104 · Salaries - Overtime	15,831.48	14,000.00	1,831.48	113.1%
20-5106 · Social Security/Medicare	37,195.75	53,725.15	-16,529.40	69.2%
20-5107 · TMRS	63,723.42	73,810.63	-10,087.21	86.3%
20-5108 · Health & Life Insurance	33,624.45	44,885.00	-11,260.55	74.9%
20-5109 · Worker's Comp	0.00	28,313.38	-28,313.38	0.0%
20-5110 · Texas Workforce Commission	3,287.72	2,106.00	1,181.72	156.1%
20-5111 · Payroll - Police Chief	0.00	0.00	0.00	0.0%
20-5115 · Longevity	300.00	300.00	0.00	100.0%
20-5117 · Certification Pay	12,184.56	13,881.00	-1,696.44	87.8%
20-5126 · Professional Services	6,312.00	7,000.00	-688.00	90.2%
20-5320 · Supplies & Printing	2,504.15	3,500.00	-995.85	71.5%
20-5321 · Postage	102.10	150.00	-47.90	68.1%
20-5322 · Recruiting and Hiring Expenses	1,216.96	1,500.00	-283.04	81.1%
20-5324 · Cell Phone	6,138.08	9,500.00	-3,361.92	64.6%
20-5325 · Miscellaneous	1,761.87	4,900.00	-3,138.13	36.0%
20-5326 · Uniforms	6,073.12	7,500.00	-1,426.88	81.0%
20-5327 · Charitable	0.00	0.00	0.00	0.0%
20-5410 · Technology	13,012.23	18,000.00	-4,987.77	72.3%
20-5411 · Travel & Training	-655.44	30,000.00	-30,655.44	-2.2%
20-5412 · Radio Service	3,618.00	3,620.00	-2.00	99.9%
20-5413 · Radio Equipment	1,314.03	3,000.00	-1,685.97	43.8%
20-5415 · Building Maintenance	2,248.84	2,600.00	-351.16	86.5%
20-5450 · Vehicle Equipment	7,829.90	9,500.00	-1,670.10	82.4%
20-5495 · Association Dues	838.88	1,000.00	-161.12	83.9%
20-5496 · Dues - TCLDS	0.00	0.00	0.00	0.0%
20-5497 · Animal Control	1,529.98	2,000.00	-470.02	76.5%

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09/16/21

Accrual Basis

City of Iowa Colony
Profit & Loss Budget vs. Actual
October 2020 through August 2021

	Oct '20 - Aug 21	Budget	\$ Over Budget	% of Budget
20-5498 · Hospital Expense - Suspects	0.00	1,000.00	-1,000.00	0.0%
20-5499 · Investigations	2,685.09	2,900.00	-214.91	92.6%
20-5809 · Vehicle Expense	24,597.00	25,000.00	-403.00	98.4%
20-5810 · Vehicle Insurance	8,339.00	8,500.00	-161.00	98.1%
20-5820 · Vehicle Repairs & Maint	14,057.51	16,000.00	-1,942.49	87.9%
20-5830 · Fuel	24,372.75	30,000.00	-5,627.25	81.2%
20-5840 · Equipment	8,761.51	10,000.00	-1,238.49	87.6%
20-5850 · Vehicle Replacement Fund	0.00	47,200.00	-47,200.00	0.0%
20-8000 · Emergency Management	2,855.78	3,000.00	-144.22	95.2%
Total 20 · POLICE DEPARTMENT	781,063.81	1,067,604.66	-286,540.85	73.2%
21 · Animal Control/Code Enforcement				
21-5101 · Salaries - Full-Time	36,160.00	41,600.00	-5,440.00	86.9%
21-5104 · Salaries - Overtime	412.50			
Total 21 · Animal Control/Code Enforcement	36,572.50	41,600.00	-5,027.50	87.9%
22 · Emergency Management				
22-5096 · Blackboard Service	777.60			
Total 22 · Emergency Management	777.60			
25 · MUNICIPAL COURT				
25-5101 · Salaries - Full-Time	50,382.37	45,001.00	5,381.37	112.0%
25-5104 · Salaries- Overtime	2,989.58	2,500.00	489.58	119.6%
25-5106 · Social Security/Medicare	3,724.18	3,725.63	-1.45	100.0%
25-5107 · TMRS	6,373.93	5,118.48	1,255.45	124.5%
25-5108 · Health & Life Insurance	2,901.69	5,830.00	-2,928.31	49.8%
25-5109 · Worker's Comp	0.00	1,962.04	-1,962.04	0.0%
25-5110 · Texas Workforce Commission	381.82	162.00	219.82	235.7%
25-5117 · Certification Pay	1,138.40	1,200.00	-61.60	94.9%
25-5210 · Legal Delinquent Citations	0.00	5,000.00	-5,000.00	0.0%
25-5216 · Judge Court Fees	15,303.75	25,000.00	-9,696.25	61.2%
25-5217 · Prosecutor Fees	55,737.50	35,500.00	20,237.50	157.0%
25-5218 · Interpreter	554.07	1,500.00	-945.93	36.9%
25-5219 · Professional Services - Muni Co	16,287.50	10,000.00	6,287.50	162.9%
25-5222 · Court Security Exp.	558.61	0.00	558.61	100.0%
25-5223 · Court Technology Exp.	1,396.42	0.00	1,396.42	100.0%
25-5315 · Payroll - Clerk	0.00	0.00	0.00	0.0%
25-5321 · Postage	71.60	500.00	-428.40	14.3%
25-5411 · Travel & Training	355.00	1,000.00	-645.00	35.5%
25-5414 · Jury Trial Expense	128.15	1,500.00	-1,371.85	8.5%
25-5415 · State Criminal Cost & Fees	124,079.73	80,000.00	44,079.73	155.1%
25-5500 · Supplies & Equipment	1,762.52	4,200.00	-2,437.48	42.0%
25-5730 · Contract Services	6,561.00	4,735.12	1,825.88	138.6%
Total 25 · MUNICIPAL COURT	290,687.82	234,434.27	56,253.55	124.0%

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09/16/21

Accrual Basis

City of Iowa Colony
Profit & Loss Budget vs. Actual
October 2020 through August 2021

	Oct '20 - Aug 21	Budget	\$ Over Budget	% of Budget
30 · PUBLIC WORKS DEPARTMENT				
30-5101 · Salaries - Full-Time	49,207.15	55,000.00	-5,792.85	89.5%
30-5104 · Salaries - Overtime	3,886.02	2,000.00	1,886.02	194.3%
30-5106 · Social Security/Medicare	3,790.15	4,600.00	-809.85	82.4%
30-5107 · TMRS	6,449.81	5,990.70	459.11	107.7%
30-5108 · Health & Life Insurance	4,369.72	5,830.00	-1,460.28	75.0%
30-5109 · Worker's Comp	0.00	2,400.00	-2,400.00	0.0%
30-5110 · Texas Workforce Commission	252.00	162.00	90.00	155.6%
30-5117 · Certification Pay	0.00	0.00	0.00	0.0%
30-5320 · Supplies	2,030.81	7,440.00	-5,409.19	27.3%
30-5326 · Uniforms	10.81			
30-5451 · Roads./ Bridges/ Drainage	64,019.59	325,000.00	-260,980.41	19.7%
30-5452 · Mowing Roads	63,600.00	60,000.00	3,600.00	106.0%
30-5454 · Bridge Replacement	0.00	30,000.00	-30,000.00	0.0%
30-5455 · Signs & Postings	8,707.37	8,000.00	707.37	108.8%
30-5456 · Public Works Maintenance	14,623.35	25,000.00	-10,376.65	58.5%
30-5461 · Park Improvements	0.00	35,000.00	-35,000.00	0.0%
30-5462 · Park Maintenance	50,203.93	70,000.00	-19,796.07	71.7%
30-5810 · Vehicle Insurance	738.00			
30-5820 · Vehicle Repairs & Maint	2,036.81	6,800.00	-4,763.19	30.0%
30-5830 · Fuel	5,419.49	5,000.00	419.49	108.4%
30-5840 · Equipment	25,664.16	24,000.00	1,664.16	106.9%
30-5841 · PW Loader/Backhoe/Brush Truck	0.00	20,000.00	-20,000.00	0.0%
30-5850 · Vehicle Replacement Fund	0.00	3,500.00	-3,500.00	0.0%
30-5860 · ROW Maintenance	3,774.48	5,000.00	-1,225.52	75.5%
Total 30 · PUBLIC WORKS DEPARTMENT	308,783.65	700,722.70	-391,939.05	44.1%
35 · COMMUNITY DEVELOPMENT				
35-5101 · Salaries - Full-Time	35,420.00	40,040.00	-4,620.00	88.5%
35-5104 · Salaries - Overtime	925.60	1,500.00	-574.40	61.7%
35-5106 · Social Security/Medicare	7,187.73	9,297.81	-2,110.08	77.3%
35-5107 · TMRS	11,913.76	12,773.85	-860.09	93.3%
35-5108 · Health & Life Insurance	8,913.72	8,745.00	168.72	101.9%
35-5109 · Worker's Comp	0.00	5,234.05	-5,234.05	0.0%
35-5110 · Texas Workforce Commission	648.00	324.00	324.00	200.0%
35-5115 · Longevity	120.00	240.00	-120.00	50.0%
35-5117 · Certification Pay	0.00	480.00	-480.00	0.0%
35-5212 · Early Platting Escrow Exp. INV	65,955.58	0.00	65,955.58	100.0%
35-5214 · Engineering Services				
35-5216 · Platting	99,149.14	150,000.00	-50,850.86	66.1%
35-5217 · Plan Review	54,255.48	100,000.00	-45,744.52	54.3%
35-5218 · Permits/Inspections	184,652.66	195,000.00	-10,347.34	94.7%
35-5214 · Engineering Services - Other	60,419.95	80,000.00	-19,580.05	75.5%
Total 35-5214 · Engineering Services	398,477.23	525,000.00	-126,522.77	75.9%

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09/16/21

Accrual Basis

City of Iowa Colony
Profit & Loss Budget vs. Actual
October 2020 through August 2021

	Oct '20 - Aug 21	Budget	\$ Over Budget	% of Budget
35-5215 · Building Inspector Fees	722,651.00	295,500.00	427,151.00	244.6%
35-5219 · Professional Services	35,968.04	85,000.00	-49,031.96	42.3%
35-5220 · TIF Fund (70% of TIF revenue t	717,134.47	0.00	717,134.47	100.0%
35-5221 · ICVFD Contract Services/Equip	0.00	6,000.00	-6,000.00	0.0%
35-5246 · Software Subscription/License	3,677.28			
35-5320 · Supplies	2,832.99			
35-5326 · Uniforms	4,055.87			
35-5410 · Technology	1,171.37			
35-5411 · Travel & Training	85.00			
35-5455 · Signage & Postings	322.50	4,000.00	-3,677.50	8.1%
35-5722 · Credit Card Fees	12,054.51	10,000.00	2,054.51	120.5%
35-5820 · Vehicle Repairs & Maint	3,580.39			
35-5830 · Fuel	1,165.41			
35-5840 · Equipment	9,882.28			
35-5850 · Vehicle Replacement Fund	0.00	3,500.00	-3,500.00	0.0%
Total 35 · COMMUNITY DEVELOPMENT	2,044,142.73	1,007,634.71	1,036,508.02	202.9%
36 · Fire Marshall/Building Official				
36-5101 · Salaries - Full-Time	65,989.65	80,000.00	-14,010.35	82.5%
Total 36 · Fire Marshall/Building Official	65,989.65	80,000.00	-14,010.35	82.5%
90 · CAPITAL AND PLANNING PROJECTS				
Parking and Storage Lot	0.00	0.00	0.00	0.0%
Public Safety Building Reserve	0.00	500,000.00	-500,000.00	0.0%
Purchase of Prop. Next to CH	5,212.31	0.00	5,212.31	100.0%
990 · Contingency	0.00	35,000.00	-35,000.00	0.0%
991 · PD - Vehicle	35,000.00	35,000.00	0.00	100.0%
993 · Planning Projects	60,075.00	200,000.00	-139,925.00	30.0%
994 · Public Works Vehicle	0.00	0.00	0.00	0.0%
90 · CAPITAL AND PLANNING PROJECTS - Other	40,012.00	175,000.00	-134,988.00	22.9%
Total 90 · CAPITAL AND PLANNING PROJECTS	140,299.31	945,000.00	-804,700.69	14.8%
95 · BOND				
95-6100 · Interest Expense	18,276.98			
Total 95 · BOND	18,276.98			
Total Expense	5,221,219.78	4,742,185.01	479,034.77	110.1%
Net Income	1,220,973.35	20,480.52	1,200,492.83	5,961.6%

CITY OF IOWA COLONY
NOTICE OF PUBLIC HEARINGS ON SEPTEMBER 7 AND 20, 2021,
ON UNIFIED DEVELOPMENT CODE AND ZONING ORDINANCE

The Iowa Colony Planning and Zoning Commission will continue a public hearing at **7:00 p.m. on September 7, 2021**, and the Iowa Colony City Council will continue a public hearing at **7:00 p.m. on September 20, 2021**, each in the Council Chambers at the Iowa Colony City Hall, 12003 Iowa Colony Boulevard, Iowa Colony, Texas on amending the Unified Development Code and the Zoning Ordinance on: (1) regulations, procedures, and authority under those ordinances for the City Council, Building Codes Board of Appeals, Zoning Board of Adjustment, Planning and Zoning Commission, and other boards and commissions; and (2) building transparency, build-to lines, external building requirements, and other building regulations. All interested persons may be heard concerning these matters.

Kayleen Rosser
City Secretary

Copy

CITY OF IOWA COLONY

UNIFIED DEVELOPMENT CODE



ORIGINAL ADOPTION DATE: MAY 15, 2017

AMENDED BY ORD. 2017-21 - ADDED BUILDING STANDARDS, OCTOBER 16, 2017

AMENDED BY ORD. 2017-22 - ADDED STREET LIGHTS, OCTOBER 16, 2017

AMENDED BY ORD. 2017-25 - REVISED BUILDING STANDARDS, NOVEMBER 20, 2017

AMENDED BY ORD. 2017-29 - REVISED LANDSCAPE STANDARDS, DECEMBER 18, 2017

Section 0.1.1.1. Facts and Recitations

The facts and recitations contained in the preamble to this Unified Development Code are hereby found to be true and correct and incorporated herein for all purposes.

- (a) **City Limits.** All provisions of this ordinance shall apply throughout the incorporated limits of the City.
- (b) **ETJ.** The following provisions of this ordinance shall also apply throughout the extraterritorial jurisdiction of the City:
 - (1) Any provision applicable upon a subdivision of land; and
 - (2) Any provision, to the extent made applicable to the extraterritorial jurisdiction by a development agreement, strategic partnership agreement, or other agreement of any kind.
- (c) **Limited Purpose Annexation Area.** An area annexed into the City for limited purposes shall be subject to this ordinance only to the extent, if any, provided by the limited purpose annexation, unless explicitly provided otherwise herein.

Section 0.1.1.3. Definitions and Meanings

Words, terms, and phrases defined in Chapter 5 shall have the meanings set forth therein, unless indicated otherwise, for the purposes of this Ordinance.

Section 0.1.1.4. Special Provisions

Special Provisions.

- (a) **Plat Approval Required.**

Unless a subdivision is specifically exempted from the requirements to obtain a plat by this Ordinance or any other adopted Ordinance of the City of Iowa Colony:

- (1) It shall be unlawful for any person to subdivide any tract, lot, or parcel of land within the territorial limit of the City of Iowa Colony or within the extra-territorial jurisdiction of the City of Iowa Colony until an appropriate plat of such subdivision is approved and recorded in conformity with this Ordinance.
- (2) It shall be unlawful for any person to construct, or cause, allow, or permit to be constructed any public or private street, utility service or facility, building, structure, or other improvement on any tract, lot, or parcel of land until each plat required by this ordinance or any other ordinance of the City has been approved and recorded in conformity with such ordinance.
- (3) It shall be unlawful for any person to connect or serve any utility service or facility to any tract, lot, or parcel of land until each plat required by this ordinance or any other ordinance of the City is approved and recorded in conformity with such ordinance.

- (4) No building, electrical, mechanical, plumbing, sign, certificate of occupancy, or any other permit issued by the City of Iowa Colony will be issued for the construction or repair of any improvement or the occupancy of any building or structure until each plat required by this ordinance or any other ordinance of the City is approved and recorded in conformity with such ordinance; and it shall be unlawful for any person to construct or repair any improvement, or occupy any building or structure , without first obtaining from the City of Iowa Colony each permit required by any ordinance of the City.

(b) Improvements.

All improvements required by this Ordinance, any other City of Iowa Colony ordinance, an adopted Comprehensive Plan of the City of Iowa Colony, a drainage district, a county, the state, or any other governmental entity having jurisdiction over the subdivision, or any improvement which, in the judgement of the Planning Commission or the City Council is necessary for the adequate provision of streets, drainage, utilities, city services, and facilities to serve the subdivision shall:

- (1) be constructed at the sole expense of the developer unless the City deems oversizing is necessary; and
- (2) comply with the rules and regulations of any entity having jurisdiction over the subdivision. If there is a conflict between the regulations of jurisdictions, the City's regulations shall apply unless otherwise provided by law.

Section 0.1.1.5. Exemptions

Exemption from Platting.

- (a) Land used for agricultural purposes only. To qualify for this exemption, a tax designation that such land is used for agricultural purposes only must be submitted to the City.
- (b) A subdivision of land into parts greater than five (5) acres, where each part has access to a public road and no public improvements is being or is required to be dedicated.
- (c) Any exemption provided by Chapter 212 of the Texas Local Government Code.

Section 0.1.1.6. Addition to Building Codes, Subdivision Ordinance, and Zoning Ordinance

- (a) All portions of this ordinance shall be part of all Building Codes of any kind of the City, as they may be amended from time to time.
- (b) All portions of this ordinance that apply upon the subdivision of land shall be part of the Subdivision Ordinance of the City, as it may be amended from time to time.
- (c) A portion, if any, of this ordinance within the authority of statutes concerning zoning shall be a part of the Zoning Ordinance of the City, as it may be amended from time to time.

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Chapter 1: General Provisions

Article 1 – Authority of Decision-Makers

Division 1 – General Provisions

Section 1.1.1.1. Source of Authority

- (a) Authority under this Unified Development Code shall be vested in and delegated to the officials and decision-makers designated in this Article 1, the constitution and laws of the state of Texas and the City Code. This authority shall be deemed supplemental to any other authority lawfully conferred upon the officials and decision-makers. The omission of a citation in this Unified Development Code to any authority conferred upon the officials and decision-makers under the constitution or laws of the state of Texas or the City Code, nor the failure to identify in this article authority conferred by other provisions of this Unified Development Code, shall not be construed as limiting the actions of such officials and decision-makers taken in accordance with and in reliance upon such authority.

Section 1.1.1.2. Implied Authority

- (a) The officials and decision-makers shall have all implied authority necessary to carry out the duties and responsibilities expressly delegated by this Unified Development Code to the extent the implied authority is not in conflict with the expressly delegated authority.

Section 1.1.1.3. Limitation on Authority

- (a) It is the policy of the City that the standards and procedures applicable to development of property within the City limits and within the City's extraterritorial jurisdiction are as stated in this Unified Development Code, notwithstanding any representation by any City official summarizing, paraphrasing or otherwise interpreting such standards to the contrary, whether generally or as applied to development of specific property.
- (b) No City official, whether an employee of the City or a member of an appointed board or commission, or a member of the governing body of the City, shall have the authority to make representations to a property owner concerning the likelihood of an outcome of that official's decision or the decision of an appointed board or commission or the City Council, on any development application or legislative action that has yet to be filed or is pending before the City for decision. An official may, however, upon request of a person, convey information concerning that official's position on a pending application in accordance with procedures established in this Chapter 1. No person is entitled to rely upon any representation made by an official in contravention of this Subsection, and each and every such representation shall be deemed in violation of the policy of the City, and is not binding on the City in any respect. No subsequent decision of the City shall be deemed a ratification of any representation made in contravention of this Subsection.

- (c) No City official, whether an employee of the City or a member of an appointed board or commission, or a member of the City Council, shall have the authority to make binding representations to any person concerning the likelihood that a change in any legislative classification or a change in the text of this Unified Development Code as applied to a specific tract of land will be granted, or that an existing legislative classification or text provision will remain in effect, or that any petition for relief will be granted. No person is entitled to rely upon any representation made by an official in contravention of this Subsection, and each and every such representation shall be deemed in violation of the policy of the City, and is not binding on the City in any respect. No subsequent decision of the City shall be deemed a ratification of any representation made in contravention of this Subsection.
- (d) The City's approval of a permit or plat application under the standards and procedures of this Unified Development Code does not guarantee or assure that development of the property in accordance with the standards will prevent, minimize or mitigate harm to adjoining property. A person who undertakes development activities shall not rely on the City's approval of a development application as ensuring that the development activities will not result in harm to adjoining property. The regulations contained in this Unified Development Code constitute an exercise of the City's governmental authority, and approval of a development application shall not give rise to any liability on the part of the City or its officers, agents and employees, nor will an approval release the applicant from any liability for harm arising out of development of the property under applicable law.
- (e) Except as expressly provided for in this Unified Development Code, no official, board, commission of the City, or the City Council, shall have authority to waive any requirement or standard for an application. Any attempted waiver of a requirement or standard for an application in contravention of this Subsection shall hereby be deemed null and void, and, upon discovery, shall be grounds for revocation of a permit or approval, or reconsideration of a legislative decision.

Section 1.1.1.4. Conflict in Authority

- (a) In the event of a conflict between the terms of this ordinance, or between this ordinance and any other ordinance, the more restrictive provision shall govern and control.
- (b) Whenever a specific standard or procedure of this Unified Development Code is incomplete when applied in isolation, such standard shall be supplemented by any general or specific provision of this Code or the City Code in order to give effect to the incomplete provision.

Section 1.1.2.1. Responsible Official

- (a) The responsible official shall be the Building Official or the City Engineer who is assigned responsibility under this Unified Development Code for taking the following actions with regard to a particular type of application or relief petition authorized under this Chapter 1:
 - (1) Accepting the application or petition for filing and processing the application;
 - (2) Reviewing and making recommendations concerning the application or petition;
 - (3) Seeking advice of other City officials and coordinating any recommendations from such officials concerning the application or petition;
 - (4) Initially deciding the application or petition, where so authorized;
 - (5) Determining a request for exemption;
 - (6) Preparing reports to and advising any board, commission or the City Council that has responsibility for making recommendations on or deciding the application or petition;
 - (7) Promulgating additional or modified policies, standards and administrative rules for adoption by the City Council that apply to the application or petition;
 - (8) Initiating enforcement actions concerning compliance with the standards applicable to the application or petition and the conditions imposed thereon; and
 - (9) Taking all other actions necessary for administration of the provisions of this Unified Development Code with respect to the application or petition.
- (b) The specific duties of the responsible official shall include those authorized under the universal procedures applicable to all types of development applications pursuant to Article 2 of this Chapter 1, those authorized under the provisions governing procedures for deciding particular applications under this Chapter 1, and those authorized under relief procedures pursuant to Article 3 of this Chapter 1.
- (c) The responsible official may delegate the official's authority under this Code to subordinate officials, who shall thereupon be deemed the responsible official for purposes of carrying out the delegated duties.

Section 1.1.2.2. City Engineer

- (a) The City Engineer is the responsible official for the following types of development applications and relief petitions (except as provided):
 - (1) Application for approval of construction plans, and all related construction management tasks, including without limitation, approval of contracts for public improvements;
 - (2) Application for a Development/Grading Permit for compliance with flood plain regulations;

- (3) Appeal of a decision on any application for which the City Engineer is the responsible official;
 - (4) Variance petition for any application for which the City Engineer is the responsible official;
 - (5) Vested rights petition for any decision where the City Engineer is the responsible official for the application for which the vested rights petition is filed; and
 - (6) Petition for relief from a dedication or construction requirement.
 - (7) Application for a Subdivision Master Plat, Preliminary Subdivision Plat, Preliminary Development Plat, Final Subdivision Plat, Final Development Plat, Minor Subdivision Plat, amending plat, and replat;
- (b) The City Engineer is the initial decision-maker for the following types of development applications and relief petitions, subject to appeal as provided in this Chapter 1:
- (1) Application for approval of construction plans, and all related construction management tasks, including without limitation approval of a contract for public improvements;
 - (2) Application for a Development/Grading Permit for compliance with flood plain regulations;
 - (3) Vested rights petition for any decision for which the City Engineer is the initial decision-maker;
 - (4) Application for a Subdivision Master Plat, Preliminary Subdivision Plat, Preliminary Development Plat, Final Subdivision Plat, Final Development Plat, Minor Subdivision Plat, amending plat, and replat;
 - (5) Application for a site preparation permit; and
 - (6) Park dedication fee determination.
- (c) The City Engineer is the Floodplain Administrator for the City and shall carry out duties and responsibilities as authorized in Flood Hazard Prevention Ordinances.

Section 1.1.2.3 Building Official

- (a) The Building Official is the responsible official for and shall initially decide the following types of applications:
- (1) Building permit;
 - (2) Certificate of occupancy;
- (b) The Building Official is the initial decision-maker for appeals of the following application, subject to further appeal as provided for in this Chapter 1:
- (1) Certificate of Occupancy;

Section 1.1.2.4. City Manager (Reserved)

Section 1.1.2.5. Other City Officials

- (a) The City Attorney and any other official delegated responsibilities under this Unified Development Code are authorized to take all actions necessary to carry out their responsibilities in accordance with the requirements and limitations prescribed herein.

Division 3 – Planning Commission

Section 1.1.3.1. Structure of Commission

- (a) The members of the Planning Commission are appointed by the Mayor and ratified by the City Council and serve without compensation. In making appointments to the Commission, the Council shall seek to ensure broad representation and expertise among the membership. The Commission shall establish bylaws to govern rules of procedure and the election of officers.

Section 1.1.3.2. Advisory Capacity

- (a) The Planning Commission shall advise the City Council on applications and petitions for legislative decisions as authorized by this Unified Development Code. In that capacity, the Commission shall review, prepare reports upon and make recommendations concerning approval, conditional approval or denial of the following types of petitions and development applications, in accordance with the procedures and standards that apply to the petition or development application:
 - (1) Subdivision plat review;
 - (2) Petition for amending the Comprehensive Plan;
 - (3) Petition for a zoning map amendment, including a petition for creation of an overlay district, Special Use Permit (SUP), or Planned Development (PD) district;
 - (4) Amendments to the text of the Unified Development Code (UDC); and
 - (5) Other advisory duties as assigned by City Council.

Division 4 – City Council

Section 1.1.4.1. Authority for Amendments to the Unified Development Code (UDC)

- (a) The City Council may from time to time amend, supplement or change by ordinance the text of this Unified Development Code on its own initiative or upon petition for a text amendment.

Section 1.1.4.2. Authority for Deciding Legislative Applications

- (a) The City Council shall finally decide all types of legislative applications authorized under this Unified Development Code.

Section 1.1.4.3. Authority for Deciding Appeals and Relief Petitions

- (a) The City Council shall finally decide appeals on the following development applications and relief petitions:
 - (1) A vested rights petition filed in conjunction with an application for which the City Council is the final decision-maker; and
 - (2) A parkland dedication fee appeal that has been forwarded by the City Engineer;
- (b) The City Council shall finally decide the following petitions for relief:
 - (1) Petition for relief from a dedication or construction requirement.

Division 5 – Zoning Board of Adjustment (ZBA)

Section 1.1.5.1. Structure of the Board

- (a) The Zoning Board of Adjustment shall consist of the members of the City Council. All members shall reside within the City limits.
- (b) The ZBA may adopt rules to govern its proceedings. These rules must be consistent with this chapter and state law. The chairperson of the ZBA is the Mayor or, in the chairperson's absence, a chairperson pro-tem appointed by the Mayor, or if not appointed by the Mayor, a member of the ZBA as voted by the attending ZBA Board of Adjustment members, any of whom may administer oaths and compel the attendance of witnesses. When the members of the City Council are acting as the ZBA, the chairperson may vote to the same extent as any other member of the ZBA.
- (c) Meetings of the ZBA shall be held at the call of the chairperson and at other times as the ZBA may determine. All meetings of the ZBA shall be open to the public, except that the ZBA may hold closed meetings as permitted under state law.
- (d) The ZBA shall keep minutes of its proceedings, showing the vote of each member upon each question, or, if absent or failing to vote, indicating that fact, and shall keep records of its official actions, all of which shall be filed in the office of the ZBA and shall be public information.

Section 1.1.5.2. Authority for Deciding Applications

- (a) The Zoning Board of Adjustment shall finally decide the following types of applications:
 - (1) An application for a special exception;
 - (2) An application for a change in the status of a non-conformity; and
 - (3) An application for a zoning variance;
- (b) The Zoning Board of Adjustment shall finally decide appeals on the following matters:
 - (1) An appeal of the Building Official's decision on a sign permit or an interpretation of the sign regulations;
 - (2) An appeal of a City official's interpretation of the requirements of this UDC, unless a separate appeals process is otherwise defined within this UDC.

Section 1.1.5.3. Rules Governing Proceedings

- (a) A super-majority (75%) concurring vote of the members of the ZBA is necessary to reverse an order, requirement, decision or determination of any administrative official, or to decide in favor of the applicant on a matter upon which the ZBA is required to pass under this Unified Development Code, or to authorize a variance or special exception from the terms of a provision of this Unified Development Code.
- (b) A quorum shall consist of a majority of the total members of the ZBA.
- (c) The authority delegated to the Zoning Board of Adjustment under this Unified Development Code shall not be construed to effect any of the following:
 - (1) Approval of a petition for a zoning map amendment;
 - (2) Approval of a Special Use Permit;
 - (3) Authorization of a use not authorized in the zoning district in which the applicant's property is located, except to the extent necessary to decide a special exception or a petition for a change in status of a non-conformity.
- (d) The Zoning Board of Adjustment shall not render any decision on an application, appeal or relief petition while a petition for a zoning amendment, application for a Special Use Permit, or plat application for the same land is pending and until such petition or application has been finally decided pursuant to procedures in this Chapter 1.
- (e) Appeals shall be processed and decided in the manner provided in Article 3, division 1 of this Chapter 1.
- (f) Any public hearing shall be preceded by published, personal and posted notice in the manner provided in Article 2, Division 2 of this Chapter 1. Public hearings shall be conducted in the manner provided in Article 2, Division 3 of this Chapter 1.
- (g) Appeals of any decision of the ZBA may be taken to a state district court, county court, or county court-at-law by filing a verified petition stating that the decision of the ZBA is illegal

in whole or in part and specifying the grounds of the illegality. The petition must be filed within ten (10) days after the date the decision is filed with the City Secretary.

Article 2 – Universal Procedures

Division 1 – Application Processing

Section 1.2.1.1. Initiation of Application

- (a) Unless otherwise expressly provided by this Unified Development Code, a petition for legislative action affecting land, other than a petition for a text amendment or a zoning amendment, or an application for a permit, may be initiated only by a City official or body, the owner of an interest in the land subject to the application, or the owner's designated agent. If the applicant is a designated agent, the application shall include a written statement from the property owner authorizing the agent to file the application on the owner's behalf. The responsible official may establish the type of documents needed to determine ownership or agency.

Section 1.2.1.2. Complete Application

- (a) Every petition for a legislative action or application for a permit or approval (referred to in this section as an "application") authorized by this Unified Development Code shall be subject to a determination of completeness by the official responsible for processing the application.
 - (1) No application shall be accepted by the responsible official for processing unless it is accompanied by all documents required by and prepared in accordance with the requirements of this Unified Development Code.
 - (2) The incompleteness of the application shall be grounds for denial or revocation of the application.
 - (3) A determination of completeness shall not constitute a determination of compliance with the substantive requirements of this Code. A determination of completeness shall be made by the responsible official in writing to the applicant no later than the tenth (10th) business day—after the official filing date that the application is submitted to the responsible official. The determination shall specify the documents or other information needed to complete the application and shall state the date the application will expire if the documents or other information is not provided. An application shall be deemed complete on the eleventh 11th business day after the application has been received if the applicant has not otherwise been notified that the application is incomplete.
 - (4) The application shall expire on the forty-fifth (45th) day after the date the application is filed if:

- a. The applicant fails to provide documents or other information necessary to comply with the City's requirements relating to the permit application;
 - b. The City provides to the applicant, not later than the tenth (10th) business day after the date the application is filed, written notice that specifies the necessary documents or other information, and the date the application will expire if the documents or other information is not provided; and
 - c. The applicant fails to provide the specified documents or other information within the time provided in the notice.
- (5) If the application is not completed on the 45th day after the application is submitted to the responsible official, the application will be deemed to have expired and it will be returned to the applicant together with any accompanying applications.

Section 1.2.1.3. Waiver

- (a) Notwithstanding the requirements of Section 1.2.1.2, the responsible official may initially waive the submission of any information in the application and accompanying materials that is not necessary due to the scope and nature of the proposed activity. The decision maker may withdraw a waiver of application requirements if the decision maker determines that meeting the previously waived requirements is necessary to determining compliance with applicable standards of approval.

Section 1.2.1.4. Official Filing Date

- (a) The time period established by state law or this Unified Development Code for processing or deciding an application shall commence on the official filing date. The official filing date is the date the applicant delivers the complete application or plan to the City or deposits the application or plan with the United States Postal Service by certified mail addressed to the City.

Section 1.2.1.5. Conference Post-Submission Conference

- (a) An applicant is encouraged to request a post-submission conference with the responsible official after submittal of an application in order to determine whether the application is complete. The purposes of the post-submission conference are to ascertain the nature of the proposed development; to identify the procedures and standards that apply to the application; to discuss any project modifications recommended by the responsible official; to identify any requests for relief to be sought by the applicant; to determine whether any waiver of application requirements should be granted; and to outline the schedule for acting on the application.
- (1) A post-submission conference is optional and shall not be required as a standard of approval of the application.
 - (2) An applicant is encouraged to contact and meet with neighborhood organizations and neighborhood property owners for the area in which the applicant's proposed development is located. An applicant may request, in connection with a post-submission conference, contact information for neighborhood organizations known

by the City. Contact with these organizations is optional and shall not be required as a standard of approval of the application.

Section 1.2.1.6. Universal Development Application Contents

- (a) The City is hereby authorized to prepare application forms that include information requirements, checklists, drawing sizes, applicant contact information, and any other relevant information.
- (b) All development applications or petitions for a legislative decision shall contain the following information:
 - (1) Identification of property owner and authorized agent;
 - (2) Description of the property and the nature of the development that is the subject of the application;
 - (3) Identification of all zoning classifications (inside the City only) for the property;
 - (4) Identification of all pending legislative applications for the property;
 - (5) Identification of decisions on all quasi-judicial or administrative applications for the property that remain in effect;
 - (6) Identification of all accompanying applications;
 - (7) Identification of all pending or accompanying requests for relief;
 - (8) Demonstration of compliance with approved priority permits;
 - (9) Proposed waiver, if any, of the time for decision on the application; and
 - (10) Any other information concerning such application and requested by the City or the responsible official.

Section 1.2.1.7. Application Fees

- (a) Every petition for a legislative action or application for a permit or approval shall be accompanied by the prescribed fees set forth in the fee schedule prepared and adopted by the City. The prescribed fee shall not be refundable, except when the City Council in its discretion waives the application fee for resubmission of an approval that was denied. The fee schedule may be amended from time to time by resolution of the City Council.

Section 1.2.1.8. Modification of Applications

- (a) The applicant may modify any application following its filing and prior to the expiration of the period during which the City is required to act on the application. If the modification is under revisions requested by the City, and the modification is received at least five (5) working days prior to the time scheduled for decision on the application, the application

shall be decided within the period for decision prescribed by this Unified Development Code. In all other instances (e.g., when the applicant chooses to submit a revised application on his own accord because of a change in development decisions), submittal of a modified application shall extend the time for deciding the application for a period equal to the time specified in this Unified Development Code to decide the original application, commencing on the date the modified application is received, unless a waiver of the time for decision is first required, in which case the terms of the approved waiver shall govern the period within which the City must act on the application.

Section 1.2.1.9. Action by Responsible Official

- (a) Following the determination that an application is complete, the responsible official shall circulate the application to all other administrative officials whose review is required for a decision on the application and compile the comments and recommendations of the officials. The responsible official shall render a decision in the time prescribed, if the official is the decision-maker for the application. In all other cases, the responsible official shall forward the application for review to any advisory body and the final decision-maker, and prepare a report to such board or commission, or to the City Council, as the case may be, including the compilation of any comments and recommendations by other administrative officials. The responsible official also shall prepare required notices and schedule the application for decision within the time and in the manner required by this Unified Development Code.

Section 1.2.1.10. Exemption Determination

- (a) For any application for a development permit for which exemptions are listed, an exemption from the requirement to apply for such permit shall be determined in the following manner:
- (1) The application for exemption must be filed on a form supplied by the responsible official, must be accompanied by the review fee set by the City Council, and must include all of the following information:
 - a. Name, address, and telephone number of the property owner and the applicant.
 - b. A brief description of the activity or development for which exemption is sought;
 - c. A scale drawing depicting the boundaries of the site, the location of existing improvements on the site, and the location of the proposed development activities on the site.
 - d. Information establishing the basis for the exemption.
 - (2) The responsible official shall notify the applicant of the decision. If the responsible official denies the application for exemption, the official shall require that an application for the development permit be prepared in accordance with this Code.

- (b) An exemption is a separate and distinct consideration that is differentiated from a special exception and/or a variance.
- (c) Other sections within this UDC contain exemptions:

Section 1.2.1.11. Action by Advisory Body

- (a) In the absence of a recommendation from an advisory body by a majority vote on a proposed application, the advisory body shall be presumed conclusively to have recommended that the application be considered by the City Council with a recommendation for denial from the advisory body.

Section 1.2.1.12. Decision-maker

- (a) The decision-maker for the application shall approve, approve with conditions or deny the application within the time prescribed by this Unified Development Code. Unless otherwise prescribed by law, where the decision-maker is a board, commission or the Council, the application shall be decided by majority vote of a quorum of the members of the board, commission or the Council, provided that a super-majority vote or other decision rule on the application has not been invoked in accordance with the provisions of law or this Code.

Section 1.2.1.13. Conditions to the Approval

- (a) The initial or final decision-maker may attach such conditions to the approval of an application as are reasonably necessary to assure compliance with applicable requirements of this Unified Development Code.

Division 2 – Notice Requirements

Section 1.2.2.1. Initiation of Application

- (a) Unless otherwise expressly provided by this Unified Development Code, a petition for legislative action affecting land, other than a petition for a text amendment or a zoning amendment, or an application for a permit, may be initiated only by a City official or body, by the owner of an interest in the land subject to the application, or the owner's designated agent. If the applicant is a designated agent, the application shall include a written statement from the property owner authorizing the agent to file the application on the owner's behalf. The responsible official may establish the type of documents needed to determine ownership or agency.

Section 1.2.2.2. Published Notice

- (a) Whenever notice of a public hearing before a board or commission or the City Council is required to be published in a newspaper under state law, other City ordinances or this Unified Development Code, the responsible official shall cause notice to be published in a newspaper of general circulation in the City before the 15th day before the date set for the required hearing. The notice shall set forth the date, time, place and general purpose of the hearing, and, where the decision concerns an individual tract or parcel of land, an identification of the subject property.

Section 1.2.2.3. Personal Notice

- (a) Whenever personal notice of a public hearing before a board or commission or the City Council is required by state law or this Unified Development Code, the responsible official shall cause notice to be sent by regular mail before the 10th day before the hearing date to 1) each owner of real property located within 200 feet of the exterior boundary of the property in question, 2) the applicant and/or property owner, and 3) if the matter to be considered is an appeal, to the appellant. The notice shall set forth the name of the applicant, the time, place and purpose of the hearing, identification of the subject property, and if the matter to be considered is an appeal, the name of the appellant.
 - (1) Ownership for purposes of notice under this ordinance shall be as indicated on the most recently approved municipal tax roll for land inside the City limits, and on the most recently approved county tax roll for land in the extraterritorial jurisdiction. For recently annexed land that is not included on the most recently approved municipal or county tax roll, notice may be given by publication.
 - (2) Notice may be served by depositing the notice in the United States Mail, properly addressed, postage prepaid, by first class or certified mail as chosen by the City.

Section 1.2.2.4. Posting Notice on Property

- (a) Any person, firm or corporation requesting a zoning change, a special use permit (SUP), or a variance from the terms of this UDC shall be required to erect and maintain a sign(s), to be inspected by the City, upon the property for which a variance or zoning change has been requested. Such sign(s) shall be located as follows:
 - (1) One (1) sign per street frontage shall be located within thirty feet (30') of the abutting street, or as determined by the Building Official or a designee.
 - (2) So as to be clearly visible and readable from the public right-of-way and not obstructed in any manner.
 - (3) So as not to create a hazard to traffic on the public rights-of-way abutting the property.

- (4) In the case of a variance request, on the subject property at least ten (10) days prior to the hearing of such variance request by the Zoning Board of Adjustment, and to remain continuously on said property until final action by the Board or withdrawal of the case by the applicant. Removal of the sign by the applicant prior to a decision by the Zoning Board of Adjustment shall constitute a withdrawal of the request.
- (5) In the case of a zoning change request or a request for a SUP, on the subject property at least ten (10) days prior to the hearing of such request by the Planning Commission or City Council, and to remain continuously on said property until final action by the City Council or withdrawal of the case by the applicant.

Removal of the sign by the applicant prior to a recommendation by the Planning Commission and/or a final decision by the City Council shall constitute a withdrawal of the request.

- (b) The signs shall be of a size, type, and message content as determined by the City, but shall advise that a variance, SUP, or zoning change has been requested and shall list the telephone number of the City Secretary for more information. The City is hereby authorized to establish size, type and message requirements for such signs and to distribute such requirements to applicants.
- (c) Upon making an application for a variance, SUP, or zoning change, the applicant shall place sign(s) as required by this section. The City may inspect such sign(s) to ensure compliance as required by this section.
- (d) In the case of a zoning variance request, after the variance request is approved by the Zoning Board of Adjustment, denied by the Zoning Board of Adjustment, or withdrawn by the applicant, the applicant shall remove the sign from the area of the request within ten (10) days of such event.
- (e) In the case of a zoning change request or a request for a SUP, after the request is approved by the City Council, denied by the City Council, or withdrawn by the applicant, the applicant shall remove the sign from the area of the request within ten (10) days of such event.
- (f) It shall be unlawful for anyone to remove, destroy, deface or obstruct the view of a sign which gives notice that a variance, SUP, or zoning change has been requested.
- (g) In the event the applicant shall fail to erect and/or maintain signs in accordance with this section, then the public hearing before the appropriate body shall be postponed to a date in the future which would allow time for compliance.
- (h) The erection of any sign required by this section shall not require a sign permit.
- (i) The owner or applicant shall promptly notify the Building Official of any sign required by this section which becomes lost, stolen or vandalized. In the case of a zoning variance request, the Zoning Board of Adjustment shall have the power to decide whether or not there has been substantial compliance with the posting requirements in the case of lost, stolen or vandalized signs. In the case of a zoning change request or a request for a SUP, the City Council shall have the power to decide whether or not there has been substantial compliance with the posting requirements in the case of lost, stolen or vandalized signs.

Section 1.2.2.5. Notification Following Decision

- (a) Within ten (10) working days of the date of a responsible official, board, commission or City Council determination on an application, written notification of the action shall be mailed to the applicant, stating the action taken. Record of this notification shall be filed with the secretary of the board or commission or City Council on the date of notification.

Section 1.2.2.6. Notification of Appeal or Revocation

- (a) Whenever appeal is taken from a final decision on an application following a public hearing, or whenever the City is to consider revocation of a permit which was obtained following a public hearing, personal notice of the appeal or revocation proceeding shall be provided in the manner prescribed by Section 1.2.2.3. If no public hearing was held prior to approval of the application, personal notice of revocation shall be given only to the holder of the permit.

Division 3 – Public Hearings

Section 1.2.3.1. Setting of the Hearing

- (a) When the responsible official determines that an application is complete and that a public hearing is required by this Unified Development Code, the official shall consult with the secretary of the body required to conduct the hearing and shall select a place and a time certain for the hearing, and shall cause notice of such hearing to be prepared and made under Section 1.2.2.1. The time set for the hearing shall conform to the time periods required by this Code.

Section 1.2.3.2. Conduct of Hearing

- (a) Any person may appear at the public hearing and submit evidence, either individually or as a representative of an organization. Each person who appears at a public hearing shall state his or her name, address, and if appearing on behalf of an organization, state the name and mailing address of the organization for the record.
- (b) The public hearing shall be conducted in accordance with State law.

Section 1.2.3.3. Record of Proceedings

- (a) The body conducting the hearing shall record the proceedings by any appropriate means.

Section 1.2.3.4. Continuance of Proceedings

- (a) The body conducting the hearing may, on its own motion or at the request of any person, for good cause, continue the hearing to a fixed date, time and place. No notice shall be required if a hearing is continued. If a public hearing is closed, no further public testimony shall be taken

Section 1.2.3.5. Additional Rules

- (a) The body conducting the hearing may adopt rules of procedure to limit the number of applications for development approval which may be considered per meeting and the time for each presentation, and may apply such additional rules to govern the public hearing which are not inconsistent with this section.

Section 1.2.3.6. Joint Public Hearing

- (a) The City Council may convene a joint public hearing with the Planning Commission in the manner prescribed in Chapter 211.007(d) of the Texas Local Government Code.

Division 4 – Post-Decision Procedures

Section 1.2.4.1. Re-Application Following Denial

- (a) A request which has been denied by the responsible official, the Planning Commission, and/or the City Council may be resubmitted at any time for reconsideration by the city (a new filing fee must accompany the request). The responsible official, the Planning Commission, and/or the City Council may deny any request with prejudice. If a request has been denied with prejudice, the request may not be resubmitted to the City for one (1) year from the original date of denial.

Section 1.2.4.2. Amendments and Revisions to Approval

- (a) Unless another method is expressly provided by this Unified Development Code, any request to amend or revise an approved application shall be considered a new application, which must be decided in accordance with the procedures governing the original application and the standards in effect at the time such new application is filed with the City.

Division 5 – Expiration, Extension, & Reinstatement

Section 1.2.5.1. Time of Expiration

- (a) Unless otherwise expressly provided by this Unified Development Code, a complete, officially filed application shall automatically expire and become null and void, and all activities under the permit thereafter shall be deemed in violation of this Code, if (1) the applicant fails to satisfy any condition that was imposed as part of the approval of the development application or that was made under the terms of any development agreement, within the time limits established for satisfaction of such condition or term, or (2) the applicant fails to submit a subsequent application required by this Unified Development Code within the time so required. If no time limit for satisfaction of conditions is specified in the decision on the application, the time shall be presumed to be two (2) years from the date the complete application was officially filed, except as provided in Section 1.2.5.8.

Section 1.2.5.2. Effect of Expiration

- (a) Upon the expiration of a complete, officially filed application, all previously approved applications for the same land also shall expire on the expiration date if the filing of an application for the expired permit was required to avoid expiration for the previously approved permit or permits, except as provided in Section 1.2.5.8. Thereafter, a new application for each permit deemed expired under this section must be approved subject to regulations in effect at the time the new application is accepted for filing.

Section 1.2.5.3. Extension Procedures - Initial Request

- (a) Unless a different time is expressly provided for a specific procedure by this Unified Development Code, the responsible official or the board, commission or the City Council that finally approves an application may grant an initial extension of the time for expiration of the application for a period not to exceed one (1) year from the date of the expiration of the application, provided that a request for extension is made in writing at least thirty (30) days before the approved application expires. Every request for extension shall include a statement of the reasons why the expiration date should be extended. The decision-maker may grant a request for an initial extension upon demonstration that circumstances beyond the control of the permit holder have resulted in the permit holder's inability to perform the tasks necessary to prevent the permit from expiring before the expiration date.

Section 1.2.5.4. Extension Procedures - Subsequent Extension

- (a) A permit-holder may apply for an extension of the expiration date for an application for a period not to exceed two (2) years from the date of the expiration of an officially filed, complete application. A second (2nd) extension of the expiration date of an officially filed, complete application may be granted for a period not to exceed one (1) additional year. The extension application must be in writing. Such an extension may be granted only by the City

Council. In determining whether to grant a request, the Council shall take into account the reasons for the requested extension, the ability of the applicant to comply with any conditions attached to the original approval, whether extension is likely to result in timely completion of the project, and the extent to which any newly adopted regulations should be applied to the proposed development.

Section 1.2.5.5. Conditions

- (a) In granting an extension, the official or body deciding the request may impose such conditions as are needed to assure that the land will be developed in a timely fashion and that the public interest is served. In granting a subsequent extension request, the City Council may require that one or more newly adopted development standards be applied to the proposed development.

Section 1.2.5.6. Reinstatement

- (a) Unless otherwise provided by this Unified Development Code, an applicant may request reinstatement of an expired application by filing a written request with the responsible official within thirty (30) days of the date of expiration. The request for reinstatement shall include a statement of the reasons why the application should be reinstated and extended. A request for reinstatement shall be processed and decided in the manner provided for an extension of an expiration period for more than one (1) year. The expiration date shall not be extended for more than two (2) years from the date a complete application was officially filed.

Section 1.2.5.7. Effect of Decision on Extension or Reinstatement

- (a) The granting of an extension or reinstatement request for a permit also extends or reinstates any other permits otherwise deemed expired under Section 1.2.5.2. The denial of an extension or reinstatement results in the immediate lapse of the permit and any other permits deemed expired under Section 1.2.5.2. Thereafter, the permit holder shall file a new application for a permit or permits before undertaking any activity authorized by the lapsed permit.

Section 1.2.5.8. Expiration for Projects Commenced On Or After Effective Date of Ordinance

- (a) Notwithstanding any other provision of this Unified Development Code, for any permit authorized by this Code for which an expiration date is established and which is submitted for filing after the effective date of this ordinance, the expiration date shall be two (2) years following the date of approval of the permit, unless the holder of the

permit files a petition before such date for a vested rights alleging that progress has been made toward completion of the project for which the application subject to expiration was filed. If a vested rights petition is timely filed, the City Council shall determine the expiration date of the permit in deciding the petition.

- (b) Notwithstanding any other provision of this Unified Development Code, for any permit authorized by this Code which is submitted for filing after the effective date of this ordinance and which has expired under subsection (a), all previously approved applications for the same land also shall expire no later than five years from the date of filing of the first application for the project for which the expired application was filed, if the filing of an application for or approval of the expired permit was required to avoid expiration for the previously approved permit or permits, unless the holder of such permits files a petition before such date for a vested rights determination alleging that progress has been made toward completion of the project for which the applications subject to expiration were filed. If a vested rights petition is timely filed, the City Council shall determine the expiration date of the previously approved permits in deciding the petition.

Division 6 – Enforcement & Revocation of Permits

Section 1.2.6.1. Enforcement Activities

- (a) Enforcement activities include informal contacts with individuals to advise them of requirements, the issuance of verbal warnings, written warnings, and municipal court citations, formal court action, billing and collection, and any other action to enforce this ordinance. Employees of the Fire Marshal's office and Building Inspections are authorized to issue municipal court citations for violations of this article.

Section 1.2.6.2. Right to Enter

- (a) The authorized official shall have the right to enter upon any premises at any reasonable time for the purpose of making inspections of buildings or premises that may be necessary to carry out the duties in the enforcement of this Unified Development Code. Submittal of any application for a permit that authorizes construction of structures or improvements shall be construed as a grant of authority to the responsible official to enter on land subject to the application for purposes of enforcing the approved permit.

Section 1.2.6.3. General Remedies

- (a) If any building or structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained or any building, structure, or land is used or developed in violation of this Unified Development Code or any development application approved hereunder, in

addition to other remedies, the City may institute any appropriate action or proceedings to prevent, enjoin, or abate such activity. Appropriate action or proceedings may include termination of utility services (water, gas, electric) by providers; revocation of permits, licenses, or bonds; and institution of legal action in a court of competent jurisdiction.

Section 1.2.6.4. Stop Work Orders

- (a) Whenever any construction or development activity is being done contrary to any term, condition or requirements of an approved application or this Unified Development Code, the authorized official may order the work stopped by notice in writing, served on the property owner or authorized agent. Notice shall be given before the order shall be effective, except when the order should be effective immediately to protect and preserve the public health, safety, or general welfare. Any person thereafter shall cease and desist from further development or construction material to the alleged noncompliance, until corrected by compliance and authorized by the responsible official to proceed with the work. This prohibition shall extend throughout any appeal period.
- (b) The owner or authorized agent may appeal the stop work order to the authorized official by giving written notice. The authorized official shall hear the appeal within five (5) working days of receiving the notice.
- (c) The appellant may appeal a negative ruling by the authorized official in writing to the City Manager, who shall hear the appeal within five (5) working days after receipt of the notice of appeal.
- (d) The decision-maker on the appeal may require the placement of temporary erosion control, drainage protection or other measures by the owner or appellant in order to protect the site and the community resources during the appeal period.
- (e) The authorized official or the City Council, as the case may be, shall decide the appeal and make such order as is necessary to assure compliance with the terms of this Unified Development Code and all approved development applications.

Section 1.2.6.5. Municipal Court Actions

- (a) The City Attorney is authorized to prosecute violations of this Unified Development Code in the municipal court where jurisdiction lies for the action.
- (b) In prosecutions for violations of this Unified Development Code, it shall not be necessary to allege or prove a culpable mental state, as said requirement is hereby waived.

Section 1.2.6.6. Civil Court Actions

- (a) With the approval of the City Council, the City Attorney or any attorney chosen by the City is authorized to file and prosecute a civil action at law or in equity, in any court of competent jurisdiction to enforce the provisions of this Unified Development Code.

Section 1.2.6.7. Cumulative Remedies. No Election of Remedies

- (a) All rights and remedies of the City, and all liabilities and obligations of any other person, under any provisions of this ordinance and any other source shall be cumulative of each other.
- (b) Pursuit or receipt by the City of any enforcement action or remedy shall not impair the right of the City to pursue or receive any other enforcement action or remedy of any nature. The doctrine of election of remedies shall not apply against the City.

Section 1.2.6.8. Fines and Penalties

- (a) A person who violates any provision of this Unified Development Code pertaining to fire safety, zoning or public health and sanitation, including dumping of refuse, shall be punished, upon conviction, by a fine not to exceed \$2,000. A person who violates any other provision of this Unified Development Code shall be punished, upon conviction, by a fine not to exceed \$500. The owner or owners of any building or premises or part thereof, where anything in violation of this ordinance shall be placed or shall exist, any architect, builder, contractor, agent, persons or corporation employed in connection therewith, and who may have assisted in the commission of any such violation, shall be guilty of a separate offense and upon conviction shall be fined as herein provided. This Subsection does not apply to enforcement of an ordinance in the City's extraterritorial jurisdiction.

Section 1.2.6.9. Separate Offenses

- (a) Each calendar day or portion of a calendar day that a violation continues or recurs shall be deemed a separate offense.

Section 1.2.6.10. Nonwaiver by Nonenforcement

The failure or omission of the City, upon one or more occasions, to enforce any right, obligation, or remedy hereunder shall never be construed as a waiver of the City's right to strictly enforce such right, obligation, or remedy, and the City may resume such strict enforcement without advance notice.

Section 1.2.6.11. Nonwaiver of Immunity. Nonliability of the City.

- (a) Nothing herein or in any notice, order, or other document issued pursuant hereto shall ever be construed as a full or partial waiver of governmental immunity, official immunity, or any other immunity of the City.
- (b) To the fullest extent allowed by law, the City shall not be liable for any act, omission, or condition related in any way, directly or indirectly, wholly or partly, to this ordinance.

Section 1.2.6.12. Revocation Proceedings

- (a) If an authorized official determines, based on inspection or investigation by the City, that there are reasonable grounds for revocation of an approved application, the official shall set a hearing before the board or commission to which appeal may be taken from such decision under this Unified Development Code. If the City Council was the original decision-maker, the Council may refer the proposed revocation to the Planning Commission for its report and recommendation prior to such hearing. Circumstances that warrant revocation of an approved application shall include but not be limited to the following:
 - (1) A material mistake was made in approving the application;
 - (2) Approval of the application was procured on the basis of material misrepresentations or fraud on the part of the applicant;
 - (3) Development activities being undertaken on the land subject to the permit are not in conformity with terms of the approved application;
 - (4) The use authorized by the permit is in violation of a condition of approval of the approved application;
- (b) The applicant and any interested parties shall be given notice of the hearing in the manner provided in Chapter 1, Article 2, Division 2. The public hearing shall be conducted in accordance with the procedures described in Chapter 1, Article 2, Division 3.
- (c) In rendering its decision whether to revoke the approved application, the decision-maker shall determine whether the activity authorized under the original approved application complies with the terms, conditions and requirements of such approval. The decision-maker may revoke the application, affirm it, or affirm it with attached conditions that assure that the terms; conditions and requirements of the application shall be met.
- (d) Following revocation and pending any appeal, it shall be unlawful to undertake or perform any activity that was previously authorized by the approved application without applying for and obtaining approval of a new application for the activity. Appeal from the decision to revoke the approved application shall be to the City Council, unless the decision to revoke was made by the Council, in which case revocation is final.

Section 1.2.6.13. Exemption

- (a) This division does not apply to building permits issued under separate ordinance or provision of the City Code.

Division 7 – Text Amendments

Section 1.2.7.1. Amendments to the Unified Development Code (UDC)

- (a) The City Council may from time to time amend, supplement, or change the text of this Unified Development Code .

Section 1.2.7.2. Hearing and Notice

- (a) The City Council shall conduct a public hearing on a proposed text amendment in accordance with Chapter 1, Article 2, Division 3 and cause notice of the amendment to be published in accordance with Section 1.2.2.1 for amendments to the provisions of this Unified Development Code (no personal notice is required):
- (b) The hearing and notice requirements of this section do not apply to an action of the City Council imposing a moratorium on the acceptance, processing or issuance of development permits or petitions for legislative actions.
- (c) Amendments to Chapter 3 may be made by notification in accordance with Section 1.2.2.1.

Section 1.2.7.3. Recommendation of Advisory Body

- (a) Where required by this Unified Development Code or other law, the City Council shall first consider the recommendation of the Planning Commission, together with the recommendations of any other advisory body prescribed by this Code, concerning the proposed text amendment. Where action is required of the Planning Commission or other advisory body on a proposed text amendment, the advisory body also shall conduct a public hearing.

Section 1.2.7.4 Initiation of Text Amendments

- (a) Unless otherwise limited by this Unified Development Code, a petition for amending the text of the Unified Development Code may be initiated by the City Council, the Planning Commission, a board, commission or advisory body described in Chapter 1, Article 1, an ad hoc advisory body appointed by the Council, a responsible official designated in this Code, any citizen or owner of land within the City limits, or any citizen or owner of land within the City's extraterritorial jurisdiction (for a regulation that applies to the ETJ).
 - (1) Except for amendments initiated by the City Council, the petition to amend the text of this Unified Development Code shall state with particularity the nature of the amendment and the reason for the amendment.
 - (2) A petition for a text amendment may be submitted in conjunction with a development application, approval of which depends on approval of the amendment, but shall in every such instance be decided prior to any action by the City on the development application.
 - (3) The City Council may establish rules governing times for submission and consideration of text amendments.

Article 3 – Relief Procedures

Division 1 – Appeals

Section 1.3.1.1. Purpose, Applicability and Effect

- (a) The purpose of an appeal is to contest an initial decision on an application based upon alleged misapplication of the criteria for approval of the application. An appeal shall not be used as a means of amending, varying or otherwise modifying the standards of this Code that apply to the development application.
- (b) Unless otherwise provided by this Code, any final administrative decision on an application by a City official, including a determination by the responsible official that a proposed development is exempt from one or more applications, may be appealed to the board or commission designated in the regulations establishing the procedure by which the decision was made. For administrative decisions on applications appeal shall be to the Zoning Board of Adjustment. Final decisions on an application by a board or commission may be appealed to the City Council only if expressly provided for in the regulations establishing the procedure by which the decision was made.
- (c) The granting of an appeal supersedes the decision from which appeal was taken, and results in approval, conditional approval or denial of the application for which approval was sought.

Section 1.3.1.2. Appeal Requirements

- (a) The applicant and any interested person may appeal a final decision on an application to the appellate body designated by this Code, if any.
- (b) The appeal shall contain a written statement of the reasons why the final decision is erroneous, and shall be accompanied by the fee established by the City Council. An appeal by an applicant shall be accompanied by a copy of the application on which the initial decision was rendered. An appeal may include any other documents that support the position of the appellant.
- (c) A written appeal must be filed with the responsible official within ten (10) working days from the date of notification of the final decision on the application.

Section 1.3.1.3. Processing of Appeal and Decision

- (a) The responsible official for an appeal is the responsible official designated by this Code for processing of the application at issue in the appeal. Upon receipt of a written appeal, the responsible official shall compile all documents constituting the record of the decision on appeal and transmit the record to the appellate body.
 - (1) Receipt of a written appeal of a decision on an application stays all proceedings of the City in furtherance of the decision from which appeal is taken, including without

- (2) limitation acceptance, processing or issuance of any applications that are dependent on the application being appealed, and any development activities authorized by initial approval of the application. The stay shall be lifted only if the responsible official certifies in writing to the appellate body that a stay would cause imminent peril to life or property.
- (3) Thereafter, the stay may be reinstated only by order of the appellate body or a court of record, on application, after notice to the responsible official, for due cause shown.
- (b) Notification of the appeal and conduct of the public hearing thereon shall be in accordance with Article 2, divisions 2 and 3 of this Chapter 1. The initial public hearing on the appeal shall be held within twenty-five (25) working days after the filing of the appeal with the responsible official, unless a different time is prescribed by the provisions of this chapter.
- (c) The appellate body shall decide the appeal within thirty (30) working days of the close of the public hearing. The appellate body shall affirm, reverse or modify the decision from which the appeal was taken.
- (d) The appellant and the applicant for the development permit shall be notified of the decision on appeal in the manner provided in Article 2, Division 2 of this Chapter 1.

Section 1.3.1.4. Criteria

- (a) In deciding the appeal, the appellate body shall apply the same criteria that govern the initial decision on the application under the provisions of this Code.

Section 1.3.1.5. Expiration and Extension

- (a) For purposes of determining expiration or extension periods under this Code, the date of the appellate body's granting of relief on an appeal is the date on which the application is deemed approved.

Division 2 – Petition for Relief from Dedication or Construction Requirement

Section 1.3.2.1. Purpose, Applicability and Effect

- (a) The purpose of a petition for relief from a dedication or construction requirement is to assure that the application of uniform dedication and construction standards to a proposed development does not result in a disproportionate burden on the property owner, taking into consideration the nature and extent of the demands created by the proposed development on the City's public facilities systems.
- (b) A petition for relief under this section may be filed by a property owner to contest any requirement to dedicate land or to construct public improvements for dedication to the

public that is imposed under the City's public facilities standards in Chapter 3 of this Unified Development Code to an application or to any related application authorized under this Code, whether the requirement is under uniform standards, or attached as a condition to approval of the petition or permit. A petition under this section shall not be used to waive standards on grounds applicable to a petition for a waiver under Section 3.1.1.6 of this UDC.

- (c) If the relief requested under the petition is granted in whole or in part by the City Council, the dedication or construction requirement initially imposed shall be modified accordingly, and the standards applied or the conditions attached to initial approval of the application shall be thereafter applied in accordance with the relief granted. In the event the original application was denied by the decision-maker based upon the property owner's failure to incorporate the dedication or construction requirement in the proposed permit, the application shall be remanded to the original decision-maker for a decision consistent with the relief granted by the Council.

Section 1.3.2.2. Petition Requirements

- (a) A petition for relief from a dedication or construction requirement may be filed by a property owner or the applicant for an application, in which the dedication or construction requirement has been applied or attached as a condition of approval, or as grounds for denying the application.
- (b) The petition for relief from a dedication or construction requirement shall allege that application of the standard or the imposition of conditions relating to the dedication or construction requirement is not roughly proportional to the nature and extent of the impacts created by the proposed development on the City's facilities system, as the case may be, or does not reasonably benefit the proposed development.
 - (1) The petitioner shall provide a study in support of the petition for relief that includes information as required by the City Engineer including any other information that shows the alleged disproportionality between the impacts created by the proposed development and the dedication or construction requirement imposed by the City.
- (c) A petition for relief from a dedication or construction requirement shall be filed with the responsible official within ten (10) days of the decision to conditionally approve or deny an application for approval of an application that has been submitted. The study in support of the petition shall be filed within 30 days of the initial decision, unless the petitioner seeks an extension in writing. The responsible official may extend the time for submitting the study for a period not to exceed an additional 30 days for good cause shown.

Section 1.3.2.3. Land in Extraterritorial Jurisdiction

- (a) Where land or facilities to be dedicated are located in the extraterritorial jurisdiction of the City and are to be dedicated to a county under an interlocal agreement under Tex. Loc. Gov't Code Chapter 242, or are located with a drainage district and are to be dedicated to the District, a petition for relief or study in support of the petition shall not be accepted as complete for filing by the responsible official unless the petition or study is accompanied by

verification that a copy has been delivered to the county or drainage district in which the facilities are to be located.

Section 1.3.2.4. Processing of Petitions and Decision

- (a) The City Engineer is the responsible official for a petition for relief from a dedication or construction requirement. Where the petition is for relief from dedication of rights-of-way for or construction of a facility in the City's extraterritorial jurisdiction that is to be dedicated to a county under an interlocal agreement under Texas Local Government Code, Chapter 242, or to a drainage district, the City Engineer shall coordinate a recommendation with the county or drainage district official responsible for reviewing plats in the county.
- (b) The City Engineer shall evaluate the petition and supporting study and shall make a recommendation to the City Council based upon the information contained in the study, any comments received from the county, and the City Engineer's analysis. In evaluating the petition and study, the City Engineer may utilize any reasonable methodology in evaluating the petitioner's study, including but not limited to impact methodologies.
- (c) The City Council shall decide the petition for relief from a dedication or construction requirement.
- (d) The City Council shall conduct a public hearing in accordance with Article 2, Division 3 of Chapter 1, within thirty (30) working days after the study supporting the petition is filed with the City Engineer.
- (e) The petitioner bears the burden of proof to demonstrate that the application of a dedication or construction requirement that is uniformly applied imposes a disproportionate burden on the petitioner.
- (f) The City Council shall consider the petition for relief from a dedication or construction requirement and, based upon the criteria set forth in Section 1.3.2.5, shall take one of the following actions:
 - (1) Deny the petition for relief, and impose the standard or condition in accordance with the initial decision; or
 - (2) Deny the petition for relief, upon finding that the proposed dedication or construction requirements are inadequate to offset the impacts of the development and either deny the application or require that additional dedications of rights-of-way for or improvements to such systems be made as a condition of approval of the application; or
 - (3) Grant the petition for relief, and waive in whole or in part any dedication or construction requirement to the extent necessary to achieve proportionality; or
 - (4) Grant the petition for relief, and direct that the City participate in the costs of acquiring land for or constructing the capital improvement under standard participation policies.
- (g) The petitioner shall be notified of the decision on the petition for relief in the manner provided in Article 2, Division 2 of Chapter 1.

Section 1.3.2.5. Criteria for Approval

(a) Criteria for Approval.

- (1) In deciding the petition for relief from a dedication or construction requirement, the City Council shall determine whether the application of the standard or condition requiring dedication of an interest in land for public improvements or construction of capital improvements is roughly proportional to the nature and extent of the impacts created by the proposed development and reasonably benefits the development.
- (2) In making such determination, the Council shall consider the evidence submitted by the petitioner, the City Engineer's report and recommendation and, where the property is located within the City's extraterritorial jurisdiction, or a drainage district, any recommendations from the county or district.

Section 1.3.2.6. Expiration and Extension

- (a) Where an application was denied based upon the imposition of the standard or condition requiring dedication of land or construction of a capital improvement, the petitioner shall resubmit the application to the original decision-maker within ninety (90) days of the date the petition for relief is granted, in whole or in part, showing conformity with the City Council's decision on the petition.
- (1) If such re-submittal of the application is not made within the ninety-day (90-day) period, the relief granted by the City Council on the petition shall expire.
 - (2) The Council may extend the time for filing the application for good cause shown, but in any event, the expiration date for the relief granted shall not be extended beyond one year from the date the petition was granted.
 - (3) If the application is modified to increase the number of residential units or the intensity of non-residential uses, the responsible official may require a new study to validate the relief granted by the City Council.
 - (4) If the development application for which relief was granted is denied on other grounds, a new petition for relief may be required.
- (b) Where approval of the application was conditioned on satisfaction of the dedication or construction requirement, the City Engineer may require the applicant to submit a modified application or supporting materials consistent with the relief granted by the City Council on the petition.
- (1) The relief granted on the petition shall remain in effect for the period the plat or related approved application is in effect, and shall expire upon expiration of the application.
 - (2) Extension of the plat also shall result in extension of the relief granted on the petition.

Division 3 – Vested Rights Petition

Section 1.3.3.1. Purpose, Applicability and Effect

- (a) The purpose of a vested rights petition is to determine whether one or more standards of this Unified Development Code should not be applied to a development application by operation of state law, or whether certain permits are subject to expiration.
- (b) A vested rights petition may be filed for an application authorized under this Unified Development Code, filed in accordance with the Texas Local Government Code, Chapter 245 or successor statute . A vested rights petition may not be filed with a petition for a text amendment, a zoning map amendment or any other request for a legislative decision by the City Council. A vested rights petition also may be filed prior to expiration of certain permits pursuant to Section 1.2.5.8.
- (c) Upon granting of a vested rights petition in whole or in part, the responsible official shall process the application and the decision-maker shall decide the application in accordance with the standards specified in the relief order based on prior ordinance requirements or development standards, or extend the permit otherwise subject to application pursuant to Section 1.2.5.8.

Section 1.3.3.2. Petition Requirements

- (a) A vested rights petition may be filed by a property owner or the owner's authorized agents, including the applicant, with any development application identified in Section 1.3.2.1, or by the holder of a permit subject to expiration pursuant to Section 1.2.5.8.
- (b) The vested rights petition shall allege that the petitioner has a vested right for some or all of the land subject to the development application under Texas Local Government Code, Chapter 245 or successor statute, or pursuant to Texas Local Government Code, Section 43.002 or successor statute, that requires the City to review and decide the application under standards in effect prior to the effective date of the currently applicable standards. The petition shall include the following information and documents:
 - (1) A narrative description of the grounds for the petition;
 - (2) A copy of each approved or pending application or permit (the “Vesting Permit”) which is the basis for the contention that the City may not apply current standards to the application which is the subject of the petition;
 - (3) The date of submittal of the application for the Vesting Permit, or of a plan pursuant to which the Vesting Permit was subsequently filed, if the submittal date is different from the official filing date.
 - (4) The date the project for which the application for the Vesting Permit was submitted was commenced.
 - (5) Identification of all standards otherwise applicable to the application from which relief is sought;

- (6) Identification of any current standards which petitioner agrees can be applied to the application at issue;
 - (7) A narrative description of how the application of current standards affect the application for which the petition is filed; and
 - (8) A copy of any prior vested rights determination involving the same land.
 - (9) Where the petitioner alleges that a permit subject to expiration under Section 1.2.5.8 should not be terminated, a description of the events constituting progress toward completion of the project for which the permit subject to expiration was approved.
- (c) A vested rights petition shall be filed with an application for which a vested right is claimed, except that the petition may be filed before the date of expiration of any permit when filed pursuant to Section 1.2.5.8. Where more than one application is authorized to be filed by this Unified Development Code, the petition may be filed simultaneously for each application.

Section 1.3.3.3. Processing of Petitions and Decision

- (a) The responsible official for a vested rights petition is the responsible official for processing the application with which the petition is associated, except where a petition is submitted pursuant to Section 1.2.5.8. Where multiple applications are submitted, and there is more than one responsible official, the decision of each responsible official shall be coordinated with that of any other responsible official on the vested rights petition. The responsible official shall promptly forward a copy of the vested rights petition to the City Attorney following acceptance.
- (b) If the responsible official is the decision-maker on the application, the official shall determine whether the relief requested in the vested rights petition should be granted in whole or in part, and shall formulate a written report summarizing the official's reasoning and setting forth the decision on the petition, which shall be delivered to the applicant within ten (10) business days from the date the vested rights petition is accepted for filing, unless the tenth business day falls on a weekend or a City holiday, in which case the deadline shall be the next business day following said weekend or holiday.
- (c) If the application is to be decided by the Planning Commission or another board or commission, the Building Official shall submit a report in the form of a recommendation to the decision-maker. The commission or board shall render a decision on the vested rights petition in conjunction with its decision on the application.
- (d) Where the City Council is the final decision-maker on the application, or for any petition submitted pursuant to Section 1.2.5.8, the petitioner may submit a written request that the vested rights petition be immediately forwarded to the Council for a determination. The request must be accompanied by a waiver of the time for decision on the application imposed under this Unified Development Code pending decision by the Council on the petition, which shall stay further proceedings on the application. Upon receipt of the request, the responsible official shall prepare a recommendation and forward the matter to the Council for decision, which shall decide the petition within thirty (30) calendar days of

- (e) the petitioner's request. If no written request for Council referral is filed, the Council shall decide the vested rights petition with its decision on the application.
- (f) The petitioner or any interested person may appeal the responsible official's or the commission's or board's decision on the vested rights petition within ten (10) working days of the date of such decision to the City Council in accordance with the procedures in Division 1 of this Article 3. An appeal under this Subsection stays acceptance of filing of any related applications. The Council shall decide the petition within thirty (30) days of receipt of the notice of appeal.

Section 1.3.3.4. Action on Petition and Order

- (a) The decision-maker on the vested rights petition may take any of the following actions:
 - (1) Deny the relief requested in the petition, and direct that the application shall be reviewed and decided under currently applicable standards;
 - (2) Grant the relief requested in the petition, and direct that the application shall be reviewed and decided in accordance with the standards contained in identified prior regulations; or
 - (3) Grant the relief requested in part, and direct that certain identified current standards shall be applied to the application, while standards contained in identified prior regulations also shall be applied; or
 - (4) For petitions filed pursuant to Section 1.2.5.8, specify the expiration date or the conditions of expiration for the permit(s).
- (b) The responsible official's report and each decision on the vested rights petition shall be memorialized in an order identifying the following:
 - (1) The nature of the relief granted, if any;
 - (2) The approved or filed application(s) upon which relief is premised under the petition;
 - (3) Current standards which shall apply to the application for which relief is sought;
 - (4) Prior standards which shall apply to the application for which relief is sought, including any procedural standards;
 - (5) The statutory exception or other grounds upon which relief is denied in whole or in part on the petition;
 - (6) To the extent feasible, subordinate applications that are subject to the same relief granted on the petition; and
 - (7) For petitions filed pursuant to Section 1.2.5.8, the date of expiration of the permit or permits.

Section 1.3.3.5. Criteria for Approval

- (a) The decision-maker shall decide the vested rights petition based upon the following factors:
 - (1) The nature and extent of prior applications filed for the land subject to the petition;
 - (2) Whether any prior vested rights determinations have been made with respect to the property subject to the petition;
 - (3) Whether any prior approved applications for the property have expired or have been terminated in accordance with law;
 - (4) Whether current standards adopted after commencement of the project-affect proposed use of the land based upon the proposed application;
 - (5) Whether any statutory exception applies to the standards in the current Unified Development Code from which the applicant seeks relief;
 - (6) Whether any prior approved applications relied upon by the petitioner have expired
 - (7) For petitions filed pursuant to Section 1.2.5.8, whether any of the events in Section 1.3.3.8(c) have occurred.
 - (8) Any other provisions outlined in the Texas Local Government Code Chapter 245 or successor statute.
- (b) If the claim of vested rights under a petition is based upon a pending application subject to standards that have been superseded by current standards under this Unified Development Code, the decision-maker may condition any relief granted on the petition on the approval of the application under such prior standards.

Section 1.3.3.6. Application Following Final Decision on Petition

- (a) Following the City's final decision on the vested rights petition, the property owner shall conform the application for which relief is sought to such decision. The decision-maker on the application shall consider any application revised under this Subsection in accordance with the procedures for deciding the initial application under this Unified Development Code and in conformity with the relief granted on the petition. If the relief granted on the vested rights petition is consistent with the application on file, no revisions are necessary. If proceedings have been stayed on the development application pending referral of the vested rights petition to the City Council, proceedings on the application shall resume after the Council's decision on the vested rights petition.

Section 1.3.3.7. Expiration and Extension

- (a) Relief granted on a vested rights petition shall expire on occurrence of one of the following events:

- (1) The petitioner or property owner fails to submit a required revised application consistent with the relief granted within forty-five (45) days of the final decision on the petition;
 - (2) The application for which relief was granted on the vested rights petition is denied under the criteria made applicable through the relief granted on the petition; or
 - (3) The application for which relief was granted on the vested rights petition expires.
- (b) Extension of the date of expiration for the application for which relief was granted on a vested rights petition shall result in extension of the relief granted on petition for a like period.

Section 1.3.3.8. Dormant Projects

- (a) For purposes of this section only:
- (1) Initial permit means any of the following types of approvals granted under the UDC Ordinance, as amended, or any predecessor ordinance that was in effect prior to the adoption of this UDC, including: site plan, design plan, special use permit, variances or any other application that was approved subject to a schematic drawing illustrating the location, arrangement, orientation or design improvements on a site intended for development.
 - (2) Final permit means a building permit or certificate of occupancy, approved under the UDC Ordinance, as amended, or any predecessor ordinance that was in effect prior to the adoption of this UDC.
- (b) Any application for an initial permit that was approved or filed before, but that was not subject to an expiration date, two (2) years prior to the adoption date of this UDC shall expire on the effective date of this Unified Development Code.
- (c) The owner of the land subject to an initial permit that expires under Subsection (b) above may petition the City Council to reinstate such permit by filing a written petition within sixty (60) calendar days of the effective date of this Unified Development Code. The petition shall clearly state the grounds for reinstatement, and shall be accompanied by documentation of one of the following:
- (1) As of two (2) years prior to the adoption date of this UDC one of the following events had occurred:
 - a. A final permit for all or part of the land subject to the approved initial permit was approved, or was filed and was subsequently approved;
 - b. An application for a final permit was submitted for all or part of the land subject to the expired initial permit, but such application was rejected on grounds of incompleteness;
 - c. Costs for development of the land subject to the initial permit, including but not limited to costs associated with roadway, utility and other infrastructure facilities designed to serve the land in whole or in part, but exclusive of land

acquisition costs, were incurred in the aggregate amount of five percent (5%) of the most recent appraised market value of the land;

- d. Fiscal security was posted to ensure performance of an obligation required for all or a part of the land subject to the approved initial permit; or
- e. Utility connection fees for all or part of the land subject to the approved initial permit were paid.

(2) After two (2) years prior to the adoption date of this UDC but before the expiration date specified in Subsection (b) above, one of the following events had occurred:

- a. A final permit was approved for all or part of the land subject to the approved permit, and remained in effect for such land on such expiration date; or
- b. A complete application for approval of a final permit for all or part of the land subject to the approved initial permit was pending for decision on such expiration date.

(d) The City Council may take one of the following actions:

- (1) Reinstate the expired initial permit without an expiration date, if it finds that the petitioner has met any one of the criteria listed in Subsection (c)(1);
- (2) Reinstate the initial permit for all or part of the land subject thereto, if it finds that the petitioner has met any one of the criteria listed in Subsection (c)(2), subject to such expiration dates or other conditions that assure that the remaining land that is not subject to an approved or pending final permit application will be developed in a timely fashion. In granting relief under this provision, the Council may require that development of such remaining land is subject to standards enacted after approval of the initial permit;
- (3) Deny the petition, if it finds that the petitioner has failed to meet any of the criteria in Subsection (c); or
- (4) Reinstate the permit for only that part of the land subject to a pending final permit application, if it finds that the petitioner has met the criteria in Subsection (c)(2)(b) and the pending application subsequently was approved, and deny the petition for the remaining land subject to the expired initial permit.

Division 4 – Petition for Waivers

Section 1.3.4.1. Purpose, Applicability and Effect

- (a) The purpose of a petition for a waiver is to determine whether one or more standards of applicable to applications or permits within this Unified Development Code should not be applied to an application by operation of state law.
- (b) The applicant may file a petition for waiver of one or more standards applicable to a application or permit.

Section 1.3.4.2. Application & Decision-maker

- (a) The waiver petition shall be decided by the City Council.

Section 1.3.4.3. Criteria for Approval

- (a) The following criteria shall be applied in deciding a waiver:
- (1) There are special circumstances or conditions arising from the physical surroundings, shape, topography or other feature affecting the land such that the strict application of the provisions of this Chapter to the proposed use would create an unnecessary hardship or inequity upon or for the applicant, as distinguished from a mere inconvenience, in developing the land or deprive the applicant of the reasonable and beneficial use of the land;
 - (2) The circumstances causing the hardship do not similarly affect all or most properties in the vicinity of the petitioner's land;
 - (3) The waiver is necessary for the preservation and enjoyment of a substantial property right of the petitioner;
 - (4) Granting the waiver will not be detrimental to the public health, safety or welfare, or injurious to other property within the area;
 - (5) Granting the waiver will not have the effect of preventing the orderly use and enjoyment of other land within the area in accordance with the provisions of this Code, or adversely affect the rights of owners or residents of surrounding property;
 - (6) The hardship or inequity is not caused wholly or in substantial part by the petitioner;
 - (7) The request for a waiver is not based exclusively on the petitioner's desire for increased financial gain from the property, or to reduce an existing financial hardship; and
 - (8) The degree of variation requested is the minimum amount necessary to meet the needs of petitioner and to satisfy the standards in this section.
- (b) The petitioner bears the burden of proof to demonstrate that the application of a dedication or construction requirement that is uniformly applied imposes a disproportionate burden on the petitioner.
- (c) The City Council shall consider the waiver petition and, based upon the criteria set forth in Subsection (a) above, shall take one of the following actions:
- (1) Deny the petition, and impose the standard or requirement as it is stated in this UDC; or
 - (2) Grant the petition, and waive in whole or in part the standard or requirement as it is stated in this UDC.
- (d) The petitioner shall be notified of the decision on the waiver petition in the manner provided in Article 2, Division 2 of Chapter 1.

Section 1.3.4.4. Effect of Approval

- (a) The waiver granted shall remain in effect for the period the approved development application is in effect, and shall expire upon expiration of the application. Extension of the application also shall result in extension of the relief granted on the petition.

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Chapter 3: Site Development Design and Improvements

Article 1 – Landscape

Division 1 – General

Section 3.1.1.1. Purpose

These regulations are enacted to ensure the health, safety, and welfare of the Citizens of Iowa Colony, Texas by protecting the existing natural environment and providing additional exterior landscaping requirements that enhance the outdoor visual character and quality of life.

Section 3.1.1.2. Application/Authority/Jurisdiction

This article is applicable to all persons, including, without limitation, the city and other governmental agencies and entities, except that its application shall not extend to real property owned or controlled by the State of Texas or the United States of America.

- (a) The Building Official or an assign shall have authority and jurisdiction over all trees, shrubs and plants of any kind and character that are now or may hereafter be planted on or along the streets or other public places of the city, including all plantings of every kind and character lying outside of the property lines of privately owned property and as prescribed in this Code.
- (b) The Building Official or an assign shall have the duty to:
 - (1) Direct, regulate and encourage the planting, culture and preservation of shade and ornamental trees and plants on the streets and public places of the city;
 - (2) Direct, regulate and encourage the pruning, spraying, cultivation and maintenance of such trees and plants, and to direct the time and method of pruning and trimming the same;
 - (3) Remove or cause to be removed any tree or plant, or other obstruction that a would interfere with the development of adjoining trees or plants or with the free use of the streets or sidewalks;
 - (4) Advise property owners with respect to the kinds of trees to plant or shrubbery desired on the particular street, and the method of planting the same;
 - (5) Take all such measures as may be deemed necessary or desirable to control all dangerous insects, pests and plant diseases that may affect trees or shrubbery on the streets or other public places in the city;

- (6) Devise plans for the planting of trees on and along the streets between the curbs and property lines within the city, where trees may be desirable;
- (7) Prescribe the character, kind, size, space and position of all trees so planted on or along public streets or other public places;
- (8) Prevent the planting of trees, shrubs or other plants that are not desirable; and
- (9) Plant or cause to be planted such trees on or along such streets or other public places as the Building Official or an assign may deem proper.

Section 3.1.1.3. Designation of Trees.

- (a) The city council may by motion designate a tree that:
 - (1) Has historical significance arising from any historical event or events that are associated with the tree; or
 - (2) Has arboricultural significance as listed on the county, state or national tree register by American Forests, the Texas Forest Service or an equivalent arboricultural organization.
- (b) No tree shall be designated except upon application made or joined by the owner of the tree, which application shall be filed with the Building Official or an assign in such for as the Building Official or an assign may require and shall set forth and document the grounds for the requested designation.
- (c) The Building Official or an assign shall review each application that is received and shall return any application that is determined to be incomplete or inconsistent with the requirements of this section. A complete and consistent application that is based upon historical significance shall be submitted for review by the Building Official or an assign, which shall review the same and provide a response, if any, within 45 days. The Building Official or an assign shall submit comments of the City Council together with the Building Official or an assign's own recommendation for approval or denial.
- (d) The City Council shall consider each application on the basis of the application itself and the recommendations and comments provided. City Council shall not be obligated to conduct any hearing on the matter, provided that interested persons may make an appearance on the matter or may submit written comments to the city secretary for distribution to the council members.
- (e) The City Council shall approve or disapprove an application that is referred by the Building Official or an assign by motion. The decision of the City Council shall be final, and if the application is disapproved, another application for designation of the same tree may not be considered for a period of three years.
- (f) To the extent permitted by laws governing the filing of documents in Brazoria County real property records, a notice setting forth each tree designation shall be filed by the City in the real property records of Brazoria County.

Section 3.1.1.4. Green Corridors

- (a) A green corridor may be designated in accordance with this section.
- (b) In this section, a tract or parcel of land and its contiguous parkway that is devoted by actual use or by valid deed restrictions or covenants running with the land to single-family residential use or being located within a single-family residential zoning district is referred to as a "single-family property." The provisions of this section shall not be construed to prohibit a single-family property from being physically situated within a green corridor. However, a single-family property shall not be subject to any requirement created by the green corridor designation.
- (c) Each green corridor shall consist of the right-of-way of a major thoroughfare and building setback areas of abutting and contiguous properties. A green corridor shall be not less than one (1) mile long.
- (d) A green corridor may be designated by the City Council by motion following a hearing and determination that designation of the green corridor would significantly enhance the beautification of the city. Trees within the green corridor shall be entitled to enhanced protection as provided in this article, and the City Council may, in designating the green corridor, specify one or more particular species, varieties, and/or colors of trees to be planted, to the exclusion of others within the green corridor. Additionally, green corridors may be given priority for expenditure of city moneys for street tree planting, to the extent permitted by law.
- (e) Petitions for the designation of a green corridor shall be submitted to the city secretary upon a form promulgated by the Building Official or an assign for that purpose. Each petition shall be joined and signed by the owners of properties representing three quarters of the front footage of tracts or parcels that would be adjacent to the major thoroughfare in the proposed green corridor, single-family properties and their owners excluded. All required signatures must be collected within a period of time not exceeding 90 days, and the petition must be filed with the city secretary not later than the fifteenth day after the last date of any property owner's signature on the petition.
- (f) The City Council shall conduct a hearing regarding each petition within 90 days following the date of its filing. Written notice of the hearing shall be given by the city secretary in such manner as the City Council may specify in the call for the hearing. Any person may present testimony at the hearing. Additionally, written comments may be provided to the city secretary for distribution to council members. If a petition is disapproved, another petition for designation of the same or substantially the same green corridor shall not be considered for a period of three years.
- (g) Nothing in this section shall be construed to prohibit the City Council from waiving any irregularity in any petition or from designating any green corridor for which a petition has not been presented.

Section 3.1.1.5. Removal of Protected Trees

- (a) The provisions of this section shall be applicable to the removal of a protected tree unless:

- (1) The tree is situated upon the site of a construction or enlargement of a building or parking lot such that Division 2 of this article is applicable; or
 - (2) The tree is not a designated tree and is situated upon a tract or parcel of land devoted by use or by valid deed restrictions or covenants running with the land to single-family residential use or within a single-family residential zone; and the term "protected tree" is so restricted as used in this section.
- (b) No person shall cause a protected tree to be removed without complying with a protected tree replacement requirement, which may be satisfied as follows:
- (1) By the planting anywhere on the tract or parcel of land where the protected tree to be removed is situated or in the adjacent parkway area of additional trees on the basis of one caliper inch of tree planted for one caliper inch of tree removed; or
 - (2) By contributing to the fund created under section 3.1.2.3 (a) (2) of this Code an amount equal to:
 - a. If the tree is a parkway tree, \$225.00 per caliper inch of tree removed for a six inch (6") caliper tree and smaller, \$375.00 per caliper inch of tree removed for over six inch and up to twelve inch (12") caliper trees, and \$500.00 per caliper inch of tree removed for over twelve inch (12") caliper trees; or
 - b. If the tree is a corridor tree or green corridor tree, \$103.00 per caliper inch of tree removed; or
 - c. A combination of the foregoing;

any or all of which shall be subject to a cost adjustment from January 2016 in accordance with the formula established in the definition of the term "cost adjustment."

Installation of trees provided shall be subject to the planting standards established in Division 2 of this article, and the trees shall be planted within 30 days following the removal of the tree unless a documented assurance of planting is provided to the Building Official or an assign with the notice, in which case the trees shall be placed within six months of the removal of the trees. A documented assurance may be provided in the same manner as under section 3.1.2.12 (b) of this Code. A variance may be requested in the same manner provided in sections 3.1.2.14 through 3.1.2.16 of this Code. Additionally, the mitigation provisions of section 3.1.2.17 of this Code shall be applicable to trees that are provided in order to satisfy a protected tree replacement requirement.

- (c) No person shall cause a protected tree to be removed without first filing with the Building Official or an assign a written notice of removal of the protected tree, which must be filed at least 20 days prior to the removal. The notice shall include a map depicting the tract or parcel of land upon which the protected tree or trees to be removed are situated and shall demonstrate the manner in which the protected tree replacement requirement will be provided.
- (d) It is an affirmative defense to prosecution under this section that the protected tree sustained damage from fire, wind storm, accident or other cause such that the protected

tree became an immediate threat to persons or property, provided that the owner of the tree caused the circumstances to be documented and filed written notice of the removal with the Building Official or an assign within ten days following the removal of the tree.

- (e) It is a defense to prosecution under this section that the protected tree was removed by or on behalf of a public utility or a governmental entity and that its removal without notice was reasonably required for the maintenance or installation of public facilities or utility systems.
- (f) The Building Official or an assign shall promulgate forms of notices and procedures under this section. A map need not be prepared in the form of a survey map, provided that it shall provide sufficient information to unmistakably identify the protected tree that is to be removed and the location of any tree that is to be planted in order to provide the protected tree replacement requirement, as well as the species and caliper of each tree. If the owner elects to make a contribution to the fund created under section 3.1.2. (a) (2) of this Code, then the contribution shall be tendered with the notice. No provision of this section shall be construed to require city personnel to review any notice filed under this section for accuracy or sufficiency or to perform any site inspection of trees for which notices are filed.
- (g) No provision of this article shall be deemed to excuse compliance with Division 3 of this chapter. If a notice of removal calls for the removal of a tree situated in a public right-of-way that is protected under Division 3, then written permission for its removal issued by Building Official or an assign shall be submitted with the notice of removal that is required under subsection (c), above.

Section 3.1.1.6. Cumulative Effect

The protections afforded to trees under this article are cumulative of other provisions of this Code, including, but not limited to, section 3.1.1.2 and Division 3 of this chapter. Without limitation of the foregoing, nothing in this article shall be construed to authorize the removal or damaging of a tree growing in whole or in part within a public street that is subject to protection under Division 3 without full compliance with the provisions of Division 3.

Section 3.1.1.7. Tree Protection; Affirmative Defense

No person shall perform or cause or allow to be performed any construction activity, including, without limitation, construction or repair of buildings or other structures, installation or repair of utilities, or installation or repair of streets or sidewalks within the dripline circle area of any protected tree that is not to be lawfully removed, without complying with the applicable provisions of the City of Iowa Colony Engineering Design Criteria Manual with respect to any protected tree. It is an affirmative defense to prosecution under this section that the construction activity is an emergency repair of utilities on public or private property.

Section 3.1.1.8. Records

- (a) Notices, maps, applications, landscape plans and other documents received by the city under this article are governmental records, and any person providing a false governmental document shall be subject to prosecution as provided by the Texas Penal Code.

(b) Governmental records received by the city under this article are subject to public inspection and copying as provide by law.

Section 3.1.1.9. Fines and Penalties

See Chapter 1.

Section 3.1.1.10. Single-family Residential Properties

(a) While properties with an existing single family residence are not subject to the requirements of Division 2 of this article, it is the policy and requirement of the city that no final building permit inspection approval shall be given by the building official for construction of a new single-family residential house unless the property owner has complied with this section by preserving or planting a tree or trees or obtaining credit therefor, as follows:

- (1) The required tree or trees, whether planted or preserved, shall be one and one-half inches (1½) caliper size or larger.
- (2) The required tree or trees may be either new trees that are planted in compliance with this article or trees already existing on the building site or abutting street right-of-way as herein below provided that have been preserved in accordance with this article.
- (3) The required tree or trees, whether newly planted or preserved, must be of species listed on the Large Tree list or the Small Tree list.
- (4) Except as provided in subsection (b), below, the requirement for building sites or lots being one (1) acre or more in size is:
 - a. Planting or preservation of one tree of one and one-half inch (1½") caliper or larger, per six-thousand three-hundred (6,300) square feet of lot or building site are;
 - b. If the tree is an existing tree that is preserved, then it may be situated anywhere on the building site or in the abutting street right-of-way;
 - c. For a newly planted tree, up to one-half (1/2) of the total tree requirement, it may be planted in the abutting street right-of-way, unless the Building Official or an assign requires it to be planted elsewhere on the building site upon determination by the Building Official or an assign that no adequate planting site exists in the abutting street right-of-way.
- (5) Except as provided in subsection (b), below, the requirement for building sites or lots being between six-thousand and three-hundred (6,300) square feet and one (1) acre in size is:
 - a. Planting of two (2) new trees of one and one-half inch (1½") caliper or larger per six-thousand three-hundred (6,300) square feet of lot or building site area; if this option is selected, then one tree must be planted in the abutting street right-of-way unless the Building Official or an assign requires it to be planted elsewhere on the building site upon determination by the Building Official or an assign that no adequate planting site exists in the abutting

street right-of-way, and the other tree shall be planted on the building site;
or

- b. Planting of one new tree of four inch (4") caliper or larger per six-thousand three-hundred (6,300) square feet of lot or building site area; if this option is selected, then the tree may be planted in the abutting street right-of-way, unless the Building Official or an assign requires it to be planted elsewhere on the building site upon determination of the Building Official or an assign that no adequate planting site exists in the abutting street right-of-way; or
 - c. Preservation of an existing tree of 1½-inch caliper or larger, up to one-half (1/2) of the total tree requirement and planting of one new tree of 1½-inch caliper or larger per six-thousand three-hundred (6,300) square feet of lot or building site area; if this option is selected, then one tree may be preserved in the abutting street right-of-way and the other tree shall be planted either (1) within the abutting street right-of-way unless the Building Official or an assign requires it to be planted elsewhere on the building site upon determination by the Building Official or an assign that no adequate planting site exists in the abutting street right-of-way, or (2) elsewhere on the building site.
- (b) The Building Official or an assign may excuse the planting or preservation of the tree or trees otherwise required under this section and instead authorize the property owner to purchase credits under section 3.1.2.3 of this Code upon determination that the size and configuration of the property and the house do not afford sufficient space for the planting or preservation of even one tree.
- (c) Nothing in this ordinance shall waive any rights of the City to control its rights-of-way, including but not limited to the right to remove a tree from the right-of-way.

Section 3.1.1.11. Screening of Electric Meters on Residential Properties

A single-family or multi-family residential development that contains three or more electric meters that are clustered together in a group meter or gang meter configuration that is visible from the right-of-way shall install screening around the electric meters in accordance with the following:

- (1) The screen must be constructed out of wood, lattice, metal, brick, vegetation, or other opaque fencing material;
- (2) The screen must be tall enough to obstruct the view of the electric meters from the right-of-way; and
- (3) The screen shall provide for at least three feet of front clearance from the face of the meter and at least two feet of side clearance from the electric meter, or the minimum clearance for electric meters required by all utility companies with authority to service the electric meters.

Section 3.1.1.12. Limitation on Tree Mitigation Requirements and Fees

(a) In this section:

(1) "Residential structure" means:

- a. A manufactured home as that term is defined by Section 1201.003 Texas Occupations Code;
- b. a detached one-family or two-family dwelling, including the accessory structures of the dwelling;
- c. a multiple single-family dwelling that is not more than three (3) stories in height with a separate means of entry for each dwelling, including the accessory structures of the dwelling; or
- d. any other multifamily structure.

(2) "Tree mitigation fee" means a fee or charge imposed by the City in connection with the removal of a tree from private property.

(b) This Code does not require a person to pay a tree mitigation fee for the removed tree if the tree:

- (1) is located on a property that is an existing one-family or two-family dwelling that is the person's residence; and
- (2) is less than ten (10) inches in diameter at the point on the trunk four-point-five (4.5) feet above the ground.

(c) To the extent that this Code imposes a tree mitigation fee for tree removal on a person's property, that person may apply for a credit for tree planting under this Article to offset the amount of the fee, and the City must grant the credit to the extent provided by this Article, if the application complies with this section.

(d) An application for a credit under subsection (c) must be in the form and manner prescribed by the Building Official. To qualify for a credit under this section, a tree must be:

- (1) planted on property:
 - a. for which the tree mitigation fee was assessed; or
 - b. mutually agreed upon by the City and the person; and
- (2) at least two (2) inches in diameter at the point on the trunk four-point-five (4.5) feet above the ground.

(e) For purposes of subsection (d) (1) b, the City and the person may consult with an academic organization, state agency, or nonprofit organization to identify an area for which tree planting will best address the science-based benefits of trees and other reforestation needs of the City.

(f) The amount of a credit provided to a person under this section must be applied in the same manner as the tree mitigation fee assessed against the person and;

- (1) equal to the amount of the tree mitigation fee assessed against the person if the property is an existing one-family or two-family dwelling that is the person's residence (Note: The mitigation fee is zero in these circumstances, per subsection (b), if the tree removed is less than ten (10) inches in diameter at a height of four-point-five (4.5) feet above the ground, so this paragraph applies only to trees at least ten (10) inches in these circumstances);
- (2) at least fifty (50) percent of the amount of the tree mitigation fee assessed against the person if;
 - a. the property is a residential structure or pertains to the development, construction, or renovation of a residential structure; and
 - b. the person is developing, constructing, or renovating the property nor for use as the person's residence; or
- (3) at least forty (40) percent of the amount of the tree mitigation fee assessed against the person if;
 - a. the property is not a residential structure; or
 - b. the person is constructing or intends to construct a structure on the property that is not a residential structure.
- (g) As long as the City meets the requirement to provide a person a credit under subsection (c), this section does not affect the ability of or require the City to determine the following, and does not impair any provisions of this Article requiring the determining the following:
 - (1) the type of trees that must be planted to receive a credit under this section, except as provided in subsection (d);
 - (2) the requirement for tree removal and corresponding tree mitigation fees, if applicable;
 - (3) the requirements for tree-planting methods and best management practices to ensure that the tree grows to the anticipated height at maturity; or
 - (4) the amount of a tree mitigation fee.
- (h) This Code does not prohibit the removal of or impose a tree mitigation fee for the removal of a tree that:
 - (1) is diseased or dead; or
 - (2) poses an imminent or immediate threat to persons or property.

Division 2 – Building Sites

Section 3.1.2.1. Application

(a) The requirements of this division shall only apply to a building site where any of the following conditions is present:

- (1) There is new construction of a nonresidential or multifamily residential building for which a building permit is required;
- (2) There is an enlargement exceeding 1,000 square feet in area of the exterior dimensions of an existing nonresidential or multifamily residential building for which a building permit is required;
- (3) There is either a new parking lot for which site plans are required for initial construction or an existing parking lot which is expanded in area to provide additional parking spaces; or
- (4) There is a city-funded construction or reconstruction project that includes the entire width of the pavement of a public street and is at least 30 feet in length.

(b) The requirements of this division apply to the entirety of the building site if:

- 1) It is completely developed by the new construction of a building (or buildings) and appurtenant surface parking area, or
- 2) It is a city-funded construction or reconstruction project that includes the entire width of the pavement of a public street and is at least 30 feet in length.

In case the entirety of the building site is only partially developed by new construction or enlargement, the requirements of this division shall be applied incrementally. Trees, shrubs, and landscape buffers are required with respect to and in proportion to:

- 1) The area of the new or increased building and off-street parking spaces, or
- 2) The length of street pavement, if the building site is a city-funded construction or reconstruction project that includes the entire width of the pavement of a public street and is at least 30 feet in length. This subsection shall control over any other conflicting or inconsistent provision.

(c) The requirements of this division do not apply to:

- (1) The reconstruction of an existing single family structure;
- (2) The reconstruction of any existing non-residential building of which fifty (50) percent of the existing building floor area square footage or less was physically destroyed or ruined by flooding, fire, windstorm or act of God. This exemption shall apply only where reconstruction of that building will not result in an increase in the paving area of the parking facilities to be provided; or
- (3) The placement of a temporary classroom building if there is a reasonable likelihood that the condition necessitating a temporary classroom building will not continue for more than five years and an analysis of the public school site and the buildings thereon support the conclusion that timely compliance with the statutory student/teacher ratio cannot be achieved without the installation of the temporary classroom building(s).

- (d) Nothing in this division shall be construed to require a landscape plan or landscape plan review for finish work performed by an owner, a tenant or on behalf of a tenant, in a portion of a building unless that tenant finish work or remodeling results in an increase in the paving area of the parking facilities to be provided or in an enlargement of the exterior dimensions of an existing building.
- (e) Nothing in this division shall be construed to preclude the filing of a landscape plan where the requirements of this division are not otherwise applicable and the property owner desires to plant trees and obtain a credit under section 3.1.2.3 (c) of this Code.

Section 3.1.2.2. Landscape Plan Required

- (a) A landscape plan for the building site shall be submitted to the Building Official or an assign by an applicant for a building permit for approval in accordance with the provisions of this division.
- (b) The landscape plan may be depicted on either the development plans or parking lot site plan, provided the drawing scale is sufficient to properly depict the landscape plan requirements. The landscape plan shall identify and show the locations of existing and proposed utility lines (both above and below ground), roadways, sidewalks, street lights, trees, shrubs, understory, natural features, other landscape elements, and planting or construction details. Where credit is being requested for the preservation of existing trees and associated understory, the landscape plan shall also demonstrate the manner in which the requirements for preservation established under section 3.1.2.10 are to be satisfied. A plant schedule shall be provided which includes quantities, minimum size at time of planting, and botanical and common names keyed to the plan.
- (c) If the building site includes any protected trees, then the landscape plan shall depict the location of each and indicate whether each is to be removed or preserved. If any protected trees are to be removed, then a protected tree replacement requirement shall be applicable, in addition to any other tree planting requirements of this division, which may be satisfied as follows:
 - (1) By the planting anywhere on the building site or in the adjacent parkway area of additional trees on the basis of one (1) caliper inch of tree planted for one (1) caliper inch of tree removed;
 - (2) By contributing to the fund created under section 3.1.2.3. (a) (2) of this Code an amount equal to either:
 - a. If the tree is a parkway tree, two hundred and twenty-five dollars (\$225.00) per caliper inch of tree removed for a six inch (6") caliper tree and smaller, three hundred and seventy-five dollars (\$375.00) per caliper inch of tree removed for over six inch (6") and up to twelve inch (12") caliper trees, and

five hundred dollars (\$500.00) per caliper inch of tree removed for over twelve inch (12") caliper trees; or

b. If the tree is a green corridor tree, \$103.00 per caliper inch of tree removed,

which shall be subject to a cost adjustment from January 2016 in accordance with the formula established in the definition of the term "cost adjustment".

(3) By preservation credits as provided in section 3.1.2.3 (b) of this Code; or

(4) By a combination of the foregoing.

(d) The protected tree replacement requirement shall not be applied to trees;

(1) That must reasonably be removed in order to:

a. Install or maintain public utilities;

b. Construct or maintain access drives, streets and sidewalks;

c. Prevent visual impairment in a visibility triangle;

d. Prevent visual impairment where a driveway intersects with a street; or

e. Conduct emergency repairs of utilities on public or private property; or

(2) That are in poor condition, such that it is more likely than not that the tree would have died within one (1) year if not removed.

(e) Based upon the landscape plan as filed, the Building Official or an assign shall review the landscape plan to verify compliance with all requirements of this article prior to the issuance of a building permit. If an artificial lot is delineated, it shall be depicted on the building plans prior to the issuance of the building permit. Nothing in this section shall be construed to require that city personnel perform a site inspection prior to the issuance of the building permit.

(f) No building permit shall be issued by the building official for the construction or alteration of a building within the city unless the Building Official or an assign approves the landscape plan verifying that the applicant has provided for the planting of trees and shrubs to the extent required in this article. If the landscape plan calls for the removal of any protected tree, then the building permit shall be conditioned such that the protected tree may not be removed until the twentieth day following the date of filing of the landscape plan.

(g) Except as provided in subsection (h) below, no final certificate of occupancy shall be issued by the building official for the occupancy of a new or altered building unless the plantings required by this article have been provided. Prior to the issuance of a certificate of occupancy, the building official shall inspect the planting provided to verify compliance with the approved landscape plan.

(h) A conditional certificate of occupancy may be issued if the owner provides the building official with either the documented assurances specified in section 3.1.2.3 or a bond or assigned certificate of deposit as set forth in section 3.1.2.13.

- (i) Except for section 3.1.1.12. which concerns tree removal mitigation, no provision of this article shall be deemed to excuse compliance with Division 3 of this chapter. If a landscape plan calls for the removal of a tree situated in a public right-of-way that is protected under Division 3 of this chapter, then written permission for its removal issued by the Building Official or an assign and shall be submitted with the landscape plan filed under this section.

Section 3.1.2.3. Tree Planting Equivalency Credits

(a) The following credits may be claimed against the total tree requirement under this division:

- (1) Credit for planting trees exceeding the minimum caliper required. Credit toward the total tree requirement shall be given for the planting of trees that exceed the minimum caliper required by this division at the rate of two (2) trees for each tree with a caliper of four inches (4") or more that is planted.
- (2) Credit for depositing with the City a sum of money equal to the cost of planting the required trees. Money so deposited shall be placed in a special fund designated for the purposes of planting street trees in city parks or public street rights-of-way that are located as near as possible to the area in which the removed trees were located. The credit shall be calculated based on a planting cost per tree of five hundred dollars (\$500.00) per fifteen (15) gallon container-grown tree, planted and maintained for a year, subject to a cost adjustment from January 2016 in accordance with the formula established in the definition of the term "cost adjustment." The maximum allowable credit under this option shall not exceed thirty percent (30%) of the total tree requirement.
- (3) Credit for preserving existing on-site trees. Credit for the preservation of existing on-site trees (including any to be transplanted) may be granted when requested and depicted on the landscape plan in accordance with section 3.1.2.2. In order to be eligible for credit, an existing tree to be preserved on the site shall have a minimum caliper of one and one-half inches (1½"), shall be in good condition, and shall be true to species habit and form. Credit for preserving existing trees shall be granted based upon the caliper of the trees preserved, with a credit of one (1) tree to be allowed for each one and one-half (1½) total caliper inches of eligible trees that are preserved, subject to the limitations otherwise provided in this division. This item (3) shall not apply to trees situated in the abutting street right-of-way.
- (4) Credit for preserving existing right-of-way street trees. Credit for the preservation of existing trees situated within the abutting street right-of-way that are designated on the Large Tree list may be granted when requested and depicted on the landscape plan in accordance with section 3.1.2.2 of this Code. In order to be eligible for credit, an existing street tree to be preserved shall have a minimum caliper of one and one-half inches (1½"), shall be situated in the street right-of-way, be in good condition, and be true to a species listed on the Large Tree list in habit and form. Credit for preserving existing street trees shall be granted on the basis of one (1) street tree preserved for each street tree otherwise required to be planted in the same block-

face under this article, with no additional credit being allowed for preservation of a street tree that exceeds one and one-half inches (1½") in caliper. Preservation methods for the tree must be at a minimum those specified in section 3.1.2.9. of this Code.

Provided, however, that:

- (5) The combined credit under items (1) and (2) above may not exceed fifty percent (50%) of the total tree planting requirement, and
 - (6) The total number of Large Trees, whether planted or preserved, shall never be less than fifty percent (50%) of the number required in section 3.1.2.6. of this Code as applied separately to each side of the property that abuts a street right-of-way and, if any side abuts two (2) or more block faces, then separately to each block face.
- (b) A credit may be claimed for up to the entire protected tree replacement requirement for preservation of existing trees in the same manner provided in subsection (a)(3), above, except that the credit shall be based upon one (1) caliper inch of tree preserved for one (1) caliper inch of tree removed. However, a tree or caliper inch portion of a tree preserved may only be used for credit against the total tree requirement or the protected tree replacement requirement, but not both.
- (c) Any owner who proposes to plant trees when no planting requirement exists under this division or desires to plant trees in excess of the requirements of this division may, at the time of filing of a landscape plan, request future credit against tree requirements upon the same building site. Upon completion of the work and verification of the unrequired planting or excess in planting by the Building Official or an assign, a certificate of credit shall be provided by the Building Official or an assign to the owner.

Section 3.1.2.4. Artificial Lot Delineation

If the building site is over two acres in size, the applicant may request that the Building Official or an assign designate an artificial lot to satisfy the requirements of this division. If requested, the Building Official or an assign shall designate an artificial lot consistent with the purposes and policies of this division as determined from the criteria established below. No artificial lot may be delineated by the Building Official or an assign unless it:

- (1) Wholly includes the area on which the construction work is to be done;
- (2) Has an area that does not exceed fifty percent (50%) of the area of the building site; and
- (3) Depicts and includes all proposed and existing buildings and structures, access drives, appurtenant parking required for the building expansion or new building construction, and other areas functionally appurtenant to the buildings or structures.

Section 3.1.2.5. Review of Documents

- (a) The Building Official or an assign shall review building permit applications for the construction or expansion of a building or parking lot, and construction drawings for city-funded construction or reconstruction projects that include the entire width of the pavement of a public street and are at least 30 feet in length, to determine if the proposed landscape plan complies with the provisions of this article.
- (b) When a certificate of occupancy is sought, the Building Official or an assign shall determine whether the applicant has complied with this article.
- (c) A building permit shall not be issued unless the application shows plans the, upon completion of construction, will comply with this article.
- (d) A certificate of occupancy shall not be issued or approved unless the applicant demonstrates compliance with the provisions of this article.

Section 3.1.2.6. Street Trees Required

- (a) Street trees shall be planted within the public street rights-of-way, or on private property within ten feet (10') parallel and adjacent to a local street right-of-way, or on private nonresidential property within 25 feet (25') parallel and adjacent to a major thoroughfare, or in the esplanade pursuant to the requirements of section 3.1.2.8 (b). When the building site abuts a designated state or federal highway or road or any designated county road and street trees are not otherwise required by law, street trees shall be planted on private property in accordance with this section. The number of street trees planted shall equal the total number of trees (T) required under the following formula:

$T = (X/30)$, where X shall represent the length in linear feet measured along each side of the property line on the public street(s).

This formula and all resulting planting requirements under this section shall be applied separately to each side of the property that abuts a street right-of-way, and if any side abuts two (2) or more block faces, then separately to each block face.

- (b) Street trees planted in accordance with this section shall be of a species listed on the Large tree list. In the case of trees planted within the public rights-of-way, trees shall be planted in a location which conforms with the requirements of section 3.1.2.8. of this division. The trees shall be planted so as not to interfere with existing utilities, roadways, sidewalks, or street lights.
- (c) The planting scheme for street trees shall be such that no street tree is planted closer than twenty feet (20') to any other street tree (whether an existing tree or a tree planted hereunder) with the trees being spaced without extreme variation in distance across each block face frontage taking into account existing site conditions and driveway locations. The Building Official or an assign may authorize a partial waiver under the credit terms of section 3.1.2.3 of this Code if he determines that planting all of the otherwise required street trees

upon any given side of the property that abuts a street right-of-way or block face would result in excessive tree canopy, based upon existing trees that are to be preserved during construction. Any request for a waiver shall be in writing and shall specify the preservation methods that will be used for the existing trees, which shall meet or exceed the requirements of section 3.1.2.9. of this Code. Additionally, the Building Official or an assign may authorize the spacing to be reduced from twenty feet (20') to no less than eighteen feet (18') if he determines that the conditions in the right-of-way make compliance at twenty (20) foot spacing impracticable.

Section 3.1.2.7. Parking Lot Planting of Trees and Shrubs Required

- (a) In addition to any street trees that may be required pursuant to section 3.1.2.6, the owner of a building site included under section 3.1.2.1 shall provide one (1) tree for every ten (10) parking spaces, rounding up or down in the case of a fraction to the nearest whole number, but in no case less than one (1) tree. There shall be at least one (1) parking lot or street tree within one hundred and twenty feet (120') of each parking space as measured from the center of the trunk of the tree to some point on the marked parking space. Not fewer than one-half (1/2) of the parking lot trees so required shall be large trees, and the remainder may be either large or small trees. In the case of a parking lot that is being expanded, the trees required pursuant to this subsection may be planted in the same manner as those required for a new parking lot.
- (b) In addition to the street tree and parking lot tree requirements established within section 3.1.2.6 and subsection (a), above, the owner of a building site included under section 3.1.2.1 shall plant or cause shrubs, as listed on the Shrub List, Appendix 3.1.3.14, to be planted along the perimeter of all parking surfaces so that the parking lot is screened from all adjacent public streets, exclusive of driveway entrances, pedestrian walkways and visibility triangles. Shrubs shall be maintained at a height of no more than thirty-six inches (36") nor less than eighteen inches (18") as measured from the surrounding soil line. The number of shrubs required under this subsection shall be equal to the total number of street trees required under this division multiplied by ten (10). No less than seventy-five percent (75%) of the shrubs required under this section shall be planted along the perimeter of the parking surface adjacent to the public street.

Section 3.1.2.8. General Planting Standards

- (a) Trees and shrubs planted in a parkway shall be planted in accordance with the applicable standards required by Appendix 3.1.3.11 and Appendix 3.1.3.13. The following additional limitations shall apply:
 - (1) When located in the visibility triangle, trees shall be headed to a minimum height of seven feet (7'), and shrubs shall be maintained at a maximum height of thirty inches (30") as measured from the surrounding soil line.

- (2) For streets with curbs or proposed curbs, trees shall be planted at least three feet (3') from the back of the existing curb or the city's final approved design line of the back of the curb of any public street as measured from the center line of the tree trunk. Provided, the city engineer may in writing authorize the planting distance to be reduced after review of the specific location, with the preference that at least two feet (2') of open space should be maintained between the street side of the tree and the back of the curb.
 - (3) For streets without curbs or proposed curbs, trees shall be planted at least four feet (4') behind the roadside drainage ditch as measured from the back (private property) side of the top of the roadside drainage ditch bank to the center line of the tree trunk. Provided, the city engineer may in writing authorize the planting distance to be reduced, after review of the specific location, with the preference that the roots not interfere with ditch maintenance.
- (b) In addition to the tree and shrub planting standards contained within Appendix 3.1.3.11 and Appendix 3.1.3.13, trees and shrubs in esplanades shall be planted according to the following requirements:
- (1) Trees in any major arterial or major collector street esplanade shall not be planted closer to the end of the esplanade than seventy-five feet (75').
 - (2) Trees in any local street esplanade shall not be planted closer to the end of the esplanade than fifty feet (50').
 - (3) Trees planted in any esplanade shall be located not closer than fifty feet (50') from any mid-block opening in the esplanade.
 - (4) Shrubs planted in any esplanade shall not be planted closer to the end of the esplanade than twenty-five feet (25') or closer than three feet (3') from the back of the curb or the final approved design line for the curb of any public street. Use of ground covers or annuals and perennials conforming with the height restrictions of a visibility triangle shall not be restricted.
 - (5) Trees planted in the esplanade shall not be located closer than five feet (5') from the back of the curb or the final approved design line for the curb. Trees shall not be spaced at intervals of less than thirty feet (30').
- (c) Any tree located within a parking lot must be planted and maintained within a permeable area which has a radius of not less than three feet (3'). No tree shall be planted closer than three feet (3') from a curb or tire stop.

Section 3.1.2.9. Preservation of Existing Trees and Associated Understory

- (a) The following procedure shall be required where credit for the preservation of existing trees and associated understory is being requested to be applied toward the total tree planting

requirement pursuant to section 3.1.2.3 of this Code or the protected tree replacement requirement. Where such credit is being requested, the applicant shall also supply to the Building Official for review with the building plans a tree and associated understory preservation plan, which shall be integrated into the proposed landscape plan and shall include:

- (1) Delineation of proposed limit of clearance and establishment of tree protection zones which shall extend to just outside the dripline of the tree and understory to be protected, if any;
 - (2) Proposed soil stabilization practices, i.e., silt fence, hay bales;
 - (3) The species of each tree to be preserved and for which credit is being requested;
 - (4) The proposed finished grade and elevation of land within six feet of or within the dripline of any tree to be preserved, whichever is greater, shall not be raised or lowered more than three inches (3") unless compensated for by welling or retaining methods;
 - (5) Existing and proposed location of all trees and plant materials to be relocated at the drawing scale;
 - (6) A landscaping tabulation, and itemized credit requests for existing trees to be preserved which have a minimum of four inches (4") in caliper and greater;
 - (7) Tree and associated understory preservation details; and
 - (8) Specification of ground plane treatment as either turf or sod. If a combination of both is utilized, the limit of each shall be indicated.
- (b) The following tree relocation information shall be provided on the landscape plan or in a report for the transplantation of existing specimen trees when preservation credit is being requested for them. This information shall include an assessment of the cost of transplanting the trees as opposed to the potential mortality rate which may result from the attempted transplantation. If relocation is elected, the following information shall be provided:
- (1) Transplanting techniques;
 - (2) Equipment to be utilized;
 - (3) Locations of existing trees and proposed locations for transplanted trees;
 - (4) Genus, species, caliper, height and general condition of the existing tree;
 - (5) Pruning and maintenance schedule and methods to be followed; and
 - (6) Which form of assurance of performance will be provided, i.e., executed contract, bond or assigned certificate of deposit.
- (c) If preservation credit is requested, the trees shall be protected and preserved as set forth in this Article and as promulgated by the Building Official or an assign and the City Engineer.

- (d) The Building Official or an assign shall make recommendations to minimize damage to existing vegetation during the site construction phase. The Building Official or an assign shall also suggest possible uses for those trees removed as a result of development such as the creation of wood chip mulch from removed hardwood trees.

Section 3.1.2.10. Duty; Affirmative Defenses

- (a) All owners of building sites included under section 3.1.2.1 shall plant or cause the planting of trees or shrubs required in sections 3.1.2.6 or secure the planting equivalency credits allowed in section 3.1.2.3, and if protected trees are being removed, shall further satisfy the protected tree replacement requirement in accordance with this division.
- (b) All owners and lessees of new or expanded parking lots on building sites included under section 3.1.2.1 shall additionally plant trees or shrubs in compliance with section 3.1.2.7, and if protected trees are being removed, shall further satisfy the protected tree replacement requirement in accordance with this article.
- (c) It shall be an affirmative defense to prosecution under this section that:
 - (1) The person caused the tree or shrub to be planted and maintained in accordance with this article, but the tree or shrub died more than two (2) years after the issuance of the certificate of occupancy;
 - (2) The person caused the tree or shrub to be planted and maintained on the public right-of-way in accordance with this article, but the tree or shrub died and was removed by the owner with the written permission of the Building Official or an assign or the City Engineer or the period allowed by this article for replacing the tree or shrub has not yet elapsed;
 - (3) The person caused the tree or shrub to be planted or maintained on private property in accordance with this article but the tree or shrub died and the period allowed by this article for replacing the tree or shrub has not yet elapsed;
 - (4) The building permit for the person's property is for single-family residential use;
 - (5) The person's property has an unexpired conditional certificate of occupancy, and the person has provided an executed contract or a bond or assigned certificate of deposit in accordance with this article; or
 - (6) A variance or waiver was secured for the building site in conformity with the requirements of this article.

Section 3.1.2.11. When Required Landscaping (Trees, Shrubs or Fences) Must be Installed; Documented Assurance

- (a) Except as otherwise provided in subsection (b) and section 3.1.2.12, all proposed landscaping must be installed in accordance with the approved landscape plan prior to issuance of a final certificate of occupancy on a building site.
- (b) The property owner may elect to provide the Building Official with documented assurances that the landscaping will be completed within a six (6) month period. If so, a conditional certificate of occupancy may be issued by the Building Official for six (6) months. For purposes of this section, 'documented assurance' shall mean a copy of an executed contract for the proper installation of the required landscaping in accordance with the approved landscape plan within a six (6) month period.
- (c) The property owner is responsible for notifying the Building Official when the landscape installation is complete. If the property owner fails to notify the Building Official within the prescribed six (6) month period, the Building Official shall revoke the conditional certificate of occupancy.

Section 3.1.2.12. Bond, Assigned Certificate of Deposit

- (a) Prior to the issuance of any conditional certificate of occupancy, any applicant who has not provided the documented assurance set forth in section 3.1.2.11 shall file with the Building Official a bond which bond shall be executed by the applicant as principal and by a good and sufficient corporate surety company licensed to do business in the State of Texas. The bond in the sum of one and one-quarter (1 ¼) times the proposed cost to install the required landscaping improvements and fences, based upon the reasonable adjusted costs established by the Building Official and of record from time to time, shall be payable to the City and conditioned that the principal and surety will pay all amounts required to install the landscaping and fences required by this division. The bond shall provide that it will remain in full force and effect until released by the Building Official pursuant to this division.
- (b) In lieu of such bond, an applicant for a conditional certificate of occupancy may, upon payment to the City of a nonrefundable fee of one hundred dollars (\$100.00), assign an account with a financial institution insured by the Federal Deposit Insurance Corporation to the city. Such account shall have a deposit of not less than the amount required under subsection (a). Under such an assignment, the financial institution must agree not to release, make payment from, or otherwise divert or dispose of the funds in such account, except it shall agree to disburse all or such portion of the funds in the account as may be directed by City Council resolution.

Upon installation and inspection of the required landscaping, the City shall release the assigned deposit to the property owner.

When requesting a conditional certificate of occupancy, the owner must grant the City permission to enter upon the owner's land for the purpose of installing the required landscaping if the owner does not fulfill the owner's obligation to install the required landscaping within the specified six (6) month period. If permission is not granted, the owner's application for a conditional certificate of occupancy shall be denied.

- (c) In the event that any holder of a conditional certificate of occupancy who has previously furnished an account assignment under subsection (b) elects to furnish a bond under subsection (a) instead, then the holder shall be entitled to disbursement of the account proceeds in the same manner and under the same terms provided in subsection (b).

Section 3.1.2.13. Appeal of Denial of Building Permits

Appeals from the denial of a building permit for noncompliance with this division shall be reviewed and acted upon by City Council.

Section 3.1.2.14. Variance Procedure

- (a) An applicant for a building permit may make written application to the Building Official for a variance from the requirements of this division other than those which may be made the basis of a request for a waiver under section 3.1.2.18. A completed application for a variance shall include:

- (1) Completed application on form supplied by the City; and
- (2) A nonrefundable fee of two hundred dollars (\$200.00) for uses other than single family residential uses.

This application package shall be reviewed by the Building Official or an assign.

- (b) Within seven (7) days of the date the application is accepted, the Building Official shall forward a copy of the application to the City Engineer who shall file the City Engineer's report and recommendations regarding the proposed variance with the Commission.
- (c) A staff report regarding the variance request shall be provided to the Commission prior to the meeting at which the variance shall be considered.

Section 3.1.2.15. Standards for Variance

- (a) The Commission is authorized to consider and recommend to City Council variances from the provisions of this division by majority vote of those members present and voting, when the commission determines that all four (4) of the following conditions exist:
 - (1) The imposition of the terms, rules, conditions, policies and standards of this division would deprive the owner or applicant of the property of reasonable use of the land or building;
 - (2) The circumstances supporting the granting of the variance are not the result of a hardship imposed or created by the applicant, and the general purposes of this division are observed and maintained;
 - (3) The intent of this article is preserved; and

- (4) The granting of such a variance will not be injurious to the public health, safety or welfare.
- (b) The City Council will consider and take action on variances based on the four (4) conditions listed in subsection (a) above and a recommendation from the Commission.

Section 3.1.2.16. Applicability of Variance

Any variance granted under the provisions of this section will apply only to the specific property and use upon which the Commission was requested to review and recommend to Council and Council to grant a variance by the applicant. All variances as granted shall be in writing, shall be signed by the City Secretary and maintained as a permanent record of the Council.

Section 3.1.2.17. Mitigation for Loss of Installed and Preserved Vegetation

- (a) All proposed, existing or relocated vegetation shall be maintained in accordance with this article and appear healthy for a minimum of two (2) years from the issuance of the final certificate of occupancy. Dying, damaged or removed trees shall be replaced at the owner's expense with another living plant that complies with the approved landscape plan. The tree replacement quantity shall be equal to or greater than the original or credited quantity for the tree in question.
- (b) The Building Official or an assign shall notify the owner of a building site in writing when a plant is discovered which does not meet the requirements of subsection (a), above. The owner shall then replace the plant within one year from receipt of the written notice or between November 1st and April 1st, whichever period is less.

Section 3.1.2.18. Interference with Existing Utilities, Curbs, Sidewalks, Drainage Facilities, Roadways, Street Lights, Appeal of Denial of Waiver.

- (a) The Building Official shall grant a waiver when requested in the application if the area in which the planting is required by this division is too small to accommodate the required planting without damage to existing utilities, curbs, sidewalks, roadways, street lights or drainage facilities, and the planting requirements of this division may not be otherwise satisfied pursuant to this division.
- (b) A waiver shall be granted where the Building Official finds the following:
 - (1) That a literal application of this division will result in damage to existing utilities, roadways, street lights, curbs, sidewalks or drainage facilities;
 - (2) The waiver, if granted, will not be contrary to the public interest;
 - (3) The waiver, if granted, will not be detrimental to the public health, safety, or welfare; and
 - (4) The waiver, if granted, will not result in a violation of any other applicable ordinance, regulation or statute.

- (c) No later than the thirtieth (30th) calendar day following the filing of the required application for a waiver, the Building Official shall issue to applicant a written notice that the waiver has been granted or refused. Any notice of refusal of an application for a waiver must include a written report explaining in detail the reasons for such refusal. The issuance of a written notice to the applicant shall be complete upon deposit of such notice in the United States mail, first class postage paid, addressed to the applicant at address given on the application for the waiver.
- (d) The applicant may appeal the denial of a waiver to the Commission in the manner provided in section 3.1.2.13 of this Code.
- (e) Notwithstanding the provisions of this section, the Building Official and the City Engineer shall use their best efforts to resolve any disputes regarding the application of this division to city-funded projects that include the entire width of the pavement of a public street and are at least 30 feet in length. The City Engineer is authorized to promulgate guidelines for administration of this article, in consultation with the Building Official, that are consistent with this chapter.

Division 3 – Protection of Trees

Section 3.1.3.1. Removal of a Tree, Protected or Otherwise

Except as may otherwise be provided in this article, it shall be unlawful for any person to remove any tree or to cause, permit or suffer the removal of any tree that is situated in whole or in substantial part within a street or to perform any construction activity, including, without limitation, construction or repair of buildings or other structures, installation or repair of utilities, or installation or repair of streets or sidewalks within the dripline circle area of any tree that is situated in whole or in substantial part within a street. The determination of whether the tree is situated in whole or in substantial part in the street shall be based upon the location of the trunk of the tree at ground level. For purposes of the foregoing requirements, a tree shall be considered to be in substantial part within a street if one-half or more of the area of the trunk of the tree is situated in the street as determined at the point where the trunk intersects the ground.

Section 3.1.3.2. Affirmative Defenses

It is an affirmative defense to prosecution under section 3.1.3.1 of this Code that:

- (1) The person complied with the provisions of City of Iowa Colony Engineering Design Criteria Manual;
- (2) The person had the prior written permission of the Building Official for the action taken and that the action taken was consistent with the terms of the Building Official's written permission; or

- (3) The person reasonably removed the tree in order to conduct emergency repairs of utilities located on public or private property.

Section 3.1.3.3. Affirmative Defense; House Movers

It is an affirmative defense to prosecution under section 3.1.3.1 of this Code that the person is an established commercial house mover and that the person removed a tree in order to move a house, provided that the house was being moved in accordance with all applicable requirements of the said article upon a route authorized in a permit issued by the Building Official thereunder, and further provided, with respect to any tree that is removed, that the person had the prior written permission of Building Official for the action taken and that the action taken was consistent with the terms of the Building Official's written permission. This defense shall extend to agents and employees of the house mover.

Section 3.1.3.4. Procedure for Permission

For purposes of sections 3.1.3.2 or 3.1.3.3 of this Code a person may obtain the Building Official's permission by making written application. The application shall be made in accordance with regulations promulgated for that purpose by the Building Official and in a form provided in the regulations. In considering whether or not to grant the approval, the Building Official shall consider the age and condition of the tree. The Building Official shall consult with the City Engineer and shall also consider whether the requested action is reasonably required, considering other alternatives that may exist, if the request is for the purpose of installing or maintaining public utilities and access lines thereto, constructing or maintaining driveways, alleys or streets, constructing or maintaining sidewalks or preventing visual obstruction of a street or driveway intersection. The Building Official, in consultation with the City Engineer, may also authorize the removal of a tree to facilitate development of the abutting property if the tree extends in part beyond the building set back line established by law or deed restriction and the Building Official and the City Engineer determine that the requested action is reasonably required in order to make beneficial use of the property. In the event that the Building Official proposes to deny an application, then the Building Official shall ensure that the applicant is afforded the opportunity for an informal hearing to be conducted as provided in the Building Official's regulations before the decision to deny the application is made final.

Section 3.1.3.5 Educational Intent

The intent of this article is to result in compliance through public assistance and education. Upon request, the Building Official or an assign shall, without charge therefor, provide assistance in identifying tree species, training and/or instructional materials with respect to proper practices for tree pruning and other reasonable assistance for the purpose of ensuring compliance with this article.

Section 3.1.3.6. Provisions Cumulative

The provisions of this article are cumulative of state laws and are also expressly made cumulative of any other provisions of this chapter. To the extent that any tree governed by this section is also subject to other regulations, then both the provisions of this article and any other regulation shall be applicable. The Building Official and the City Engineer shall establish procedures under which removal notices and landscape plans that are required to be filed may

be combined with or jointly filed with applications filed under section 3.1.3.4 of this Code, above.

Section 3.1.3.7. Fines and Penalties; Civil Remedies.

See Chapter 1. Additionally, each tree that is unlawfully removed shall constitute a separate offense. Criminal prosecution shall not preclude civil action by the City to recover for the damage to or loss of the tree, and the City Attorney is hereby authorized, without further authorization from City Council to institute and prosecute a lawsuit for an injunction against the imminent unlawful removal of a tree and/or a lawsuit against any person who removes a tree without permission or authorization as required under this section and to recover the reasonable value of the tree or damage thereto and all other remedies.

Section 3.1.3.8 Deferred Disposition

In keeping with the policy of education and street tree protection that is the underlying purpose of this article, the municipal courts are urged to consider deferred dispositions under article 45.54 of the Texas Code of Criminal Procedure whenever the circumstances warrant deferred dispositions. Conditions of deferral may include the defendants' replacing or repairing damaged trees wherever practicable and participating in community service programs for the planting and care of trees.

Section 3.1.3.9 Tree Replacement Requirement

- (a) Notwithstanding anything to the contrary in this article, no person shall cause a tree that is situated in whole or in substantial part within a street to be removed without complying with a tree replacement requirement, which may be satisfied as follows:
- (1) By the planting in the area adjacent to the street of additional trees from the Large or Small Tree list on the basis of one caliper inch of tree planted for one caliper inch of tree removed;
 - (2) By contributing to the fund created under section 3.1.2.3 (a) (2) of this Code an amount equal to \$225.00 per caliper inch of tree removed for a six inch caliper trees and smaller, \$375.00 per caliper inch of tree removed for over six inch and up to 12 inch caliper trees, and \$500.00 per caliper inch of tree removed for over 12 inch caliper trees; or
 - (3) By a combination of the foregoing.

Installation of trees provided shall be subject to the planting standards established in Division 2 of this Article, and the trees shall be planted within 30 days following the removal of the tree unless a documented assurance of planting is provided to the Building Official with the notice, in which case the trees shall be placed within six months of the removal of the trees. A documented assurance may be provided in the same manner as under section 3.1.2.12 (b) of this Code. A variance may be requested in the same manner provided in sections 3.1.2.14 through 3.1.2.16 of this Code. Additionally, the mitigation provisions of section 3.1.2.17 of this Code shall be applicable to trees that are provided in order to satisfy a protected tree replacement requirement.

- (a) No person shall cause a tree to be removed without first filing with Building Official, a written notice of removal of the tree, which must be filed at least twenty (20) days prior to the removal. The notice shall include a map depicting the tract or parcel of land upon which the tree or trees to be removed are situated and shall demonstrate the manner in which the tree replacement requirement will be provided.
- (b) It is an affirmative defense to prosecution under this section that the tree sustained damage from fire, wind storm, accident or other natural cause such that the tree became an immediate threat to persons or property, provided that the owner of the tree caused the circumstances to be documented and filed written notice of the removal with the Building Official within ten days following the removal of the tree.
- (c) It is a defense to prosecution under this section that the tree was removed by or on behalf of a public utility or a governmental entity and that its removal without notice was reasonably required for the maintenance or installation of public facilities or utility systems.
- (d) The City Engineer shall promulgate forms of notices and procedures under this section. A map need not be prepared in the form of a survey map, provided that it shall provide sufficient information to unmistakably identify the tree that is to be removed and the location of any tree that is to be planted in order to provide the tree replacement requirement, as well as the species and caliper of each tree. If the owner elects to make a contribution to the fund created under section 3.1.2.3.(a) (2) of this Code, then the contribution shall be tendered with the notice. No provision of this section shall be construed to require City personnel to review any notice filed under this section for accuracy or sufficiency or to perform any site inspection of trees for which notices are filed.

Section 3.1.3.10 Landscape Planting Appendix

Appendix 3.1.3.11. Tree Planting

(a) Tree Selection

Trees planted under section 3.1.1.7 must be selected from the Large Tree list. All plant stock shall meet the Standard for Nursery Stock Specifications, as established by the American Association of Nurserymen (1986 ed.)

The following factors shall be considered in the selection of trees from the tree and shrub lists indicated in this Division:

1. Hardiness of trees for the specific site, i.e., soil conditions, pH, drainage.
2. Mature plant size, form and growth rates, i.e., proximity to overhead utility lines.
3. Drought tolerance.
4. Pest and insect resistance.

(b) Tree Planting:

1. Holes for the trees shall be excavated 1½ to 2 feet greater in width than the diameter of the soil ball. The sides of the hole shall be vertical and the bottom

horizontal. Trees shall be planted with the top of the root ball two inches above existing grade. No holes shall be left uncovered overnight.

2. Trees shall be set in an upright plumb position at depth two inches higher than grown in the container. Care shall be taken so as not to injure the root system, trunk, or foliage. The trunk shall not be used as a level in positioning or moving the tree in the planting hole.
3. The backfill shall consist of topsoil excavated from the planting hole. If there is not enough topsoil, a supplement of similar topsoil shall be furnished. Each planting hole shall be backfilled and tamped lightly so as not to damage roots. A saucer shall be constructed six (6) to eight (8) inches above soil grade around the planting hole and shall be a minimum of six (6) feet in diameter, free of weeds and grass.
4. Any pruning shall be done according to the standards of the National Arborist Association (rev. 1988) (The Meeting Place Mall, Route 101, P.O. box 1094, Amherst, NH 03031), on file in the office of the city secretary. All damaged limbs shall be removed. The tree shall be maintained in a shape appropriate to its species. Street trees shall be pruned in accordance with the standards for hazard pruning contained in Class III.
5. Trees planted hereunder shall be staked with a minimum of two (2) stakes, eight (8) feet long, attached to the tree with plastic tree chain, one (1) inch in size, or equivalent, in a manner that is secure and will not injure the tree. Any 100-gallon trees shall be tri-staked (three stakes). Other types of securing ties or devices may be used if designed for that purpose.
6. Mulch shall be placed loosely around trees planted hereunder within twenty-four (24) hours after planting to a uniform depth of three (3) to four (4) inches and to a diameter of six (6) feet. No leaves, branches, roots or other foreign material may be used as a mulch. This area shall be maintained free of weeds and grass vegetation with a three (3) to four (4) inch mulch cover for a minimum period of one (1) year.

(c) Watering

The following watering schedule may be utilized and revised during prolonged periods of rain or drought.

Initial Watering After Planting	Root zones shall be slow-soaked every seven days for four weeks.
November December January February	In the absence of sufficient rainfall, root zones shall be slow-soaked on a twenty-one-day water schedule.
October March April	In the absence of sufficient rainfall, root zones shall be slow-soaked on a fourteen-day water schedule.
May June July August September	In the absence of sufficient rainfall, root zones shall be slow-soaked on a seven-day watering schedule.

Appendix 3.1.3.12 Large Tree Plant List

Large Tree List

Botanical Name	Common Name*	Comments
<i>Acer rubrum</i> var <i>drummondii</i>	D Drummon Red Maple	Wet sites
<i>Acer rubrum</i> var <i>tridens</i>	D Trident Red Maple	Wet sites
<i>Acer barbatum</i>	D Southern or Texas Sugar Maple	
<i>Betula nigra</i>	D River Birch	Wet sites
<i>Bumelia lanuginosa</i>	D Chittamwood, Gum bumelia or Wooly Bucket	Drought-tolerant/Attracts birds
<i>Carya cordiformis</i>	D Bitternut Hickory	
<i>Carya illinoenses</i>	D Pecan	Nut
<i>Carya texana</i>	D Black Hickory	Drought-tolerant
<i>Carya tomentosa</i>	D Mockery Nut Hickory	Fruit
<i>Diospyros virginiana</i>	D Persimmon, eastern	Fruit
<i>Ehretia anacua</i>	D Anacua	Flowering/Fruit/Drought-tolerant
<i>Fraxinus americana</i>	D White Ash	
<i>Fraxinus Pennsylvanica</i>	D Green Ash	
<i>Ginkgo biloba</i>	D Ginkgo	Male only
<i>Ilex opaca</i> (and cultivars)	E American Holly	Female/Fruit
<i>Juglans nigra</i>	D Black Walnut	
<i>Juniperus virginiana</i>	Eastern Red Cedar	
<i>Liquidambar styraciflua</i>	D Sweetgum	Fall color
<i>Liriodendron tulipifera</i>	D Tulip tree or Yellow Poplar	Flowering/Wet sites
<i>Magnolia grandiflora</i>	E Southern Magnolia	Flowering
<i>Magnolia virginiana</i>	E Sweet Bay Magnolia	Flowering/Wet sites
<i>Metasequoia glyptostroboides</i>	D Dawn Redwood	
<i>Nyssa aquatica</i>	D Water tupelo	Wet sites
<i>Nyssa sylvatica</i> var <i>biflora</i>	D Swamp tupelo or Black Gum	Wet sites
<i>Nyssa sylvatica</i> var <i>sylvatica</i>	D Black Gum	Fruit/Fall color
<i>Pinus palustris</i>	E Longleaf Pine	
<i>Pinus taeda</i>	E Loblolly Pine	
<i>Pinus glabra</i>	E Spruce Pine	
<i>Plantanus mexicana</i>	D Mexican Sycamore	Wet sites
<i>Plantanus occientalis</i>	D Sycamore	
<i>Prunus serotina</i>	D Black Cherry	Flowering/Fruit
<i>Quercus acutissima</i>	D Sawtooth Oak	
<i>Quercus alba</i>	D Oaks, white	Fall color
<i>Quercus canbii</i>	D Canby Oak	
<i>Quercus falcata</i>	D Southern Red Oak	
<i>Quercus laurifolia</i>	D Laurel Oak	

Botanical Name	Common Name *	Comments
<i>Quercus lyrata</i>	D Overcup Oak	Wet sites
<i>Quercus macrocarpa</i>	D Bur Oak	Wet sites/Drought-tolerant
<i>Quercus michauxii</i>	D Swamp Chestnut Oak	Fall color
<i>Quercus muehlenbergii</i>	D Chinkapin Oak	Drought-tolerant
<i>Quercus nutallii</i>	D Nutall Oak	Fall color/Wet sites
<i>Quercus palustris</i>	D Pin Oak	Fall color
<i>Quercus phellos</i>	D Willow Oak	
<i>Quercus polymorpha</i>	D Monterrey Oak	
<i>Quercus rizophyllia</i>	D Loquat Leaf Oak	
<i>Quercus shumardii</i>	D Shumard Oak	Fall color
<i>Quercus stellata</i>	D Post Oak	
<i>Quercus virginiana</i>	D Live Oak	
<i>Sassafras albidum</i>	D Sassafras	Fall color/Attracts birds
<i>Taxodium distichum</i> var <i>distichum</i>	D Bald Cypress	Wet sites/Drought-tolerant
<i>Taxodium distichum</i> var <i>nutans</i>	D Pond Cypress	
<i>Taxodium mucronatum</i>	D Montezuma Bald Cypress	
<i>Tilia caroliniana</i>	D Carolina Basswood	
<i>Ulmus americana</i>	D American Elm	
<i>Ulmus alata</i>	D Winged Elm	
<i>Ulmus crassifolia</i>	D Cedar Elm	Drought-tolerant
<i>Ulmus parvifolia</i> var <i>drakii</i>	D Drake Elm	
<i>Zelkova serrata</i>	D Japanese Zelkova	

Appendix 3.1.3.13 Small Tree List

Small Tree List

Botanical Name	Common Name*	Comments
<i>Acer leucoderme</i>	D Chalk Maple	Fall color
<i>Acacia wrightii</i>	D Wright Acacia	Flowering/Drought-tolerant
<i>Aesculus pavia</i> var <i>pavia</i>	D Red Buckeye	Flowering
<i>Aesculus pavia</i> var <i>flavescens</i>	D Red Buckeye	Yellow flowers
<i>Aesculus glabra</i> var <i>arguta</i>	D White Buckeye	Flowering/Drought-tolerant
<i>Asimina triloba</i>	D Pawpaw	Flowering/Fruit
<i>Bauhinia congesta</i>	D Anacacho Orchid Tree	Flowering/Drought-tolerant
<i>Carpinus caroliniana</i>	D American Hornbeam, Ironwood or Blue Beech	Wet sites/Fall color
<i>Cercis canadensis</i>	D Eastern Redbud	Flowering
<i>Cercis canadensis</i> var <i>texensis</i> cultivars	D Texas Redbud	Flowering/Drought-tolerant
<i>Cercis canadensis</i> var <i>mexicana</i>	D Mexican Redbud	Flowering/Drought-tolerant
<i>Chionanthus virginicus</i>	D Fringe Tree	Flowering/Attracts birds
<i>Chionanthus retusus</i>	D Chinese Fringe Tree	Flowering/Drought-tolerant
<i>Cornus florida</i>	D Flowering Dogwood	Flowering/Attracts birds
<i>Cotinus obovatus</i>	D American Smoke Tree	Fall color/Drought-tolerant
<i>Crataegus marshallii</i>	D Parsley Leaf Hawthorn	Flowering/Attracts birds
<i>Crataegus opaca</i>	D May Haw	Flowering/Fruit/Attracts birds
<i>Crataegus spathulata</i>	D Little Hip Hawthorn	Flowering/Attracts birds
<i>Crataegus viridis</i>	D Green Hawthorn	Flowering/Attracts birds
<i>Crataegus texana</i>	D Texas Hawthorn	Flowering
<i>Crataegus reverchonii</i>	D Reverchon Hawthorn	Flowering
<i>Cyrilla racemiflora</i>	D Titi	Wet sites
<i>Diospyros texana</i>	D Texas Persimmon	Fruit/Drought-tolerant
<i>Eysenhardtia texana</i>	D Texas Kidneywood	Flowering/Drought-tolerant
<i>Halesia diptera</i>	D Two-winged Silverbell	Flowering
<i>Ilex cassine</i>	E Dahoon Holly	Female-Fruit/Attracts birds
<i>Ilex decidua</i>	D Possum Haw	Female-Fruit/Attracts birds
<i>Ilex vomitoria</i>	E Yaupon	Female-Fruit/Attracts birds
<i>Magnolia x Soulangeana</i>	Saucer Magnolia	Flowering
<i>Malus angustifolia</i>	D Southern Crabapple	Flowering/Fruit
<i>Myrica cerifera</i>	E Southern Wax Myrtle	Wet sites/Attracts birds
<i>Ostrya virginiana</i>	D Eastern Hop Hornbeam	
<i>Parkinsonia aculeata</i>	D Retama	Flowering/Drought-tolerant
<i>Pistacia chinensis</i>	D Chinese Pistachio	Fall color/Drought-tolerant
<i>Pistacia texana</i>	D Texas Pistache	Drought-tolerant
<i>Prosopis glandulosa</i> var <i>glandulosa</i>	D Mesquite	Drought-tolerant
<i>Prunus mexicana</i>	D Mexican Plum	Flowering/Fruit/Drought-tolerant
<i>Prunus umbellata</i>	D Flatwoods Plum	Flowering/Fruit

Botanical Name	Common Name*	Comments
<i>Prunus augustifolia</i>	D Creek Plum	Flowering/Fruit
<i>Rhamnus caroliniana</i>	D Carolina Buckthorn	Fall color/Fruit/Attracts birds/Drought-tolerant
<i>Rhus copallina</i>	D Sumac	Fall color
<i>Sophoria secundiflora</i>	E Texas Mountain Laurel	Flowering/Drought-tolerant
<i>Sophora affinis</i>	D Eve's Necklace	Flowering
<i>Ungnadia speciosa</i>	D Mexican Buckeye	Flowering/Drought-tolerant
<i>Viburnum rufidulum</i>	D Rusty Black Haw Viburnum	Flowering/Fall color/Drought-tolerant/Attracts birds

Appendix 3.1.3.14. Shrub Planting

a) Shrub selection.

Shrubs planted in public rights-of-way shall be selected from the Shrub list (Appendix 3.1.3.15). Shrubs planted in other areas may also be selected from that list. The following factors shall be considered when making a selection from the shrub list for planting:

1. Hardiness for the specific site selected.
2. Present and ultimate size, branching habits, and growth rate. The plant shall be at least eighteen (18) inches in height as measured from the surrounding soil line, shall have a minimum eighteen (18) inch width at the widest portion when planted and shall be capable of growth to not less than thirty (30) inches in height as measured from the surrounding soil line within three (3) annual growing seasons.
3. Resistance to pests.

(b) Shrub planting.

1. Holes for shrubs shall be excavated six inches greater in width than the diameter of the soil ball. The sides of the hole shall be vertical and the bottom horizontal. Shrubs shall be planted with top of root ball slightly above existing grade. No holes shall be left uncovered overnight.
2. Shrubs shall be set in an upright plumb position at a depth slightly higher than grown in the container. Care shall be taken not to injure the root system, trunk, or foliage. The trunk shall not be used as a lever in positioning or moving the shrub in the planting hole.
3. Holes shall be backfilled with soil and tamped lightly and carefully so as not to damage roots. The shrub shall be watered to settle soil around the roots and remove air pockets.
4. All damaged branches shall be removed.
5. A minimum three-inch layer of mulch shall be placed loosely at the base to retard weed growth and conserve moisture.

(c) Watering

The following water schedule may be utilized and revised during prolonged periods of rain or drought.

Initial Watering After Planting	Root zones shall be drenched every seven days for four weeks.
November December January February	In the absence of sufficient rainfall, root zones shall be drenched on a twenty-one-day watering schedule.
October March April	In the absence of sufficient rainfall, root zones shall be drenched on a fourteen-day watering schedule.
May June July August September	In the absence of sufficient rainfall, root zones shall be drenched on a seven-day watering schedule.

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Appendix 3.1.3.15 Shrub List

Expected Height After 3 Years (in feet)	Common Name	Botanical Name
	Evergreens	
1—3	Japanese Boxwood	<i>Buxus microphylla japonica</i>
1	Dwarf Euonymus	<i>Euonymus japonica</i> "Microphylla"
2—3	Silver King Euonymus	<i>Euonymus japonica</i> "Silver King"
1—2	Dwarf Gardenia	<i>Gardenia jasminoides</i> "Radicans"
2—3	Dwarf Burford Holly	<i>Ilex cornuta</i> "Burfordii Nana"
2—3	Dwarf Chinese Holly	<i>Ilex cornuta</i> "Rotunda"
1—2	Compact Japanese Holly	<i>Ilex crenata</i> "Compacta"
1—3	Dwarf Yaupon Holly	<i>Ilex vomitoria</i> "Nana"
1—2	Primrose Jasmine	<i>Jasminum mesnyi</i>
3—4	Texas Sage	<i>Leucophyllum frutescens</i>
3—4	Dwarf Wax Myrtle	<i>Myrica cerifera</i>
1	Dwarf Purple Nandina	<i>Nandina domestica</i> nana "Purpurea"
2—3	Harbor Dwarf Nandina	<i>Nandina domestica</i> nana "Harbor Dwarf"
2—3	Dwarf Oleander	<i>Nerium oleander</i>
1—2	Turner's Dwarf Pittosporum	<i>Pittosporum tobira</i> "Turner's Dwarf"
1—2	Wheeler's Dwarf Pittosporum	<i>Pittosporum tobira</i> "Wheeler's Dwarf"
3—4	Fraser's Photinia	<i>Photinia x fraseri</i>
2—3	Red Elf Pyracantha	<i>Pyracantha</i> "Red Elf"
2—4	Indian Hawthorne	<i>Raphiolepis indica</i>
2—3	Red Spirea	<i>Spiraea x bumalda</i> "Anthony Waterer"
3—4	Spring Bouquet Vib	<i>Viburnum tinus</i> "Spring Bouquet"
6	Red Tip Photinia	<i>Photinia glabra</i>
6	Chinese Photinia	<i>Photinia serrulata</i>
6	Waxleaf Ligustrum	<i>Ligustrum japonicum</i>
6	Southern Wax Myrtle	<i>Myrica cerifera</i>

Article 2 –Parkland

Division 1 – Parks and Private Parks

Section 3.2.1.1. Purpose

- (a) The purpose of this Article is to provide recreational areas in the form of neighborhood parks, regional parks, and trail systems linking public areas and subdivisions, as a function of subdivision development within the City and the City's extraterritorial jurisdiction. It is hereby declared that recreational areas in the form of neighborhood parks, regional parks, and trail systems are necessary and in the public welfare, and that the only adequate procedure to provide for same is by integrating such a requirement into the procedure for planning and development property or subdivisions within the City and the City's extraterritorial jurisdiction.
- (b) Neighborhood parks are those parks providing for a variety of outdoor recreational opportunities and within convenient distances from a majority of the residences to be served thereby. The City Council may adopt park zones, which shall be shown on a future official parks and recreation map for the City. If adopted, such park zones shall be prima facie proof that any park located therein is within such a convenient distance from any residence located therein. The primary cost of neighborhood 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.
- (c) Regional parks are those parks not primarily serving a specific neighborhood, but rather designed to serve the entire City and the City's extraterritorial jurisdiction, such as ballparks, soccer fields, and trail systems which connect various neighborhoods.
- (d) Parks dedicated to a municipal utility district or dedicated to the City shall be considered public parks.
- (e) The maintenance of a public park shall be the responsibility of the Municipal Utility District, if so dedicated, or the Home Owners Association of the development, unless the City expressly agrees to maintenance.

Section 3.2.1.2. Applicability

- (a) The regulations contained in this Article shall be applicable to all property within the city limits and the City's extraterritorial jurisdiction proposed to be developed in whole or in part for single-family or duplex residential or multi-family residential or any other residential or partial residential purposes for which a subdivision plat is required, unless otherwise noted herein.
- (b) These regulations do not apply to replats of land owned by the State of Texas or the United States of America.

Section 3.2.1.3. Land to be Used for Single-family, Duplex, or Multifamily Residential Purposes

- (a) Whenever a final plat is filed in the county real property records for development of a residential area in accordance with this Article, such plat shall contain a clear fee-simple dedication of an area of land, as a restricted reserve, to the City (or to a municipal utility district) for neighborhood park purposes, which area shall equal one (1) acre for each fifty-four (54) proposed dwelling units. Any proposed plat submitted to the City for approval shall show the area proposed to be dedicated under this Section, either within the platted residential area or within one-fourth (1/4) mile of the boundary of the platted residential area and directly connected by a permanent accessible route. The required dedication of this Section may be met by a payment of money in lieu of land as indicated in Section 3.2.1.4, the pledge of security guaranteeing a future dedication of park land before the subdivision plat is recorded, or the provision of private neighborhood park land when permitted or required by the other provisions of this Article.
- (b) In instances where an area of less than five (5) acres is required to be dedicated, the City shall accept or reject the dedication of such public park within sixty (60) days following approval of the preliminary plat after consideration by the Planning Commission and the City Council. In the event the City determines that sufficient park area already is in the public domain in the area of the proposed development, or if the recreation potential for that zone would be better served by expanding or improving existing parks, then the proposed dedication will be disallowed and the developer shall be required to make payment of cash in lieu of land, as provided by Section 3.2.1.4.
- (c) If the actual number of completed dwelling units exceeds, by less than 10% of the total original dedication, the figure upon which the original dedication was based, such additional dedication shall be required, and shall be made by payment of the cash in lieu of land amount provided by Section 3.2.1.4. If the actual number of completed dwelling units exceeds the total original dedication by more than 10% of the total original dedication, such additional dedication shall be required, and may be made, at the sole option of the City, either by land dedication or by the payment of cash in lieu of land as provided in Section 3.2.1.4.
- (d) For land dedicated for park purposes, evidence of recording in the appropriate real property records of a general warranty deed of the required park land as approved by the City Engineer and the City Attorney.
- (e) Identification of the required amount of parkland is to be indicated on an approved subdivision plat.
- (f) Parkland dedication does not qualify for, remove or reduce the amount of any other required compensating open space that is provided for lot size reduction compensation.
- (g) Parkland dedication can be provided for a phased development, not within the subdivision section that requires the dedication, subject to location criteria indicated elsewhere in this Article or where funds have been paid for a phased development, and the original developer does not complete all phases of the development, credit for any prior dedication or payment shall be applied to subsequent subdivision plats for the same land on a pro-rata basis by dwelling unit. Increased density by the increase in the number of dwelling units

shall require the dedication of additional parkland or payment of additional fees.

- (h) Unless provided elsewhere in rules promulgated by the City Engineer, the dedicated land shall be reasonably free of recognized environmental conditions. If land is proposed to be dedicated by subdivision plat, prior to the submission of an application for final subdivision plat approval, the applicant shall submit either a Phase 1 environmental assessment that shows no environmental conditions exist on the property or a Phase 2 environmental assessment that shows no remediation is required.
- (i) Land in a federally designated floodplain or floodway may not be dedicated as park land unless the dedicated land would be available for active recreational uses for a minimum annual timeframe as determined by the City Engineer.

Section 3.2.1.4. Money in Lieu of Land Dedication for Neighborhood Parks

- (a). Subject to approval of the City Council and the provisions of Section 3.1.2.3 above, a developer responsible for dedication of neighborhood parkland under this Section may elect to meet the requirements of Section 3.1.2.3, in whole or in part, by a cash payment in lieu of land, in the amount of three-hundred and fifty dollars (\$350.00) per dwelling unit. Such payment in lieu of land shall be made at or prior to the time of final plat recordation. The City shall not issue any permits for construction within the subdivision, except permits to construct public improvements, until such time as the payment of money in lieu of park land required by this Article is submitted to and accepted by the City. The City may annually review the fee per dwelling unit and may increase the fee, if approved by the City Council, up to a combination of the annual Consumer Price Index plus the percent of annual population increase within the City limit and the extra-territorial jurisdiction or a City Engineer report indicating the percentage increase of taxable value of property within the City limit and the City extra-territorial jurisdiction, whichever is greater. The fee amount will be the adjusted fee per dwelling unit at the time of plat recordation.
- (b) The City may, from time to time, decide to purchase land for parks in or near the area of actual or potential development. If the City does purchase park land within a designated park zone, subsequent park land dedications for that zone shall be in cash only and calculated to reimburse the City's actual cost of acquisition and development of such land for parks. The cash amount shall be equal to the sum of (1) the average price per acre of such land, and (2) the actual cost of adjacent streets and on-site utilities, or an estimate of such actual cost provided by the City Engineer. Once the City has been reimbursed entirely for all such City-purchased park lands within a park zone, this paragraph shall cease to apply, and the other paragraphs of this Article shall again be applicable.
- (c) To the extent that the required cash amount of Section 3.2.1.4 (b) cannot be determined, the dedication requirement shall be met by a payment in lieu of land computed on the basis of four hundred fifty dollars (\$450.00) per dwelling unit.

Section 3.2.1.5. Private Neighborhood Park Land in Lieu of Public Dedicated Park Land

- (a) A developer responsible for dedication under this Article may elect to meet up to fifty percent (50%) of the requirements of Section 3.2.1.3 by the provision of private neighborhood park land. Credit for private park land will be governed by the following criteria:
 - 1. The land offered as private neighborhood park land must be open and accessible to all

residents of the platted subdivision. Land or facilities that are excluded to a portion of the subdivision residents will not be considered as private neighborhood park land.

2. Land which is unencumbered by easements, detention areas, lake and drainage channel borders, or other similar characteristics will qualify for private neighborhood park land at full credit. Land that has recreation facilities on it such as tennis courts, swimming pools, playing fields, recreation buildings, and any other similar facility also will qualify for full credit.
3. Land which is encumbered by easements, detention areas, lake and drainage channel borders, or other similar characteristics shall qualify at a 50% credit but only if it complies with criteria (A) (1), (2), and (3) below.

(A) Pipeline or utility easements, or areas along lake borders and drainage ditches shall have:

- (1) Hike, bike, and all-weather paths, landscaping and sodding installed according to the construction standards of the City. Paths must also be connected to recreational areas as part of an open space system;
- (2) An average minimum width of thirty feet (30') and a minimum width of twenty feet (20'); and
- (3) Side slopes for areas used in the credit not to exceed a five to one (5:1) ratio, unless otherwise approved by the city.

- (b) Maintenance responsibility for areas offered as private neighborhood park land must be identified with the submission of a preliminary plat.
- (c) Land offered for private neighborhood park land credit, which is less than three (3) acres in size is generally discouraged unless it is an integral part of the private park and open space provisions of the subdivision. A list of landscaping and other improvements of special uses planned for areas of land less than one-half (1/2) acre in size shall be submitted with the preliminary plat.
- (d) For land established as a private park, identification of the required amount of private park area as one or more restricted reserves with the following notation on each private reserve within the subdivision plat:

‘RESERVE RESTRICTED TO PRIVATE PARK PURSUANT TO THE UNIFIED DEVELOPMENT CODE OF THE SODE OF ORDINANCES, CITY OF IOWA COLONY, TEXAS. THIS PRIVATE PARK DESIGNATION MAY NOT BE CHANGED WITHOUT APPROVAL OF THE CITY COUNCIL OF THE CITY OF IOWA COLONY, TEXAS’

Land that is established as a private park for the purposes of this Article may not be replatted to change this designation pursuant to section 212.0146 of Chapter 212 (Texas Local Government Code) without the recommendation of the Planning Commission and the approval of the City Council. The Planning Commission shall not recommend approval of a replat that would change the private park designation unless the Planning Commission determines that alternative private park space that satisfies the requirements of this section is available within the original subdivision generating the dedication requirement.

Section 3.2.1.6. Contribution for Regional Parks

In addition to the provisions for neighborhood parks by dedication of land (public or private) or the payment of fees in lieu thereof as described above, a developer shall contribute an additional four hundred fifty dollars (\$450.00) per dwelling unit for the development of regional parks.

Section 3.2.1.7. Special Funds, Right to Refund

- (a) There is established a special fund within the City General Fund for the deposit of all sums paid in lieu of park land dedication, which funds shall be known as the "Park Land Dedication Fund" and the "Regional Park Fund." The City may establish additional sub-funds as it deems appropriate to track funds for different zones or different regional parks.
- (b) The City shall account for all sums paid in lieu of park land dedication under this Article with reference to the individual plats involved. Any funds paid for such purposes must be expended by the City for acquisition and development of parks. Such funds shall be considered to be spent on a first in, first out basis for each park zone.

Section 3.2.1.8. Additional Requirements

- (a) Any land dedicated to the City or provided as private neighborhood park land under this Article must be appropriate for park and recreation purposes. The City reserves the right to reject any land that it deems as unsuitable for such purposes.
- (b) Drainage areas may be accepted as part of a park if the channel is constructed in accordance with City standards, the land is appropriate for park use, and if no significant area of a park is cut off from access by such channel.
- (c) Each park must have ready access to a public street.

Article 3 – Screening and Fencing

Division 1 – Screening

Section 3.3.1.1. Screening – New Construction Non-Residential and Multi-Family

(a) Non-residential and Multi-Family Screening Required.

(1) Requirement Criteria. This section shall apply to the following:

- a. Any non-residential use that has a side or rear contiguous to any residential use or residential zoning district other than multi-family.
- b. Any multi-family use that has a side or rear contiguous to any residential use or residential zoning district other than multi-family.

(2) The following shall apply in either case outlined above:

- a. The nonresidential or multi-family use shall provide the following:
 1. An opaque screening wall eight feet (8') in height. The screen shall be located no closer to the street than the property line. Such screening fence shall be maintained in good condition. Any sections of this Code concerning sight obstructions of intersections shall be applicable to the screen where it is intersected by a street or throughway.
 2. In addition to an opaque screening wall, there shall be a minimum 25-foot wide landscape buffer between nonresidential or multi-family and all single-family uses. The buffer, located on the non-residential or multi-family property, shall also include Large Trees (from the Large Tree Plant list in UDC Section 3.1.3.31) with a minimum two-inch (2") caliper measured at twelve inches (12") above the root ball shall be provided, with the total caliper inches equal to at least one inch (1") for each ten feet (10') of lot depth.
 3. In situations where a fence already exists along the property line between the non-residential or multiple-family use and the residential use, the screening required by this section shall be in addition to the existing fence unless the nonresidential or multiple-family use obtains permission from the owner(s) of the existing fence to replace said fence with the opaque screening wall and twenty-five feet (25') buffer described above.
 4. Prior to construction of buffers, complete plans showing type of material, depth of beam and structural support shall be submitted to the Building Official or an assign for analysis to determine whether or not:

- i.* The screen will withstand the pressures of time and nature; and
 - ii.* The screen adequately accomplishes the purpose for which it was intended.
- 5. The Building Official or an assign shall determine if the buffer meets the requirements of this section.

Section 3.3.1.2. Screening – Parking Area Screening Along Major and Minor Arterials

Landscaping shall be required for the screening of parking areas along major or minor arterials when nonresidential parking areas are located on the nonresidential lot such that they are adjacent to such roadways (i.e., there is no building between the parking area and the lot line adjacent to the roadway). In such case, parking areas shall be screened by a continuous hedge of shrubs (from Section 3.1.3.34 Shrub List) that are maintained at a height of no more than thirty-six inches (36") nor less than twenty-four inches (24") as measured from the surrounding soil line and at a minimum thirty-six (36") spacing.

Section 3.3.1.3. Screening – Residential Screening Along Major Thoroughfares (Applies to the City & ETJ)

- (a) Requirement Criteria: Where residential subdivisions adjacent to a super arterial, major or minor arterial are platted so that the rear or side yards of single-family or two-family residential lots therein are within two-hundred feet (200') of a right-of-way line of said major thoroughfare, or are separated from such thoroughfare by an alley, landscape, or open space area/detention facility and utility easements, or back up to such thoroughfare, the developer shall provide, at its sole expense, a minimum six-foot (6') tall masonry screening wall (also see Subsection (b) below), or some other alternative form of screening, if approved by the Building Official or an assign, according to the following alternatives and standards. All screening shall be adjacent to the right-of-way or property line and fully located on the private lot(s), including columns and decorative features. All forms of screening shall conform to the requirements of City ordinances and policies that govern sight distance for traffic safety.
- (b) Screening Alternatives: Screening shall be provided in accordance with, and shall be constructed to, standards and criteria as set forth in the City's Engineering Design Criteria Manual.

An alternative form of screening, in lieu of the masonry wall, may be approved by the Building Official or an assign and the City Engineer with the Preliminary Subdivision Plat application. Alternatives that may considered include:

- (1) A living/landscaped screen in conjunction with decorative metal (e.g., wrought iron) fence sections with masonry columns;

- (2) A combination of berms and living/landscaped screening;
 - (3) A combination of berms, decorative masonry walls and living/landscaped screening, either with or without a decorative metal or “WoodCrete” type of fence with masonry columns; or
 - (4) Some other creative screening alternative may be approved if it meets the spirit and intent of this Section, if it is demonstrated to be long-lasting and generally maintenance-free, and if the Building Official or an assign and City Engineer find it to be in the public interest to approve the alternative screening device.
- (c) Time Required for Opacity: Any required screening device shall be, or shall achieve, at least six feet(6') in height and at least ninety percent (90%) opacity within three (3) years of initial installation/planting. Any landscaping used to achieve the purpose of required screening shall be in conformance with other Divisions of this article and other Chapters of the Uniform Development Code.
- (d) Maintenance Easement: A wall/screening maintenance easement at least five feet (5') in width shall be dedicated to the City or to a property owners association on the private lot side and adjacent to the entire length of the screening wall or device.
- (e) Installation: The screening/wall/device shall be installed prior to final acceptance of the subdivision public improvements. All landscape materials, if utilized, shall be installed in accordance with other Divisions of this article and other Chapters of the Uniform Development Code. Failure to properly install all components of a required screening wall or device within the prescribed timeframe, shall constitute a violation of this Unified Development Code, and shall authorize the City Engineer to refuse acceptance of the subdivision public improvements.
- (f) Design of Walls: All masonry, wrought iron, steel or aluminum screening wall plans and details must be designed and sealed by a licensed professional engineer, and must be approved by the City Engineer. Use of chain-link, chicken-wire, hog-wire fencing, barb-wire fencing, and any other material similar in appearance and quality is expressly prohibited. The use of wood is prohibited.
- (g) Height of Screening: The height of required screening devices, including spans between columns, shall be a minimum of six feet (6') and shall be no more than eight feet (8'). Decorative columns, pilasters, stone caps, sculptural elements, and other similar features may exceed the maximum eight-foot(8') height by up to two feet (2') for a total maximum height of ten feet (10') for these features, provided that such taller elements comprise no more than ten percent (10%) of the total wall length in elevation view.
- (h) Other Easements: Screening fences, walls and devices shall not be constructed within any portion of a utility or drainage easement unless specifically authorized by the City Engineer and by any other applicable utility provider(s).

Section 3.3.1.4. General Screening

- (a) The following requirements shall be in addition to the foregoing landscaping and planting requirements:
- (1) All loading spaces and docks, outside storage areas including open storage, storage in containers and boxes not designed to be permanently affixed to real property, refuse containers/areas, mechanical and electrical equipment, and the rear of nonresidential uses/structures on double frontage lots, must be screened from view from the street or public rights-of-way and adjoining properties.
 - (2) Approved screening techniques include masonry, evergreen vegetative screens, landscape berms, existing vegetation or any combination thereof. In any case in which a fence/wall is constructed to provide screening, landscaping elements shall be incorporated along a majority of the fence/wall. Screening for ground mounted mechanical, electrical equipment in non-residential areas shall consist of a decorative wall or architectural element of the building that is one hundred percent (100%) opaque and equal to or exceeds the height of the area being screened. Shrubbery shall be a minimum of three feet (3') in height at the time of planting, planted every three feet (3') or less on center, and have year-round foliage. Also, in the case of roof-mounted mechanical equipment, parapet roof structures are approved for screening such equipment.
 - (3) If a nonresidential use is adjacent to a residential use other than multiple-family, such nonresidential use shall be screened in accordance with Section 3.3.1.1 (a) and shall include a vegetative buffer.
- (b) If screening is required, it shall be of sufficient height and opacity to completely obscure the activity, structure, or use.

Section 3.3.1.5. Screening for Utility Support Structures and Stations

- (a) Applicability. This section shall apply to all utility support structures or stations located on private property regardless if there is an easement or other form of agreement between the utility company or property owner.
- (b) Support Structures and Stations Defined. These shall include, but not be limited to, any switching equipment, lift stations, pipe valves connected to pipes above ground, boxes or cabinets, cabling equipment or wiring above ground, transmitting equipment, control rooms, control cabinets, etc. Utility poles and transformers and like appurtenances attached to utility poles more than ten feet (10') above the ground are not considered a support structure or station.
- (c) Regulations. A utility support structure or station located on private property or outside a public street right of way must have proper screening. The construction or modification of an existing utility support structure or station equal to more than fifty percent (50%) of its original or current economic value, whichever is higher, must provide screening meeting one of the following:

- (1) Eight foot (8') high masonry fence with up to a maximum of four-foot (4') long sections of wrought iron (ornamental iron) or similar style fencing material to allow for security. For walls or sides that have over fifty percent (50%) masonry as a component (not counting the gate) no landscaping would be required on that side. The gate would need to be wrought iron (ornamental iron) or solid metal finished in a neutral or natural color - not gray or steel color, unless otherwise approved by the City Engineer. All drives and work areas will be paved with concrete within the area under the utilities control.
 - (2) Wrought iron (ornamental iron) fencing or substantially similar style, eight feet (8') high, with gate similar in style to the fencing, unless otherwise approved by the City Engineer, in combination with landscaping shall be permitted, but shall require a concrete slab over the entire area under the utilities control including the drive or access to the support structure or station.
 - (3) Opaque or near-opaque live vegetative screening year-round from the ground to a height of at least eight feet (8') at installation along the boundary lines of the easement or area containing the utility facilities or apparatus. The screening shall provide a minimum of fifty percent (50%) screening during the growing season. The planting shall be a minimum of eight feet (8') in height at a spacing of at least four feet (4') on center.
 - (4) A self-contained masonry building that houses the equipment, provided the structure is constructed consistent with the appearance of surrounding businesses or homes in the area in which it is located. Factors affecting appearance shall include, but not be limited to, pitched shingle roofs, façade articulations, color scheme, and architecture trim.
- (d) Alternative. If the utility company does not wish to install the screening as outlined, it may, in its application for a Special Use Permit (SUP), submit an alternative plan for providing proper screening. If the alternate screening plan is approved as a part of an approved Planned Unit Development District plan or with a SUP, the utility company may install screening pursuant thereto in lieu of screening that conforms with the requirements of this section.
- (e) Exceptions. The following two conditions exempt certain equipment from the above requirements or to obtain a SUP:
- (1) Where no more than two support structures and/or stations as defined above are within fifty feet (50') of each other, are located within a common public utility easement, and each structure or station is located on a concrete pad with the dimensions of the structure being no larger than six feet (6') in height, four feet (4') deep, and seven feet (7') wide and is located at least fifty feet (50') from the ROW line of a public street.
 - (2) Pedestals, cabinets, or similar equipment structures when the structure is less than three feet (3') in height, covers less than six (6) square feet, and is located in a common public utility easement, but is partially hidden from public view from a public street by landscaping, building, or fencing, as deemed appropriate by the Building Official or an assign.

Division 2 – Fencing

Section 3.3.2.1. Fencing Allowed

(a) Fences in Residential Areas/Districts, Except Multiple-Family.

- (1) Materials Permitted - Fences may be constructed of approved wood, decorative metal, chain link or woven wire mesh, and other materials traditionally used in private fence construction. New and innovative materials such as plastics, PVCs, metal panel or metal slat, "honeycomb", cementitious fiber board (e.g., "WoodCrete"), and other similar materials may be approved for use by the City's Building Official if the material is proven to be sturdy, durable and relatively maintenance-free.

(b) Fences Permitted in Front Yard(s) Adjacent to a Public Street

- (1) Except as provided by Subsection 2 (Decorative Fences) below, no fence or wall shall be permitted within the required front yard of any single-family or duplex residential lot which is adjacent to a public street. No residential fence shall be closer than 15 feet to a public street; however, in cases where the side or rear building line of the yards on continuous corner lots adjoin (i.e., the side yard lot is not a key corner lot), the fence may be constructed out to the property line of the side yard, such that the street side yard may be included as part of the lot's rear yard area.
- (2) Decorative Fences - Decorative fences with openings not less than fifty percent (50%) of the fence area and not exceeding four (4) feet in height are permitted in front yards. Chain link, woven wire mesh metal panel, or similar materials are not considered decorative fencing, and are therefore not allowed in front yards.

Section 3.3.2.2. Fencing Not Allowed or Allowed With Conditions

(a) Perimeter Fencing in Residential Zoning Districts or Residential Use

- (1) Above-ground electrical fencing (does not include underground "virtual fencing", which is allowed), wire mesh (such as hog wire, chicken wire) and barbed wire are prohibited as perimeter fencing except on parcels or lots of two(2) acres or greater in size in the Residential Single Family Units/Agriculture zoning district.

(b) Fences Within Public Easements

- (1) Fences are allowed within public easements with the approval of the Building Official or an assign and the City Engineer but any allowed fence must have a gate or removable panel to allow for maintenance access to such easement.

(c) Fences Within Drainage Easements

- (1) No fences or structures of any kind that restrict the flow of drainage water will be allowed within drainage easements. Non-restrictive fences or structures within drainage easements must be specifically approved by the City Engineer.

(d) Fences in Side/Rear Yards

- (1) Fences located in side or rear yards shall not exceed eight (8) feet in height.

Section 3.3.2.3. Fencing Required

(a) Around Single-Family Residential Developments

- (1) Single-family residential use existing at the effective date of this Article is exempt from any requirement to provide any perimeter fencing.
- (2) Single-family residential use, if only a single tract or lot and not a part of a multi-lot residential subdivision, if constructed or permitted after the effective date of this Article is exempt from any requirements to provide any perimeter fencing.
- (3) Single-family residential use, if a part of a multi-lot (more than 1 lot) residential subdivision and not a part of an approved Planned Unit Development District, shall provide an eight (8) feet high approved opaque wood or masonry or combination materials fence, per details established by the Engineering Design Criteria Manual of the City (called "DCM" in this ordinance), as revised from time to time, around the outside single-family residential perimeter boundary of the subdivision section unless a portion of the outside perimeter boundary of the section is a part of an approved general plan. In which case, that part of the outside single-family residential perimeter boundary of the subdivision adjacent to future sections of the development shall not be required to provide a perimeter fence.
- (4) Gates used for access control within private street single-family residential developments must be set back a minimum of twenty-four (24) feet from the intersecting public street right-of-way to allow for vehicular stacking to occur outside the public street right-of-way.
- (5) Any fence provided within a single-family residential development that exceeds eight (8) feet in height will require construction plans approved by a civil engineer registered to practice in the State of Texas and will require a building permit.

(b) Around Non-Single-Family Residential Developments

- (1) Single tract/lot or multi-tract/lot non-single-family developments are not required to provide boundary perimeter fencing when the new development is adjacent to other existing non-single-family development.
- (2) The owner of a building site included under section 3.1.2.1 and which is to be developed or expanded for a non-single-family residential or a multi-family residential use adjacent to any existing single-family residential property shall provide a landscape buffer adhering to at least one of the following buffer type:
 - a. A wood, concrete or masonry opaque screening fence with a height of eight feet (8') along the entire property line or entire artificial lot line, if any, adjacent to the single-family residential property
- (3) A building permit must be obtained to construct any type of new fence where the market value of the work (materials and labor) exceeds three hundred (300) dollars. A

building permit is not required for the repair or replacement of existing fences if the repair or replacement does not exceed the original fence criteria.

Article 4 - Exterior Environmental Lighting

Division 1 - General

Section 3.4.1.1. Purpose and Applicability

- (a) The purpose of this division is to establish standards for outdoor lighting in order to:
 - (1) Minimize adverse off-site effects from glare and light trespass or obtrusive light;
 - (2) Maintain adequate, appropriate lighting fixtures and practices that do not exceed the IES recommended practices for night-time safety, utility, productivity, enjoyment, and commerce while curtailing light pollution, skyglow, and the adverse effects of night lighting from gas or electric sources;
 - (3) Promote efficient lighting design and operation by conserving energy and resources to the greatest extent possible; and
 - (4) Protect residential uses from light sources from non-residential uses that are improperly selected, placed, aimed, maintained, or shielded.
 - (b) See Section 0.1.1.2 concerning the geographical scope of this ordinance. Except as described below, all outdoor lighting shall comply with these requirements. This includes, but is not limited to, existing lighting that has been amortized per amortization regulations contained in this Article, new lighting, replacement lighting, or any other lighting whether attached to structures, poles, the earth, or any other location, including lighting installed by any third party. Submission and approval of a Site Plan shall be required for all nonresidential (including churches, schools, etc. within residential areas), mixed-use, townhouse, single-family attached, and multi-family residential projects. The Building Official or an assign shall be the responsible official for processing of a Site Plan.
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- (1) Building Permit Issuance: Site plans shall be submitted prior to or in conjunction with a building permit application. No building permit shall be issued until a Site Plan, if required, and all other required engineering/construction plans are first approved by the City. No certificate of occupancy shall be issued until all construction and development conforms to the Site Plan and engineering/construction plans, as approved by the City. A Lighting Plan shall be included for review and approval with submittal of a Site Plan.
 - (2) Exemptions: The following are not regulated by this Ordinance
 - a. Lighting within the public right-of-way or easement for the principal purpose of illuminating roads and highways. No exemption shall apply to any street lighting and to any lighting within the public right-of-way or easement when the purpose of the luminaire is to illuminate areas outside of the public right-of-way or easement.
 - b. Lighting for public monuments and statuary
 - c. Lighting solely for signs if regulated by another Ordinance
 - d. Repairs to existing luminaires not exceeding 25% of total installed luminaires

- e. Temporary lighting for theatrical, television, performance areas and construction sites
- f. Underwater lighting in swimming pools and other water features
- g. Temporary lighting and seasonal lighting provided that individual lamps are less than 10 watts and 70 lumens
- h. Lighting that is used under emergency conditions
- i. In Ambient Lighting Level areas 1 and 2, low voltage landscape lighting controlled by an automatic device that is set to turn the lights off at one hour after the site is closed to the public or at a time established by City Council.
- j. Temporary use of security lighting for no longer than necessary to prevent imminent or occurring harm to any person or property, due to a sudden emergency.

Section 3.4.1.2. Review and Approval Authority

- (a) An exterior light plan shall be required for all proposed or modified lighting that includes:
 - 1. Description of light fixtures including component specifications such as associated with a non-residential or multifamily site plan. Lighting plans shall include the following: lamps, reflectors, optics, angle of cutoff, supports, poles, and include manufacturer's catalog cuts.
 - 2. Location and description of every outdoor light fixture and hours of operation.
 - 3. Maintained horizontal illumination levels shown as foot-candles.

Section 3.4.1.3. General Standards

- (a) Shielding shall be required in all installations except as specified herein. The lower edge of the shield shall be at or below the lowest point of the light source the light source or lamp so as to minimize the light transmission above the horizontal plane, or at least ninety (90) percent of the emitted light projects below the horizontal plane as evidenced by the manufacturer's photometric data. Shielding requirements may be reduced for architecturally decorative light fixtures in consideration of aesthetics and theme style lighting.
- (b) Any use is prohibited from operating in a manner so that the intensity of its glare or direct illumination projecting across the property boundary and onto another public or private property is a nuisance or detracts from the use or enjoyment of adjacent property.
- (c) Exterior lights shall be located so as to not produce direct illumination across the bounding property line. All outside lights shall be comprised of a light source and reflector selected so that acting together the spillover is controlled and not directed across any bounding property line above a height of three (3) feet.
- (d) Outdoor advertising displays and signs not exclusively illuminated internally, may only utilize illuminating devices mounted on the top of the advertising display structure. All such fixtures shall comply with all other provisions of this section.
- (e) Outdoor advertising signs constructed of translucent materials and wholly illuminated from within do not require shielding.

- (f) Light fixtures mounted on canopies or fueling station service islands shall be recessed so that the lens cover is recessed or flush with the bottom surface (ceiling) of the canopy.
- (g) IN ALL CASES, THE MAXIMUM CORRELATED COLOR TEMPERATURE FOR ALL NON-RESIDENTIAL LIGHTING AND ALL NON-RESIDENTIAL USES WITHIN RESIDENTIAL USE AREAS OR RESIDENTIAL ZONES IN THE CITY LIMIT SHALL NOT BE MORE THAN 3,000 DEGREES KELVIN AND A S/P (SCOTOPIC – NIGHTTIME LIGHT LEVEL, PHOTOPIC – DAYTIME LIGHT LEVEL) RATIO OF LESS THAN 1.2 TO MINIMIZE BLUE LIGHT EMISSION
- (h) The allowable ambient light source intensity and the requirements for shielding light emissions for outdoor lighting fixtures shall be as set forth in the following table:

Ambient Light Level	Zoning/Use	Recommended Uses or Areas
ALL-0	Wilderness areas, parks and preserves, and undeveloped rural areas	No Ambient Lighting – Areas where the natural environment will be seriously and adversely affected by lighting. Impacts include disturbing the biological cycles of flora and fauna and/or detracting from human enjoyment and appreciation of the natural environment. Human activity is subordinate in importance to nature. The vision of human residents and users is adapted to the darkness, and they expect to see little or no lighting. When not needed, lighting should be extinguished.
ALL-1	Rural and low density residential areas	Low Ambient Lighting – Areas where lighting might adversely affect flora and fauna or disturb the character of the area. The vision of human residents and users is adapted to low light levels. Lighting may be used for safety and convenience but it is not necessarily uniform or continuous. After midnight, most lighting should be extinguished or reduced as activity levels decline.
ALL-2	Light commercial business and high density or mixed-use residential areas	Moderate Ambient Lighting - Areas of human activity where the vision of human residents and users is adapted to moderate light levels. Lighting may be typically used for safety and convenience but it is not necessarily uniform or continuous. After midnight, lighting may be extinguished or reduced as activity levels decline.

(i) Lighting Control Requirements

1. Automatic Switching Requirements:

Controls shall be provided that automatically extinguish all outdoor lighting when sufficient daylight is available using a control device or system such as a photoelectric

switch, astronomic time switch or equivalent functions from a programmable lighting controller, building automation system or lighting energy management system, all with battery or similar backup power or device. Exceptions include automatic lighting controls are not required for the following:

- a. Lighting under canopies
- b. Lighting for tunnels, parking garages, garage entrances and similar conditions

2. Automatic Lighting Reduction Requirements:

After the midnight hour (12:00 AM), total outdoor lighting lumens shall be reduced by at least 30% or extinguished, except under any of the following:

- a. Lighting for single family residential properties including multiple residential properties not having common area.
- b. When the outdoor lighting consists of only one luminaire.
- c. Code required lighting for steps, stairs walkways, and building entrances.
- d. When in the opinion of the City Engineer or Building Official, lighting levels must be maintained.
- e. Motion activated lighting.
- f. Lighting governed by special use permit in which times of operation are specifically identified.
- g. Businesses that operate on a 24-hour basis.

Section 3.4.1.4 Non-residential Lighting

For all non-residential properties, and for multiple residential properties of two or more domiciles having common outdoor areas, all outdoor lighting shall comply either with Part A or Part B of this section.

(a) Part A – Prescriptive Method

(1) Total Site Lumen Limit

The total installed initial luminaire lumens of all outdoor lighting shall not exceed the total site lumen limit. The total site lumen limit shall be determined using either the Parking Space Method (Table A) or the Hardscape Area Method (Table B). Only one method shall be used per permit application, and for site with existing lighting, existing lighting shall be included in the calculation of total installed lumens.

The total installed initial luminaire lumens is calculated as the sum of the initial luminaire lumens for all luminaires.

(2) Limits to Off Site Impacts

All luminaires shall be rated and installed according to Table C

(3) Light Shielding for Parking Lot Illumination

All parking lot lighting shall have no light emitting above 90 degrees.

Exception:

- a. Ornamental parking lighting shall be permitted by special permit only, and shall meet the requirements of Table C-1 for Backlight, Table C-2 for Up-light, and Table C-3 for Glare, without the need for external field-added modifications.

(b) Part B – Performance Method

(1) Total Site Lumen Limit

The total installed initial luminaire lumens of all lighting systems on the site shall not exceed the allowed total initial site lumens. The allowed total initial site lumens shall be determined using Tables D and E. For sites with existing lighting, existing lighting shall be included in the calculation of total installed lumens.

The total installed initial luminaire lumens of all is calculated as the sum of the initial luminaire lumens for all luminaires.

(2) Limits to Off Site Impacts

All luminaires shall be rated and installed using either Option A or Option B. Only one option may be used per permit application.

Option A: All luminaires shall be rated and installed according to Table C.

Option B: The entire outdoor lighting design shall be analyzed using industry standard lighting software including inter-reflections in the following manner:

1. Input data shall describe the lighting system including luminaire locations, mounting heights, aiming directions, and employing photometric data tested in accordance with IES guidelines. Buildings or other physical objects on the site within three object heights of the property line must be included in the calculations.
2. Analysis shall utilize an enclosure comprised of calculation planes with zero reflectance values around the perimeter of the site. The top of the enclosure shall be no less than thirty-three (33) feet (10 meters) above the tallest luminaire. Calculations shall include total lumens upon the inside surfaces of the box to and vertical sides and maximum vertical illuminance (foot-candles and/or lux) on the sided of the enclosure.

The design complies if:

- a. The total lumens on the inside surfaces of the vertical enclosure are less than 15% of the total site lumen limit; and
- b. The maximum vertical illuminance on any vertical surface is less than the allowed maximum illuminance per Table F.

Section 3.4.1.5 Residential Lighting

(a) General Requirements

For residential properties including multiple residential properties not having common areas, all outdoor luminaires shall be fully shielded and shall not exceed the allowed lumen output in Table G, column 2.

Exceptions:

- (1) One partly shielded or unshielded luminaire at the main entry not exceeding the allowed lumen output in Table G, column 1.
- (2) Any other partly shielded or unshielded luminaires not exceeding the allowed lumen output in Table G, column 3.
- (3) Low voltage landscape lighting aimed away from adjacent properties and not exceeding the allowed lumen output in Table G, column 6.
- (4) Shielded directional flood lighting aimed so that direct glare is not visible from adjacent properties and not exceeding the allowed lumen output in Table G, column 5.
- (5) Open flame gas lamps.
- (6) Lighting installed with a vacancy sensor, where the sensor extinguishes the lights no more than 15 minutes after the area is vacated.
- (7) Lighting exempt per section 3.4.1.1. (b) 2

(b) Requirements for Residential Landscape Lighting

- (1) Shall comply with Table G.
- (2) Shall not be aimed onto adjacent properties.

Section 3.4.1.6. Lighting By Special Permit Only

(a) High intensity and Special Purpose Lighting -

The following lighting systems are prohibited from being installed or used except by Special Use Permit:

- (1) Temporary lighting in which any single luminaire exceeds 20,000 initial luminaire lumens of the total lighting load exceeds 160,000 lumens.
- (2) Aerial Lasers
- (3) Searchlights
- (4) Other very intense lighting defined as having a light source exceeding 200,000 initial luminaire lumens or an intensity in any direction of more than 2,000,000 candelas.

(b) Complex and Non-Conforming Uses

Upon Special Use Permit issued by the City of Iowa Colony, lighting not complying with the technical requirements of this ordinance but consistent with its intent may be installed for complex sites or uses or special uses including, but not limited to, the following applications:

- (1) Sports facilities, including but not limited to unconditioned rinks, open courts, fields, and stadiums.
- (2) Construction lighting.
- (3) Lighting for industrial sites having special requirements, such as petrochemical manufacturing or storage, shipping piers, etc.
- (4) Parking structures.
- (5) Urban parks.

- (6) Ornamental and architectural lighting of bridges, public monuments, statuary and public buildings.
- (7) Theme and amusement parks.
- (8) Correctional facilities.

To obtain a Special Use Permit, applicants shall demonstrate that the proposed lighting installation:

- a. Has sustained every reasonable effort to mitigate the effects of light on the environment and surrounding properties, supported by a signed statement describing the mitigation measures. Such statements shall be accompanied by the calculations required for the Performance Method,
- b. Employs lighting controls to reduce lighting at a Project Specific Curfew “Curfew”) time to be established in the Special Use Permit, and
- c. Complies with the Performance Method after Curfew.

The City of Iowa Colony Building Official or an assign and the City Engineer shall review each such application and make a recommendation to the City Council. The City Council will review the application and the recommendation of the Building Official and the City Engineer and may agree to grant a Special Use Permit if the City Council believes that the proposed lighting will not create unwarranted glare, sky glow, or light trespass.

Section 3.4.1.7. Existing Lighting

Any and all lighting installed prior to the effective date of this ordinance shall comply with the following:

- (a) Amortization – All existing single family residential structures and developed tracts or lots shall be allowed to continue using existing exterior lighting but must comply with the requirements of this Article after a reasonable amortization period, which is presumed to end ten (10) years after the effective date of the adoption of this Article, including repair and comparable replacement.
- (b) New Uses or Structures, or Change of Use, after the effective date of this Article – Whenever there is a new use of a property (zoning or variance change) or the use of the property is changed, all outdoor lighting on the property shall be brought into compliance with this Ordinance before the new or changed use commences.
- (c) Additions or Alterations
 - (1) Major Additions – If a major addition occurs on a property, lighting for the entire property shall comply with the requirements of this Article. The following are considered major additions:
 - a. Additions of twenty-five (25) percent or more in terms of additional dwelling units, gross floor area, seating capacity, or parking spaces, either with a single addition or with cumulative additions after the effective date of this Article.

- b. Single or cumulative additions, modifications or replacement of twenty-five (25) percent or more of installed outdoor lighting luminaires existing as of the effective date of this Ordinance.

(2) Minor Modifications, Additions, or New Lighting Fixtures for Non-Residential and Multiple Dwellings – For non-residential and multiple dwellings, all additions, modifications, or replacement of more than twenty-five (25) percent of outdoor lighting fixtures existing as of the effective date of this Article shall require the submission of a complete inventory and site plan detailing all existing and any proposed new outdoor lighting. Any new lighting shall meet the requirements of this Article.

(3) Resumption of Use after Abandonment – If a property with non-conforming lighting is abandoned for a period of six (6) months or more, then all outdoor lighting shall be brought into compliance with this Article before any further use of the property occurs.

Section 3.4.1.8. Tables

Table A – Allowed Total Initial Luminaire Lumens per Site for Non-Residential Outdoor Lighting, Per Parking Space Method.

May only be applied to properties up to 10 parking spaces (including handicapped accessible spaces).

Light Zone	Use/Zone	Allowed Luminaire Lumens per Parking Space (Lumens/Space)
ALL-0	Wilderness areas, parks and preserves, and undeveloped rural areas	350
ALL-1	Rural and low density residential areas	490
ALL-2	Light commercial business and high density or mixed-use residential areas	630

Table B – Allowed Total Initial Lumens per Site for Non-Residential Outdoor Lighting, Hardscape Area Method.

May be used for any project. When lighting intersections of site drives and public streets or roads, a total of six-hundred (600) square feet for each intersection may be added to the actual site hardscape area to provide for intersection lighting.

Base Allowance

Light Zone	Use/Zone	Base Allowance of Lumens per Square Foot of Hardscape
ALL-0	Wilderness areas, parks and preserves, and undeveloped rural areas	0.5
ALL-1	Rural and low density residential areas	1.25
ALL-2	Light commercial business and high density or mixed-use residential areas	2.5

Lumen Allowances, in Addition to Base Allowance

Additional allowances for sales and service facilities. No more than two additional allowances per site. Use it or lose it.

Light Zone	Outdoor Sales Lots (1)	Outdoor Sales Frontage (2)	Drive Up Windows (3)	Vehicle Service Station (4)
ALL-0	0	0	0	0
ALL-1	4 Lumens/SF	0	2,000 Lumens/Drive Up Window	4,000 Lumens/Pump (based on 5 Foot-Candles horizontal)
ALL-2	8 Lumens /SF	1,000 Lumens/LF	4,000 Lumens/Drive Up Window	8,000 Lumens/Pump) (based on 10 Foot-Candles horizontal)

- (1) This allowance is lumens per square foot of un-covered sales lots used exclusively for the display of vehicles or merchandise for sale, and may not include driveways, parking, or other non-sales areas. To use this allowance, luminaires must be within two (2) mounting heights of sales lot area.
- (2) This allowance is for lineal feet of sales frontage immediately adjacent to the principal viewing location(s) and unobstructed for its viewing length. A corner sales lot may include two adjacent sides provided that a different principal viewing location exists for each side. In order to use this allowance, luminaires must be located between the principal viewing location and the frontage outdoor sales area.
- (3) In order to use this allowance, luminaires must be within twenty (20) feet horizontal distance of the center of the window.
- (4) This allowance is lumens per installed fuel pump.

Table C – Maximum Allowable Backlight, Uplight, and Glare (BUG) Ratings.

May be used for any project. A luminaire may be used if it is rated for the lighting zone of the site or lower in number for all ratings, B, U, and G. Luminaires equipped with adjustable mounting devices permitting alteration of luminaire aiming in the field shall not be permitted.

Table C-1 – Allowed Backlight Rating (1)

Light Zone	Greater Than 2 Mounting Heights from Property Line	1 to Less Than 2 Mounting Heights From Property Line and Ideally Oriented (2)	0.5 to 1 Mounting Heights From Property Line and Ideally Oriented (2)	Less Than 0.5 Mounting Height to Property Line and Properly Oriented (2)
ALL-0	B1	B1	B0	B0
ALL-1	B3	B2	B1	B0
ALL-2	B4	B3	B2	B0

- (1) For property lines that abut public walkways, bikeways, plazas, and parking lots, the property line may be considered to be five (5) feet beyond the actual property line for purposes of determining compliance with this section. For property lines that abut public roadways, the property line may be considered to be the centerline of the public roadway for the purpose of determining compliance with this section. NOTE: This adjustment is relative to Table C-1 and C-3 only and shall not be used to increase the lighting area of the site.

- (2) To be considered “ideally oriented”, the luminaire must be mounted with the backlight portion of the light output oriented perpendicular and towards the property line of concern.

Table C-2 – Maximum Allowable Uplight (BUG) Ratings – Continued

Light Zone	Allowable Uplight Rating	Allowed % Light Emission Above 90 Degrees for Street or Area Lighting
ALL-0	U0	0%
ALL-1	U1	0%
ALL-2	U2	0%

Table C-3 – Maximum Allowed Glare (BUG) Ratings – Continued

Light Zone	Allowed Glare Rating	Any Luminaire Not Ideally Oriented (3) With 1 to Less Than 2 Mounting Heights to Any Property Line of Concern	Any Luminaire Not Ideally Oriented (3) With 0.5 to 1 Mounting Heights to Any Property Line of Concern	Any Luminaire Not Ideally Oriented (3) With Less Than 0.5 Mounting Heights to Any Property Line of Concern
ALL-0	G0	G0	G0	G0
ALL-1	G1	G0	G0	G0
ALL-2	G2	G1	G0	G0

- (3) Any luminaire that cannot be mounted with its backlight perpendicular to any property line within 2X the mounting heights of the luminaire location shall meet the reduced Allowed Glare Rating in Table C-3

Table D – Performance Method Allowed Total Initial Site Lumens

May be used on any project.

Light Zone	Allowed Lumens Per SF	Allowed Base Lumens Per Site
ALL-0	0.5	0
ALL-1	1.25	3,500
ALL-2	2.5	7,000

Table E – Performance Method Additional Initial Luminaire Lumen Allowances

All of the following are “use it or lose it” allowances. All area and distance measurements in plan view unless otherwise noted.

Additional Lumens Allowances for All Buildings except service stations and outdoor sales facilities. A MAXIMUM OF THREE (3) ALLOWANCES ARE PERMITTED. THESE ALLOWANCES ARE “USE IT OR LOSE IT”

Light Zone	Building Entrances or Exits (1)	Building Facades (2)	Sales or Non-Sales Canopies (3)	Guard Stations (4)	Outdoor Dining (5)	Drive Up Windows (6)
ALL-0	400	0	0	0	0	0
ALL-1	1,000	0	3/SF	6/SF	1/SF	2,000 Lumens/Drive Up Window
ALL-2	2,000	8/SF	6/SF	12/SF	5/SF	4,000 Lumens/Drive Up Window

- (1) This allowance is per door. In order to qualify for this allowance, luminaires must be within twenty (20) feet of the door.
- (2) This allowance is lumens per unit area of the building façade that are illuminated. To use this allowance, luminaires must be aimed at the façade and capable of illuminating it without obstruction.
- (3) This allowance is lumens per unit area for the total area within the drip line of the canopy. In order to qualify for this allowance, luminaires must be located under the canopy.
- (4) This allowance is lumens per unit of area of guardhouse plus 2000 SF per vehicle lane. In order to use this allowance, luminaires must be within two (2) mounting heights of a vehicle lane or the guardhouse.
- (5) This allowance is lumens per unit area for the total illuminated hardscape of outdoor dining. In order to use this allowance, luminaires must be within two (2) mounting heights of the hardscape area of outdoor dining.
- (6) This allowance is lumens per window. In order to use this allowance, luminaires must be within twenty (20) feet of the center of the window.

Additional Lumens Allowances for Service Stations Only. Service Stations May Not Use Any Other Additional Allowances

Light Zone	Additional Allowance for Service Stations – Vehicle Service Station Hardscape (7)	Additional Allowance for Service Stations – Vehicle Service Station Canopies (8)
ALL-0	0	0
ALL-1	4/SF	8/SF
ALL-2	8/SF	16/SF

(7) This allowance is lumens per unit area for the total illuminated hardscape area less area of buildings, area under canopies, area off property, or areas obstructed by signs or structures. In order to use this allowance, luminaires must be illuminating the hardscape area and must not be within a building below a canopy, beyond property lines, or obstructed by a sign or other structure.

(8) This allowance is lumens per unit area for the total area within the drip line of the canopy. In order to use this allowance, luminaires must be located under the canopy.

Additional Lumens Allowances for Outdoor Sales Facilities Only. Outdoor Sales Facilities May Not Use Any Other Allowances. NOTICE: Lighting Permitted by These Allowances Shall Employ Controls Extinguishing This Lighting After a Curfew Time to be Determined by the City of Iowa Colony.

Light Zone	Outdoor Sales Lots (9)	Outdoor Sales Frontage (10)
ALL-0	0	0
ALL-1	4/SF	
ALL-2	8/SF	1,000/LF

(9) This allowance is lumens per square foot of uncovered sales lots used exclusively for the display of vehicles or other merchandise for sale, and may not include driveways, parking or other non-sales areas and shall not exceed twenty-five (25) percent of the total hardscape area. To use this allowance, luminaires must be within two (2) mounting heights of the sales lot area.

(10) This allowance is for lineal feet of sales frontage immediately adjacent to the principal viewing location(s) and unobstructed for its viewing length. A corner sales lot may include two (2) adjacent sides, provided a different principal viewing location exists for each side. In order to use this allowance, luminaires must be located between the principal viewing location and the frontage outdoor sales area.

Table F – Maximum Vertical Illuminance At Any Point In the Plane of the Property Line

Light Zone	Maximum Vertical Illuminance
ALL-0	0.05 FC or 0.5 LUX
ALL-1	0.1 FC or 1.0 LUX
ALL-2	0.3 FC or 3.0 LUX

Table G – Residential Lighting Limits

Light Zone	Column 1 (1)	Column 2 (2)	Column 3 (3)	Column 4 (4)	Column 5 (5)	Column 6 (6)
ALL-0	Not Allowed	630 Lumens	Not Allowed	Not Allowed	Not Allowed	Not Allowed
ALL-1	420 Lumens	1,260 Lumens	315 Lumens	Not Allowed	Not Allowed	SFR Exempt Others Not Allowed
ALL-2	630 Lumens	1,260 Lumens	315 Lumens	1,050 Lumens	1,260 Lumens	525 Lumens

- (1) Maximum allowed luminaire lumens* for unshielded luminaires at one entry only.
- (2) Maximum allowed luminaire lumens* for each fully shielded luminaire
- (3) Maximum allowed luminaire lumens* for each unshielded luminaire excluding main entry.
- (4) Maximum allowed luminaire lumens* for each landscape lighting.
- (5) Maximum allowed luminaire lumens* for each shielded directional flood lighting.
- (6) Maximum allowed luminaire lumens* for each low voltage landscape lighting.

Article 5 – Commercial Buildings

Division 1 General

Section 3.5.1.1. Purpose

The purpose of this Article is to establish minimum standards for exterior building improvements for non-residential structures in order to protect and advance the general welfare of the community by:

- (a) Promoting economic development to insure the community is a desirable place to shop and work;

- (b) Provide for the structural integrity, safety, durability, and improved maintenance of the façade of buildings;
- (c) Enhance and protect the aesthetic interests of the community; and
- (d) Protect property values and lessen the impact that commercial properties have on surrounding residential development.

Section 3.5.1.2. Applicability

- (a) This Article applies to all sides of all buildings that are:
 - (1) Non-residential;
 - (2) And either;
 - a. Constructed after the date of adoption of this Article, or
 - b. Repaired, added to, or altered as to more than fifty (50) percent of the exterior walls, after the date of adoption of this Article; and
 - (3) Located within one-thousand (1,000) feet of a public street or highway.
- (b) However, this Article shall not apply to agricultural buildings, such as barns. This exception shall not apply to commercial businesses that are open to the public, even if they are agricultural.

Division 2 Types of Improvements

Section 3.5.2.1. Existing Buildings - Maintenance, Repair, Replacements

- (a) Maintenance. The exposed walls and roofs of buildings shall be maintained in a clean, orderly and attractive condition, free of cracks, dents, punctures, breakage and other forms of visible marring. Materials that become excessively faded, chalked or otherwise deteriorated shall be refinished or repainted. "Excessively faded" shall be defined as a color change exceeding 7 Delta E (Hunter) units under ASTM D2244. "Excessively chalked" shall be defined as chalk in excess of ASTM D759 number 6 rating.
- (b) The maintenance, repair, or replacement of existing building elements shall be performed in the following order of priority:
 - (1) Maintaining the original materials, elements, and systems is the preferred and typically best method of preserving the character of existing buildings and shall be done except as otherwise authorized in (2) or (3) below.
 - (2) If maintaining the original as provided above is not economically or technically feasible, repairs shall be done so that the original materials and elements remain intact by replacing the deteriorated portion in-kind using the same material as the original for replacement.
 - (3) If, for technical or economic reasons, replacement in-kind as provided above also proves not to be feasible, the deteriorated material or element shall be replaced with a

compatible substitute material which has the same appearance, size, shape, texture, color, and other defining characteristics as the original. The substitute material shall also be physically and chemically compatible with adjacent materials so that it does not cause future maintenance problems.

Section 3.5.2.2. Alterations

Exterior alterations to an existing building or to its site that affect appearance or landscape shall be done in a manner that does not detract from the character-defining features of the building, site, or the neighborhood.

Section 3.5.2.3. Additions

Additions to existing commercial buildings are sometimes necessary to extend their functional or economic life. Consideration shall be given to the effect the location, size, and exterior appearance of the addition will have on an existing building and its neighbors. Visibility from a public right-of-way and the character of the existing elevation to which the addition is to be attached shall be evaluated including: height, width, proportion, rhythm of windows and doors, roof shape, ornamentation, projections, and materials.

Section 3.5.2.4. New Construction

New construction shall follow the same general design principles as existing construction including particular attention to its setback from the street and its alignment with the front facades of neighboring buildings and landscape features. Achieving compatibility does not mean duplicating neighboring buildings or environment. A new building or addition shall be seen as a product of its own time. However, by effectively relating to the neighborhood, a new building shows the neighborhood's evolution just as the existing buildings show its past. By providing features or elements in the new building that support significant existing elements in the neighborhood, the new building will be a good neighbor, enhancing the character of the neighborhood.

Division 3 Character Defining Elements

Observing and understanding specific details of design is critical to preserving the character of a neighborhood. Character-defining features include setback, orientation, scale, proportion, rhythm, massing, height, materials, color, roof shape and details, ornamentation, landscape features, such as plants, trees, fences, sidewalks, and driveways, and the design and location of secondary buildings, such as garages.

Section 3.5.3.1. Setback, Driveways, Sidewalks, and Parking For Commercial/Retail/Office/Industrial Use Buildings

The City of Iowa Colony Unified Development Code is a part of the Iowa Colony Zoning Ordinance, Subdivision Ordinance, and Building Codes. Other parts of those ordinances currently indicate minimum building setbacks. Over time, those other regulations will be incorporated into the Unified Development Code. Until the incorporation is complete, there may be conflicts between regulations for the same condition in the Unified Development Code and in those other sources. In the case of conflict between a regulation in the Unified Development Code and a regulation for the same condition in other parts of the Zoning

Ordinance, Subdivision Ordinance, or Building Codes, the regulation expressed in the Unified Development Code shall prevail and supersede all other regulations, but only to the extent necessary to resolve the conflict. Regulations for building setbacks for non-residential zoning districts and non-residential uses are as follows:

(a) Front Building Setback for Commercial/Retail/Office Use Buildings– to encourage both pedestrian and vehicular building access, depending on the type of street frontage, the front wall of a building shall be located at one of only three locations relative to the distance from the front property line, that property line that provides both legal and physical vehicular access to the property.

- (1) If the property frontage is not on a designated super arterial or major arterial, the front wall of the building shall be located on a build-to building setback line located ten (10) feet from the ultimate right-of-way line of the street along the front of the property.
- (2) If property frontage is on a designated super arterial, the front wall of the building shall be located on a build-to building setback line of seventy-one (71) feet from the ultimate right-of-way line of the street along the front of the property.
- (3) If both (i) property frontage is on a designated major arterial; and (ii) either (a) the tract size is less than two (2) acres, or (b) the proposed building size is limited to a maximum of twenty-five thousand (25,000) square feet of Gross Leasable Area (GLA): then the front wall of the building shall be located on a build-to building setback line of fifty-three (53) feet from the ultimate right-of-way line of the street along the front of the property.
- (4) If both (i) property frontage is on a designated major arterial; and (ii) either (a) the tract size is two (2) acres or larger or (b) the proposed building size is greater than twenty-five thousand (25,000) square feet of Gross Leasable Area (GLA); then the front wall of the building shall be located on a build-to building setback line of seventy-one (71) feet from the ultimate right-of-way line of the street along the front of the property.
- (5) In the condition indicated in (1) above, the required street sidewalk may be replaced with a sidewalk between the building and the front property line within the ten (10) foot space between the building and the street right-of-way line if the relocated sidewalk is located adjacent to the building wall and if the sidewalk is at least six (6) feet wide and contains a minimum of a three (3) foot wide pedestrian clear zone and if a public access easement document is recorded for use of the sidewalk on private property. No fences, trees, shrubs taller than three (3) feet, or freestanding permanent signs shall be placed between the front of the building and the street curb and no parking or driveway is allowed within the space between the building and the front property line.

- (6) In the condition indicated in (3) above, the space between the building and the front property line may be used for a private driveway with single-loaded (only on one side of the driveway) head-in, ninety (90) degree parking. A minimum six (6) feet wide sidewalk shall be located between the end of the parking spaces and the building wall and the sidewalk shall be adjacent to the front wall of the building. A public sidewalk six (6) feet wide for arterials is also required within the street right-of-way along the front of the property. A front parking setback of twenty-nine (29) feet is required between the front of the building and the front property line and no driveway access to the front public street is allowed between the front of the building and the front property line. No fences, trees, shrubs taller than three (3) feet, or freestanding permanent signs shall be placed between the front of the building and the street curb. Driveway access to the public street shall occur beyond the building end.
- (7) In the condition indicated in (4) above, the space between the building and the front property line may be used for a private driveway with double-loaded (both sides of the driveway) head-in, ninety (90) degree parking. A minimum six (6) feet wide sidewalk shall be located between the end of the parking spaces and the building wall and the sidewalk shall be adjacent to the front wall of the building. A public sidewalk six (6) feet wide for arterials is also required within the street right-of-way along the front of the property. A front parking setback of five (5) is required between the front of the building and the front property line. No fences, trees, shrubs taller than three (3) feet, or freestanding permanent signs shall be placed between the front of the building and the street curb.
- (b) Front Building Setback for Industrial Use Buildings – All industrial use buildings, regardless of the type of street frontage, shall be set back to a build-to setback line of twenty-five (25) feet from the front property line but may be more than twenty-five (25) feet if the owner can provide evidence satisfactory to the City that a deeper setback is required for public safety.

Section 3.5.3.2. Orientation For Commercial/Retail/Office Use Buildings

- (a) Buildings shall squarely face the front street, with their principal façade and entrance in full view. Buildings shall also have rear building entrances to access the building from the on-site parking located behind the building unless a minimum five (5) feet wide sidewalk is provided from the parking area to the front entrance. This is not an exception to any entrance, exit, or access requirements of the Fire Code or any other ordinance or law.
- (b) Where on-site parking, not located in front of a building, is provided along street frontage, a minimum twenty (20) feet parking setback from the street right-of-way is required. Only perpendicular driveways accessing the public street, directional signs (i.e. enter, exit, additional parking, with or without arrows), in conformance with the Iowa Colony Sign Ordinance, and shrubs no taller than three (3) feet, will be allowed within this parking setback. Only a maximum of sixty (60) feet of parking lot width will be allowed along street frontage.

Section 3.5.3.3. Scale For Commercial/Retail/Office Use Buildings

- (a) The overall scale of a building is its size relative to its neighbors and people. Other aspects of the scale of a building involve elements such as windows, doors, cornices, roofs, and architectural details. All non-governmental or non-religious buildings shall be scaled and designed to relate to the size of an average human being (typically a person of six (6) feet in height). Governmental and religious buildings may be designed to be monumental to give the building prominence or symbolic importance.
- (b) Scale can be achieved in a variety of ways. For example, the size of an element contributes to the scale of a building. Also, facades can be heavily rusticated, contributing to a sense of monumentality, or of plain materials and treatments, making the building appear to be more human in scale. The scale of a new building or addition shall respect and be compatible with the scale of its neighbors unless the building's use or symbolic importance, such as a church in a residential area, differs from that of its neighbors.

Section 3.5.3.4. Proportion For Commercial/Retail/Office Use Buildings

- (a) Proportion is the relationship of the size of building elements, such as windows and doors, to each other and to the building elevations. The design of an addition or a new building shall respect and be compatible with the existing proportions of neighboring buildings. Building proportions shall relate to the human form (i.e. vertical in stature, three main parts – base, trunk, head, etc.) and its proportional relationship.

Section 3.5.3.5. Rhythm For Commercial/Retail/Office Use Buildings

- (a) The spacing of repetitive façade elements, such as projecting bays, storefronts, windows, doors, masonry belt courses and the like, gives an elevation its rhythm. The space between these façade elements can also provide a rhythmic relationship. Also, the space between freestanding buildings, the repetition of the same building type, and the height of roofs, cornices, towers, and other roof projections establish the rhythm along a street. Any addition or new building shall be compatible with the rhythm established by its neighbors and on the street on which it is located.

Section 3.5.3.6. Massing For Commercial/Retail/Office Use Buildings

- (a) Massing typically involves the articulation of a façade by the use of dormers, towers, and other roof projections, as well as façade projections such as bays, porches, and steps. This overall level of articulation visually emphasizes or de-emphasizes volumetric relationships which gives a building its perceived visual mass. The same volume building can appear larger in mass with less articulation and smaller in mass with more articulation as the articulation visually divides the façade into smaller visual parts. Any addition or new building shall be compatible with the massing established by its neighbors and on the street on which it is located.

Section 3.5.3.7. Height For All Buildings

- (a) Building height in Iowa Colony is restricted to a maximum of two (2) stories, but in no case more than thirty-five (35) feet from the natural ground elevation, as fire protection above that height is not now possible. This regulation may be changed after fire-fighting equipment is secured to allow taller construction.
- (b) Even in consideration of (a) above, should that height restriction be removed, a building still shall be designed to respect and be compatible with existing building heights. To be compatible, it does not necessarily have to be exactly the same height as its neighbors but two similar elements at a different height shall not be directly adjacent to each other but have some gap space between to allow for the visual disparity. Visual height is determined by not only the height of walls, but also of cornices and roofs, as well as chimneys and towers, which contributes to the character of existing buildings, neighborhoods, and commercial areas. New in-fill construction must not be more or less than one (1) story different in height than the prevalent height of existing buildings on the same street that are all generally the same height.

Section 3.5.3.8. Materials

- (a) Exterior Materials for Office, Commercial/Retail, and Industrial Uses

- (1) Office and Commercial/Retail Use Buildings.

Only the following building materials shall be used for all office and commercial/retail buildings located within the City of Iowa Colony jurisdiction:

- a. Masonry – brick, stone, concrete masonry units (CMU's) with split-face, fluted, scored or other rough texture finish. (Specifically excluding smooth finish CMU or concrete brick with the color and texture of clay brick.)
- b. Concrete – precast, cast in place, or tilt up panels provided a rough texture is present or to be added before the construction is substantially complete, and if the building is unoccupied, before it is occupied. Smooth finish concrete on vertical panels is not allowed.
- c. Stucco – true stucco consisting of multiple layers placed on an expanded metal lath base. Color shall be included in the final top layer integral with the mix. Painted stucco will not be allowed.
- d. Structural clay tile - excluding glazed surface finish.
- e. Glass – glass curtain walls or glass block, but mirror glass which reflects more than 40 percent of incident visible light shall not be used on more than twenty (20) percent of the exterior walls of any building.
- f. Metal – used only in incidental trim purposes.

- g. Roofing materials-standing seam metal, natural metal, uncolored, for projection canopies on walls over windows or other openings. No other roofing materials shall be visible from a public street at standing eye level.

(2) Industrial Use Buildings

Industrial buildings fronting on arterial streets or collector streets may utilize the following approved materials.

- a. Fronts of all industrial buildings located on streets classified as arterials or collectors, i.e. four (4) lanes or greater, shall utilize one hundred (100%) approved materials specified in (1) above.
- b. Sides of all industrial buildings facing or fronting on arterial streets or collector streets shall incorporate a minimum of fifty (50%) percent of the approved materials listed in (1) above. The other fifty (50%) of the sides shall use only the approved materials listed in (1) above or pre-engineered and pre-finished rough textured metal siding panels and/or pre-engineered and pre-finished rough textured metal siding panel systems, meeting adopted building codes.

(3) Industrial buildings fronting on other than arterial streets shall utilize only the following materials:

- a. Fronts of all industrial buildings facing a non-arterial or non-collector street shall incorporate a minimum of fifty (50%) percent of the approved materials listed in (1) above.
- b. Sides of all industrial buildings facing or fronting on other than arterial streets or collector streets shall utilize only the same materials allowed in (1) or (2) above.

(4) Industrial buildings located in areas behind industrial or other buildings that directly front on a public street shall utilize only the following materials:

- a. Fronts of all industrial buildings so located shall incorporate a minimum of fifty (50%) percent of either the approved materials listed in (1) or (2) above.
- b. The other 50% of the front and all of the remaining sides of all industrial buildings so located shall utilize only the approved materials listed in (1) or (2) above.

(5) Conditional materials. However, the following materials may be used if a variance is granted.

- a. Wood - Only when used to provide compatibility to surrounding buildings or residential districts.

- b. Vinyl – Only when used to provide compatibility to surrounding buildings.
 - c. New materials not listed as approved, prohibited or conditional, may be approved if a variance is granted. In addition to the other requirements for a variance, the variance shall not be granted unless the alternative finish is substantially equal to or better than an allowed or specified exterior finish in quality, durability, and unless the use of the material will not violate any other provision of this UDC..
- (6) Temporary materials. Materials for temporary use may only be allowed for a specific period of time as determined by the City Council on a case by case basis. Approval of temporary materials shall be noted on the building permit or development site plan and the specific period of time the temporary material is allowed.
- (7) Prohibited materials. Exterior building materials are intended to be long lasting and low maintenance. Exterior building materials not listed either as approved, conditional or temporary materials as defined herein are prohibited. New materials may be considered as conditional materials and may be considered for approval or disapproved as in (5) above, otherwise, the following materials are prohibited on the exterior of a building:
- a. Vinyl siding, wood fiber hardboard siding, oriented strand board siding, plastic or fiberglass panels, corrugated or ribbed panels, of any thickness, or any flat metal panel less than 26 Ga. thick;
 - b. Galvanized, aluminum coated, zinc-aluminum coated or unpainted exterior metal finishes, except for trim purposes around door, window, and other openings, which cannot exceed five (5) percent of the total façade area per wall;
 - c. Unfired or underfired clay, sand or shale brick, or concrete masonry units (CMUs) when used as more than trim or ornamentation, or smooth or un-textured concrete finishes including cement panels without a top-coat material of true stucco;
 - d. Concrete finish or precast concrete panel (tilt wall) without a profiled finish of exposed aggregate, hammered, sandblasted, sculptured, fluted, or other architectural concrete finish;
 - e. Mirrored glass with a reflectance greater than forty (40) percent shall not be permitted on more than twenty (20) percent of the exterior walls of any building;
 - f. Exterior Insulation Finishing System (EFIS);

- g. Painted materials including brick, thin brick, naturally occurring stone, concrete masonry units or cementitious stucco.

Section 3.5.3.9. Colors

- (a) The only permitted colors are those colors that are derived from the materials used in construction, for example, brick, stone, terra cotta, slate, asphalt shingle, copper, lead, and other materials that are typically left unpainted and would give color to a building. Color may be applied to wood as a stain that also helps protect the building material. Color that is an inherent internal part of the final product may also be an ad-mixture to stucco and concrete during the initial placement or forming. No more than three (3) distinct colors shall be used on a building.

Section 3.5.3.10. Roofs

- (a) Roof Shape – The shape of a roof and its details are character defining elements. An addition or new building shall have a roof shape that is compatible with the existing roof shapes along the street. In a street with flat roofs, an addition or new building shall also have a flat roof (not truly flat as a slight grade is required for drainage) or a sloped roof may be provided behind a visually flat parapet wall. Conversely, if an existing street has buildings with sloped roofs then an addition or new building shall have a roof shape that is compatible with the existing roof shapes along the street. Introducing a different roof shape, such as a flat roof within an area that has sloped roofs, would not be in keeping with the existing character of the street.
- (b) Roof Elements and Details - Roof elements and details allowed include only: cornices, parapets, eaves, dormers, towers, finials, cresting, gutters, and down-spouts. Parapets must have a cap or coping made of metal, tile, stone, or precast concrete.
- (c) Gutters and Down Spouts – If exterior gutters and down spouts are used, they must be made of galvanized steel or copper. If not the natural metal or galvanized, the color of the gutters and down spouts must match the building trim color. Down spouts shall be connected directly to the underground storm sewer system or connected to a rain-water retention system or a natural green space bio-swale for ground absorption of the storm water.
- (d) Sloped Roofs – If slope roofs are used, they shall be covered with metal, either panels (standing seam) or shingles, slate, or clay tile. Asphalt shingles, wood shingles or wood shakes are not allowed.
- (e) Roof Appurtenances – Satellite dishes, communication towers, solar panels or other roof additions shall be located so that they are not visible from a public street.
- (f) HVAC Equipment – Heating, ventilating and air conditioning (HVAC) equipment shall be located to not be visible from a public street or shall be screened from view. Screens shall be designed to be compatible with the proportion, scale, materials, color and other character defining elements of the building. Mechanical penthouses, if required, shall be compatible with the building design if they can be seen from a street.

Section 3.5.3.11. Offsets

- (a) Horizontal breaks shall be provided on all sides of buildings to provide architectural relief and may include bands of accent color, brick course variances in color or placement, i.e., soldier course bricks for bands of different texture, windows, cornices, wall protrusions, horizontal belt courses, etc. The maximum horizontal distance without a break shall be twenty-five (25) feet.
- (b) Vertical breaks shall be provided on all sides of buildings to provide architectural relief as in (a) above. The maximum vertical distance without a break shall be ten (10) feet.
- (c) Articulation - Not less than fifteen percent (15%) of the area of each front exterior façade, and of each street sidewall where a building is located on a corner lot, excluding windows, doors or overhead doors, shall be recessed, projected or alternately staggered from the primary plane of the wall. For purposes of this Section, fascia or mansards shall not be counted as a projection from the primary plane. Recess shall mean a minimum of four (4) inches from the primary wall plane and projection shall mean a minimum of six (6) inches from the primary wall plane.

Section 3.5.3.12. Storefronts

The primary purpose of a storefront is to display merchandise or market services to the public, both pedestrian and vehicular. Modern storefronts often consist of simple metal tubing and glass. Storefronts shall either align with the building wall or be slightly inset behind the building wall but not project from the building wall into the pedestrian space.

- (a) Primary Entrance Treatment – Each building shall have at least one visually identifiable building entrance on the facing street side. Additional building entrances are possible but all other building entrances shall be visually secondary to the primary building entrance. The primary building entrance shall have unique ornamentation and/or be larger in area than any other building entrance visible from a public street. Multiple tenants in the same building that are located adjacent to the exterior street facing wall may have individual tenant entrances. However, unless all building tenants have exterior entrances, the primary building entrance shall be visually identifiable.
- (b) Transparency – Each exterior wall of a commercial/retail/office building facing a public street must contain at least sixty-five (65) percent transparent material to allow visual penetration of at least three (3) feet into the building. Transparency includes stationary glass, windows, and the glass area of doors.
- (c) Canopies/Overhang – All glass display areas and entrances shall have an overhead canopy or permanent overhang at least four (4) feet projecting from the building wall and extending at least the entire length of the display area or entrance. Building entrances inset at least four (4) feet into the building from the exterior wall plane do not require a canopy or overhang.

- (d) Street Furniture – All new buildings and all new additions with a new primary building entrance shall provide at least one (1) two-person metal bench, at least one (1) metal litter container, and at least one (1) two-bike, two-point-of-contact metal bicycle rack, all located within twenty-five (25) feet of the primary building entrance. These items must comply with any details in the Engineering Design Criteria Manual.

Section 3.5.3.13. Details and Ornamentation

The general degree of detail and ornamentation provided in new buildings and additions to existing buildings shall be compatible with that found on the existing building(s) adjacent on the street. A contemporary interpretation of details found on older, existing buildings can be an effective way to differentiate a new building, or addition to an older building, from an existing building.

Section 3.5.3.14. Landscape Features

Plants, trees, fences, retaining walls, sidewalks, driveways, decorative retaining walls and fences are important character-defining elements. When possible, existing plant material shall be maintained, especially mature trees and shrubs. However, new landscaping with flowers and shrubs can complement the entire area, enhance the structure itself, and improve the appearance of the neighborhood. New fencing and/or new or repaired retaining walls shall match or complement the existing styles of neighborhoods. All natural site areas or vegetated area shall be irrigated by automatic irrigation systems. Non-spray heads are to be used on all trees, shrubs, and flowerbed areas.

Section 3.5.3.15. Secondary Buildings

Secondary buildings include structures such as garages, sheds, and other outbuildings. They often impact the scale and texture of the property and present a contrast to the primary structure. The design of new secondary buildings shall be compatible with the location, size, materials and other defining characteristics of the main building. Prefabricated sheds and structures shall be used with reservation and if used, should complement the primary structure in color and design. Metal shipping containers and other metal storage containers are not allowed on commercial/retail/office sites for a continuous period beyond three (3) days.

Section 3.5.3.16. Lighting

Exterior site lighting is regulated by Article 4 – Exterior Environmental Lighting in this UDC. Additionally, exterior lighting fixtures shall be in harmony with the character of the buildings. Visible lighting fixtures shall be mounted in entrance ways and on the front façade of the building. Concealed flood lighting may be used to light facades. Lighting fixtures shall be inconspicuous. Electrical elements such as wires, conduits, junction boxes, transformers, ballasts, switched, and panel boxes shall be concealed. Lighting shall comply with any criteria in the Engineering Design Criteria Manual.

(a) Allowed lighting methods:

- (1) Fully recessed downlights or wall washers
- (2) Shielded lamps with diffusers

- (3) Gooseneck or bent tube arm to prevent glare at pedestrian level
- (b) Prohibited lighting methods:
 - (1) Exposed lamp lighting
 - (2) Exposed high power lamps that cause “over lighting” and excessive glare on the street
 - (3) Exposed bulbs
 - (4) Lights that blink, black out, flash, or have mechanical motion

Division 4 Signage

Site and building signage is regulated by the City of Iowa Colony Sign Ordinance (currently 2016-19). Site monument sign regulations are located in Section 24 B. Building wall sign regulations are located in Section 25. Additional building signage regulations are contained herein in addition to those located in the Sign Ordinance. In general, the design of signs shall neither obscure nor detract from architectural details of a building and shall help to emphasize any unique shapes or details of the façade, to draw attention to the building entrance, or to emphasize a display window. Once installed, signs must be maintained with respect to graphic characters, paint, fading, and other types of deterioration. Damaged and obsolete signs, as well as related posts, wiring and structures, are required to be repaired or removed.

Section 3.5.4.1. Sign Types

In addition to the flat, wall-mounted signs indicated in Section 25 of the Sign Ordinance and Window and Door Signs allowed in Section 26 of the Sign Ordinance, two other sign types are allowed as a part of this Article:

- (a) Wall Projecting Signs or Blade Signs – As a part of the total allowed wall sign area, wall projecting signs are allowed that extend in a perpendicular manner from the building wall for a total distance of no more than twenty-four (24) inches. Only one wall projecting sign is allowed per tenant in a multi-tenant commercial/retail building. Wall projecting signs are not allowed for office buildings.
- (b) Under Canopy Signs – As a part of the total allowed wall sign area, horizontal format, hanging signs located under building canopies are allowed but not longer than twenty-four (24) inches and no lower than seven (7) feet from the sidewalk elevation.

Section 3.5.4.2 Materials

Signs shall be constructed of materials that are durable and easy to maintain such as aluminum, stone, acrylic, glass, and stained glass.

Section 3.5.4.3. Illumination

Light sources external to the sign surface and directed toward the sign are preferred. The light level shall not detract from the building façade or other elements along the streetscape. The source of external lighting shall be shielded from pedestrian view. Individually lit or internally lit characters and back lit characters are acceptable. Flashing or moving signs, other than barber poles, are not permitted.

Section 3.5.4.4. Shape

Signs shall consist of simple, straightforward shapes.

Section 3.5.4.5. Graphics

The character forms shall occupy not more than seventy-five (75) percent of the total sign panel. Finishes shall be matte or non-glare.

Copy

Chapter 4: Subdivision Design and Improvements

Article 1 – Subdivision Platting - Reserved

Article 2 – Street Lights

Division 1 – General

Section 4.2.1.1. Purpose

- (a) The purpose of this chapter is to provide motor vehicle drivers and pedestrians with quick, accurate, and comfortable vision at night, taking into consideration the need to provide lighting in an economically feasible manner that is consistent, safe, and compatible with surrounding land use. The purpose of this chapter is to also help property owners and developers understand the standard street lighting process as well as the fixture options available.
- (b) Street lighting is a vital part of any community and when properly designed, street lighting can reduce automobile collisions, deter crime, and foster a sense of safety. Properly designed street lighting can all add aesthetic appeal, as well as contribute to the overall structural design of any community.
- (c) This chapter includes requirements for street lighting within the city limit and the extra-territorial jurisdiction of the City of Iowa Colony within:
 - (1) All public roadway rights-of-way, except those directly controlled by the Texas Department of Transportation, and
 - (2) All private roadways within single family residential subdivisions where private roadways are provided for primary lot access, the private roadways are designed to public street standards, and there is a homeowner's association (HOA) established that can and will maintain and provide operation funding for the provided streetlights.
- (d) The City of Iowa Colony City Engineer shall approve street lighting plans for all street light improvements within the City of Iowa Colony city limit and the extra-territorial jurisdiction of the City of Iowa Colony.
- (e) Construction plans for private improvements within public rights-of-way and public easements that connect to or affect the public infrastructure shall be approved by the City of Iowa Colony City Engineer subject to the requirements of this Chapter and are subject to review and approval using the technical requirements defined in the City of Iowa Colony

Engineering Design Criteria Manual (DCM). Private streets designed and built to public street standards with the same general geometric cross-section as a public street shall be required to have street lighting in conformance with this chapter.

- (f) The City of Iowa Colony has standardized its street light fixtures in an effort to continue to provide exceptional service to its citizens and property owners. CenterPoint Energy is the primary company that provides, maintains, and operates street light fixtures within Iowa Colony. Fixtures have been selected from those currently available from CenterPoint Energy from various manufactures to ensure a standardized community image. Using CenterPoint approved fixtures will ensure continued compatibility with the existing electrical system. Using CenterPoint approved fixtures also provides faster repair time, lower operational and installation costs, while maintaining a high level of street lighting standards.
- (g) The City of Iowa Colony supports initiatives that reduce light pollution and ecosystem disturbance while maintaining the public's sense of safety and security within our community. To that end, the location and spacing criteria included herein shall be the maximum allowable lighting unless otherwise approved by the City Engineer.
- (h) As new technology, after thorough testing, becomes available and as the lighting industry changes, the City of Iowa Colony will update this chapter to provide it's citizens and property owners with the most reliable, cost effective, functional, and long-lasting lighting products.

Section 4.2.1.2. Responsibility for Installation and Maintenance in Existing Developments

- (a) Existing developments are those developments where formal application for City approval, usually in the form of submittal of a set of construction plans, has been made as of the date of final adoption of this Chapter, or those developments that are already in existence at the time of adoption of this Chapter regardless of whether City approval was given, to the extent such development is already in place or to the extent application for City approval has already been made.
- (b) In no case shall the standards in this Chapter be interpreted to mean that existing street lights already installed or proposed in existing developments be removed, relocated, or otherwise changed unless the current street light layout of an existing development is to be substantially altered from the condition in place due to public safety endangerment at the time of the adoption of this Chapter. In such instances, the new layout will conform to the technical standards set forth in this Chapter.
- (c) In existing residential and commercial developments where street lights are installed or proposed to be installed throughout the development, or a section thereof, by the developer or homeowners association (HOA) of the development or section, CenterPoint Energy, as funded by the developer or HOA, shall maintain and ensure the proper illumination in accordance with this policy of the street lighting, including paying of the installation and the monthly utility cost therefore, as required by CenterPoint. It shall not be the responsibility of the City to maintain or pay the monthly utility cost for street lights.
- (d) In existing residential and commercial developments or sections thereof, where street lights have not been installed nor are proposed to be installed by the developer or HOA, the City

may, at their option and if funding is available and authorized by City Council, opt to provide for the installation and maintenance of street lighting by CenterPoint Energy.

- (e) Notwithstanding anything to the contrary herein regarding existing developments, along existing major arterials or a portion thereof, where street lights have not been installed nor are proposed to be installed, the City may, at their option, provide for the installation and maintenance of street lights by CenterPoint Energy, including proper illumination, when the average daily traffic count, stage of development, street design, existing illumination levels and budgeted funds allow for the same, as determined by the City.
- (f) In those cases where arterial or collector street intersections will be improved with traffic signalization, as indicated on the adopted City of Iowa Colony Major Thoroughfare Plan, street light design should incorporate the future traffic signalization criteria.

Section 4.2.1.3. Responsibility for Installation and Maintenance in New Developments

- (a) New developments are those developments where a complete formal application for City approval or conditional approval, usually in the form of submission of a preliminary plat (or where a preliminary plat is not required, a final plat) or a site plan, has not been made as of the date of adoption of this Chapter. The developer shall include a street light layout plan, conforming to the provisions of this Chapter and the DCM, with the construction plans submitted for approval by the City.
- (b) In all new residential and commercial developments, CenterPoint Energy, as funded by the developer shall be responsible for the installation and maintenance, including the proper illumination, of street lights along all streets or portions of streets prior to the end of the one (1) year maintenance period of the streets. Utility charges for the operation and maintenance of same will be the responsibility of the developer or the HOA, and shall be paid directly to the electrical service provider. The developer or the HOA and CenterPoint Energy will maintain a contract for maintenance of the street lights.
- (c) Notwithstanding anything to the contrary herein regarding new developments, the developer of property adjacent to any arterial or collector, existing or proposed, designated on the City of Iowa Colony Major Thoroughfare Plan, or of property within which a portion of any arterial or collector, existing or proposed, designated on the City of Iowa Colony Major Thoroughfare Plan, is situated or proposed, shall be responsible for the installation and maintenance, including ensuring the proper illumination, of street lights along the indicated roadway for the length of the designated thoroughfare along which the development is situated. When a developer develops only on one side of a designated thoroughfare, he is required to install and maintain only those street lights required for the developer side of the designated thoroughfare. The responsibility to install and maintain street lights as set forth herein by the developer continues with a direct contract with CenterPoint Energy. The monthly utility charge for the street lights is the responsibility of the developer or HOA, and is paid directly to the retail electric provider.

Division 2 – Requirements

Section 4.2.2.1. Street Light Location/Spacing

(a) Ambient Lighting Level 0 Area –Street lights shall not be required except as follows:

- (1) Local Streets – Street lights shall not be required.
- (2) Collector Streets – Street lights shall only be required at all street intersections along collector streets. Only one (1) street light is required at each intersection.
- (3) Minor Arterials – Street lights shall only be required at all street intersections along minor arterial streets. Two (2) street lights - one (1) on each opposing diagonal corner for “X” intersections and one (1) street light on “T” intersections.
- (4) Major Arterials – Street lights shall be only be required at all street intersections and at all median openings along major arterials. Two (2) street lights – one on each opposing diagonal corner for “X” intersections and at median openings with streets on both sides of the median opening and one (1) street light on “T” intersections and at median openings with only a street only on one (1) side of the median opening.

(b) Ambient Lighting Level 1 Area –Street lights shall be required as follows:

- (1) Local Streets – Street lights shall be required at all street intersections, ninety (90) degree turns, and at the end of cul-de-sacs or dead ends. Only one (1) street light shall be required in each of these conditions.
- (2) Collector Streets – Street lights shall be required at all street intersections along collector streets. Only one (1) street light is required at each intersection.
- (3) Minor Arterials - Street lights shall only be required at all street intersections along minor arterial streets. Two (2) street lights - one (1) on each opposing diagonal corner for “X” intersections and one (1) street light on “T” intersections.
- (4) Major Arterials - Street lights shall be only be required at all street intersections and at all median openings along major arterials. Two (2) street lights – one on each opposing diagonal corner for “X” intersections and at median openings with streets on both sides of the median opening and one (1) street light on “T” intersections and at median openings with only a street only on one (1) side of the median opening. In no case shall there be more than twelve-hundred (1,200) feet between street lights.

(c) Ambient Lighting Level 2 Area – Street lights shall be required as follows:

- (1) Local Streets — Street lights shall be required at all street intersections, ninety (90) degree turns, and at the end of cul-de-sacs or dead ends. Only one (1) street light shall be required in each of these conditions.
- (2) Collector Streets – Street lights shall be required at all street intersections along collector streets. Only one (1) street light is required at each intersection.
- (3) Minor Arterials - Street lights shall be required at all street intersections along minor arterial streets. Two (2) street lights - one (1) on each opposing diagonal corner for

“X” intersections and one (1) street light on “T” intersections. In no case shall there be more than twelve-hundred (1,200) feet between street lights.

- (4) Major Arterials - Street lights shall be required at all street intersections and at all median openings along major arterials. Two (2) street lights – one on each opposing diagonal corner for “X” intersections and at median openings with streets on both sides of the median opening and one (1) street light on “T” intersections and at median openings with only a street only on one (1) side of the median opening. In no case shall there be more than twelve-hundred (1,200) feet between street lights.
- (d) Bridge Crossings – Street lights shall be required as follows unless lighting internal to the bridge structure sufficiently provides traffic safety lighting as determined by the City Engineer. Drainage structure opening sizes of twenty-four (24) inches or less shall not require lighting:
 - (1) Ambient Lighting Level 0 Area – All street types shall not require a street light at bridge/culvert drainage crossings. Approved TxDOT reflective markings shall be required on bridges in these locations.
 - (2) Ambient Lighting Level 1 Area – A street light shall not be required at a bridge/culvert drainage crossing except for a major arterial which will require one (1) street light or equal bridge lighting located within one-hundred (100) feet of one end of the bridge.
 - (3) Ambient Lighting Level 2 Area – A street light is required for all street types except local for a street light to be placed within one-hundred (100) feet of each end of a bridge/culvert drainage crossing.
- (e) Notwithstanding any provision herein to the contrary, street lights at intersections on major and minor arterials will be located so as to illuminate the major arterial and not turned to illuminate the other public street.

Section 4.2.2.2. Street Light Lumen Size/Manufacturer

- (a) The lumen size and manufacturer of street lights required to be installed will be in accordance (as provided by CNP CenterPoint Energy as approved LED street lights) with the DCM, subject to modification by the City Engineer should a specified light luminaire no longer be available or be low-performing.

Section 4.2.2.3. Street Light Poles

The City of Iowa Colony desires a consistent, blended visual look for street light poles per provider/manufacturer indicated in the DCM of either standard wooden poles or standard grey steel poles in the following locations all at a fixture height of thirty (30) feet above natural grade.

- (a) Wooden poles, with metal arms for the luminaire, shall be used at all locations within Ambient Lighting Level 0 areas except along designated major and minor arterials which shall have grey steel poles (CenterPoint approved).
- (b) Grey steel poles shall be used in all residential developments in Ambient Lighting Levels 1 and 2 areas.

- (c) In Ambient Lighting Level 1 and 2 areas, in commercial/industrial developments, grey steel poles are preferred. Where wood poles and overhead wires are already prevalent, wood poles will be used for street lights, using metal arms for the luminaire.

Section 4.2.2.4. Special Conditions

From time to time, special conditions may exist that render it necessary to alter the lumen size, spacing requirement, or other technical standards to adequately meet the objectives of this Chapter. Such special conditions shall include, but not necessarily be limited to, the following:

- (a) In new construction of developments and arterials, the developer may be required to install lights in excess of the standards set forth in this Chapter to lessen traffic and safety hazards existing because of certain site conditions which prevent the technical standards from providing sufficient lighting for traffic safety, as determined by the City Engineer. These conditions include, but are not limited to, pavement type, number of interchanges, street design, ratio of night to day accidents, and other relevant matters.
- (b) Wherever the City may deem it necessary or desirable, the City may elect to be responsible for the installation and maintenance of street lighting in excess of policy standards to lessen traffic safety hazards or otherwise alter existing conditions.

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Chapter 5: Definitions

Article 1 – Generally Applicable Definitions

Division 1 – General Definitions

Section 5.1.1.1. General Definitions

- (a) The following definitions are intended to provide descriptions for words and terms used within this UDC. Absent any conflict, words and terms used in this UDC shall have the meanings ascribed thereto in this Chapter 5. When words and terms are defined herein, and are also defined in other ordinance(s) of the City, shall be read in harmony unless there exists an irreconcilable conflict, in which case the definition contained in this Chapter 5 shall control. For any definition not listed in this Chapter 5 of this UDC, the definition found within the latest edition of Webster's Dictionary shall be used.

ABANDONMENT: As related to nonconforming uses and structures, having been abandoned as described in this UDC.

ABSOLUTE PHOTOMETRY: Photometric measurements (usually of a solid-state luminaire) that directly measures the footprint of the luminaire. Reference Standard IES LM-79

ABUTTING: Having property or district lines in common, or two objects in immediate contact.

ACCESS: Means of approaching or entering a property. Includes a right of passage to and from an adjacent street, alley, or property.

ACCESSORY: Being secondary or subordinate to something else.

ACCESSORY DWELLING: A subordinate building that is detached from the primary on-site structure, is used as a residence, is incidental to the main structure (i.e., the building area must be significantly less than that of the main structure), and is not involved in the conduct of a business.

ACCESSORY STRUCTURE (BUSINESS OR INDUSTRY): A subordinate building to a building used for nonresidential purposes that does not exceed the height of the main building and does not exceed thirty percent (30%) of the floor area of the main building, and that is used for purposes accessory and incidental to the main nonresidential use (also see *Accessory Use*).

ACCESSORY STRUCTURE (RESIDENTIAL): A subordinate building that is either detached from or attached by only a breezeway to the primary on-site structure, and that is clearly incidental and secondary to the permitted on-site use, and which does not change the character thereof, including, but not limited to, garages, bathhouses, greenhouses, barns, tool sheds, or swimming pools.

ACCESSORY USE: A use that is clearly and customarily incidental and secondary to the permitted and/or principal use of land or building(s), and that is located upon the same lot therewith, and which does not change the character thereof, including garages, living quarters for

servants, greenhouses, or tool sheds. The land/building area that is used for the accessory use is significantly less than that used for the primary use.

ADDITION: An extension or increase in floor area or height of an existing building or structure.

ADULT DAY CARE CENTER: Community-based group program which is licensed by the State of Texas and designed to meet the needs of functionally and/or cognitively impaired adults through an individual plan of care. These structured, comprehensive programs provide a variety of health, social, and other related support services in a protective setting during any part of a day, but less than 24-hour care. Adult day care services are dedicated to keeping adults needing assistance healthy, independent, and non-institutionalized. Adult day centers generally operate programs during normal business hours five days a week. Some programs offer services in the evenings and on weekends.

AGRICULTURAL ANIMAL HUSBANDRY: The breeding, judging, care and/or production of farm animals.

AIRPORT: An area reserved or improved for the landing or take-off of aircraft other than rotary wing aircraft.

ALLEY: A public way which is used primarily for vehicular access to the back or side of properties.

ALTERED or ALTERATION: Any change, modification or transformation.

AMBULANCE SERVICE: Provision of private (not operated by the City of Pearland) emergency transportation which may include mobile medical care, and the storage and maintenance of vehicles.

AMENITIZED DETENTION/RETENTION POND: An area that is designed to capture, store and release storm-water and that is designed as a site amenity by being aesthetically pleasing, by meeting the definition of "open space" herein, and by being constructed to seem natural (i.e., without visible concrete). Such areas have a natural edge and are constructed to resemble a naturally created lake or pond. Also refer to the definition of "amenity" below.

AMENITY: Aesthetic or other characteristics of a development that increase its desirability visually, desirability to the City of Iowa Colony, and/or its marketability to the public. Amenities may vary according to the type and nature of development, but examples include a naturalized retention/detention pond (refer to definition herein), a recreational facility, landscaping, or large trees.

ANIMAL HOSPITAL: An institution where the sick or injured animals are given medical or surgical care.

ANNUAL BEDS: Any landscape where the majority of plants are intended to be replaced yearly or more frequently.

ANTENNA: An antenna or antenna support structure used for the purpose of transmission, retransmission, and/or reception of radio, television, electromagnetic, or microwave signals primarily for the purpose of operating a business and/or for financial gain (e.g., commercial broadcasting, cellular/wireless telecommunications, etc.). A receive-only television antenna or satellite dish antenna that exceeds four feet (4') in diameter shall also be considered to be within this definition.

ANTIQUE SHOP: A business which sells items whose value is greater than original purchase price because of age or extrinsic value.

APARTMENT: See *Dwelling - Multi-Family*.

APPEAL: A request for review of and relief from any decision applying a provision of this Code and which is authorized.

APPLIANCE REPAIR: The maintenance and rehabilitation of appliances that are customarily used in the home including, but not limited to, washing and drying machines, refrigerators, dishwashers, trash compactors, ovens and ranges, countertop kitchen appliances, vacuum cleaners, etc., but not including appliances/equipment which have internal combustion engines.

ARCADE: A series of piers topped by arches that support a permanent roof over a sidewalk.

ARCHITECTURAL LIGHTING: Lighting designed to reveal architectural beauty, shape and/or form for which lighting for any other purpose is incidental.

ARCHITECTURAL METAL: Metal products used for window and door trim, fascia, or soffit.

ART STUDIO AND/OR GALLERY: Where objects of art are created or displayed for the public enrichment or where said objects of art are displayed for sale (including the teaching of both painting and sculpting).

ARTICULATION: An interruption/differentiation of the building wall plane with either a recess (concavity) or an offset (convexity) that projects away from the building wall plane by a measurable distance.

ARTIFICIAL LOT: An area within the contiguous tract(s) or parcel(s) held under common ownership and designated on the building permit application that is delineated by the Building Official for the sole purpose of satisfying the requirements of this article.

AS-BUILT/RECORD DRAWINGS: A group of drawings that depicts the final configuration of the installed or constructed improvements of a development, improvements which have been verified by the contractor as their installation or construction occurs during development. The as-built or record drawings should reflect the construction plans (or working drawings) used, corrected, and/or clarified in the field. For the purposes of this UDC, the terms "as-built drawing" and "record drawing" shall be interchangeable.

ASPHALT BATCHING PLANT: A permanent manufacturing facility engaged in the production of asphalt.

ASSISTED LIVING FACILITY: A congregate residence facility for four (4) or more elderly (over 55 years of age) persons, regardless of legal relationship, who need limited assistance with daily living activities. A limited number of support services such as meals, laundry, housekeeping, transportation, social/recreational activities, hairdressing, etc. may be provided or associated with the assisted living facility. Units may be attached or detached, single- or double-occupancy, and may include limited or full kitchen facilities. Full-time medical or nursing care is not typically provided by the facility, but may be privately arranged for by individual residents on a part-time or temporary basis (e.g., visiting nurses, etc.).

ASSOCIATION: When related to plants, a natural unit of vegetation characterized by a relatively uniform species composition and often dominated by a particular species.

ASTRONOMIC TIME SWITCH: An automatic lighting control device that switches outdoor lighting relative to time of solar day with time of year correction.

AUTO ACCESSORIES AND/OR PARTS (RETAIL SALES ONLY): The use of any building or other premises for the primary inside display and sale of new or used accessories and/or parts for automobiles, panel trucks or vans, trailers, or recreation vehicles. This definition expressly does not include a "Wrecking or Salvage Yard"; this is separately defined herein.

AUTO RENTAL: A business establishment that provides for the renting of automobiles and light trucks on a short-term basis (differentiated from leasing, which is on a long-term basis). This may also involve the incidental storage of the automobiles and light trucks being rented.

AUTO REPAIR (MAJOR): General repair or reconditioning of engines, air-conditioning systems and transmissions for motor vehicles; wrecker service; collision repair services including body, frame or fender straightening or repair; customizing; painting; vehicle steam cleaning; undercoating and rustproofing; those uses listed under *Auto Repair (Minor)*; and other similar uses.

AUTO REPAIR (MINOR): Minor repair or replacement of parts, tires, tubes and batteries; diagnostic services; minor maintenance services such as grease, oil, spark plug and filter changing; tune-ups; emergency road service; replacement of starters, mufflers, alternators, hoses and brake parts; automobile washing and polishing; performing state inspections and making minor repairs necessary to pass said inspection; normal servicing of air-conditioning systems; and other similar minor services for motor vehicles except heavy load vehicles, but not including any operation named under *Auto Repair (Major)* or any other similar use.

AUTO SALES/DEALER or LOT: A paved area for the display for sale of motorized and non-motorized vehicles accompanied by an on-site office with staffing during normal business hours.

AUTO WASH (FULL-SERVICE/DETAIL SHOP): Washing, waxing or cleaning of automobiles or light duty trucks where the owner of the vehicle does not actually wash the vehicle. The owner either leaves the vehicle and comes back to retrieve it later, or the owner waits in a designated area while employees of the car wash facility vacuum, wash, dry, wax and/or detail the vehicle for a fee.

AUTO WASH (SELF-SERVICE): Washing, waxing or cleaning of automobiles or light duty trucks where the owner of the vehicle causes the vehicle to become washed. One type of unattended car wash facility utilizes automated self-service (drive-through/rollover) wash bays and apparatus in which the vehicle owner inserts money or tokens into a machine, drives the vehicle into the wash bay, and waits in the vehicle while it is being washed. The other type of unattended facility is comprised of wand-type self-service (open) wash bays in which the vehicle owner drives the vehicle into the wash bay, gets out of the vehicle, and hand washes the vehicle with a wand-type apparatus by depositing coins or tokens into a machine.

AUTOMATIC IRRIGATION CONTROLLER: A timer capable of operating solenoid valves to set days and lengths of time for proper application of water, in each irrigation zone.

AWNING: A flexible roof-like cover that extends out from an exterior wall and shields a window, doorway, sidewalk, or other space below from the elements.

BACKLIGHT: For an exterior luminaire, lumens emitted in the quarter sphere below horizontal and in the opposite direction of the intended orientation of the luminaire. For luminaires with symmetric distribution, backlight will be the same as front light.

BALCONY: An open portion of an upper floor extending beyond a building's exterior wall that is not supported from below by vertical columns or piers.

BAKERY OR CONFECTIONARY SHOP (RETAIL SALES): A retail facility that is used for the production and/or sale of baked goods and confectionaries to the general public.

BAKERY (WHOLESALE): A manufacturing facility that is used for the production and distribution of baked goods and confectioneries to retail outlets.

BARBER /COSMETOLOGY SCHOOL/COLLEGE: A for-profit business school that offers instruction and training in the barber, beauty, and/or cosmetology, but not including any other type of trade or commercial school.

BAY WINDOW: Generally, a U-shaped enclosure, extending the interior space of the building outward of the exterior building wall.

BED AND BREAKFAST INN: A dwelling occupied as a permanent residence by an owner or renter. Within the dwelling, sleeping accommodations in not more than five (5) rooms for transient guests are provided and breakfast is provided, both for compensation. The period during which accommodations and breakfast are provided generally does not exceed seven (7) days.

BEST MANAGEMENT PRACTICES (BMP'S): Irrigation, lawn, and landscape practices designed to reduce negative impacts on the environment and to promote water conservation.

BLOCK: An area bordered or enclosed by a street or streets.

BLOCK FACE: That portion of a block that abuts a street between two intersecting streets.

BLOCK LENGTH: The distance, as measured along the street centerline, from one end of a row or group of lots to the other end. A block is determined by the streets along its boundary which surround one or more lots. Such streets shall be through streets, not cul-de-sac streets. A block adjacent to a cul-de-sac shall not be counted as a block.

BOARD OF ADJUSTMENT: The Zoning Board of Adjustment of the City of Iowa Colony. Also may be referred to with the acronym "ZBA".

BOARDING OR ROOMING HOUSE: Also referred to as *Boarding House*. A building, built and/or used for residential purposes, where meals are served for compensation to a person or persons residing in the building, and where no cooking facilities are provided in individual living units.

BRACKETS: A simple rigid structure in the shape of an L, one arm of which is fixed to a vertical surface, the other projecting.

BREEZEWAY: A small corridor with a roof, with no structure above it, and that is a maximum of five feet (5') in width (but may be of any length and height). The corridor provides a walking path between a main building and an accessory building, usually a garage or carport, and is commonly unenclosed (i.e., is open to the outside).

BRICK: Kiln fired clay or shale material which meets the latest version of ASTM Standard C216, Standard Specification for Facing Brick (Solid Masonry Unit Made of Clay or Shale), is Severe Weather (SW) grade, that is made of or covered with masonry, flat panel concealed fastener metal system.

BUFFER: An area of land that is intended to mitigate negative impacts between land uses and/or along roadways. A buffer may be landscaped and may also include berms, walls, and/or fences.

BUG: A luminaire classification system that classifies backlight (B), uplight (U) and glare (G).

BUILD-TO-LINE: A build-to line identifies the precise horizontal distance from a street right-of-way that the building must be built to, in order to create a uniform line of buildings along the street.

BUILDING: A "building" is any structure built for the support, shelter, or enclosure of persons, chattels or movable property of any kind and which is affixed to the land. This does not include any fence unless it is structurally a part of the building.

BUILDING - MAIN, PRIMARY, OR PRINCIPAL: A building in which the permitted and/or principal use of the lot on which such use is situated is conducted. In a residential district, any dwelling shall be deemed to be the main building on the lot on which it is situated.

BUILDING AREA: Area of the building site left to be built upon after the required setbacks and easements have been provided.

BUILDING ARTICULATION: See "Articulation".

BUILDING CODE: All building construction regulations adopted as a uniform code by the City of Iowa Colony Ordinances.

BUILDING DEPTH: The distance from the front edge of the building to the rear measuring along the secondary face of the building.

BUILDING HEIGHT: The vertical distance measured from grade at the front of the building to the highest point of a flat roof, to the deck line of a mansard roof, or to the mean height level between eaves and ridge for a gable, hip, or gambrel roof.

BUILDING LINE: See "Setback Line" definition herein.

BUILDING OFFICIAL: That individual designated by the City Council to insure compliance with the Building Code of the City of Pearland, Texas, or the Building Official's designee.

BUILDING PERMIT: An instrument in writing signed by the Building Official or other designated responsible official authorizing described construction on a particular lot.

BUILDING SETBACK AREA: The area of building line restrictions along a street or alley as established by or pursuant to subdivision or zoning regulations adopted by the City of Iowa Colony.

BUILDING SETBACK LINE: A line defining an area on the lot between the property line and the building line within which no building shall be constructed, encroach or project, except as specifically authorized in an adopted City of Iowa Colony ordinance.

(a) **Front Building Setback Line:** A line parallel to the street right-of-way line which the building faces and takes its primary access from.

(b) **Side Building Setback Line:** A line parallel to an adjacent lot, property line, or street right-of-way on a corner lot, which the building sides up to.

(c) **Rear Building Setback Line:** A line parallel to an adjacent lot, alley or street, for double frontage lots, which the building backs up to and has its rear or secondary access.

BUILDING SITE:

(1) The tract or parcel of land which is designated on the building permit application, together with all contiguous tracts or parcels of land held under common ownership and any existing buildings and appurtenant parking;

(2) If designated, an artificial lot contained therein and delineated by the Building Official; or

(3) A city-funded construction or reconstruction project that includes the entire width of the pavement of a public street and is at least 30 feet in length.

BUILDING, TEMPORARY: Any building or structure that is designed to be transportable in one or more sections on a temporary chassis. This definition does not include temporary construction trailers permitted as a *Contractor's Temporary On-Site Construction Office*, as defined in zoning regulations of the City of Iowa Colony unless associated with a Special Event permit and or permitted outdoor activity or use in applicable zoning district.

BUILDING WIDTH: The distance from one edge of the primary building face to the other.

CAFÉ OR CAFETERIA: An informal restaurant, not exceeding fifty (50) seats, outdoor and indoor, offering a range of food, snacks, meals, coffee, and/or other beverages. This definition is intended to exclude establishments with delivery offered to automobiles away from the main building. This definition does not prohibit take-out or drive-through windows.

CALIPER: The American Association of Nurserymen standard for trunk measurement of nursery stock, as measured six inches (6") above the ground or ambient grade for trees up to and including four inches (4") in diameter, and as measured at twelve inches (12") above the ground or ambient grade for trees having a diameter exceeding four inches (4") but not exceeding eight inches (8"), and fifty-four inches (54") above the ground or ambient grade for trees having a diameter greater than eight inches (8"). If the tree has been severed at less than twelve inches (12") above the soil line, then the caliper shall be measured across the stump.

CANOPY (NATURE): The outermost branchy layer of a tree or a stand of trees,

CANOPY (MAN-MADE): A covered, unconditioned structure (open to the elements and has no heat or air conditioning) with at least one side open for pedestrian and/or vehicular access or an

awning-like projection from a wall that is made of rigid materials and is permanently attached to a building's facade.

CERTIFICATE OF OCCUPANCY: A written instrument executed by the Building Official authorizing a described use of a lot or building as set forth in the Building Code, in this UDC, and other subdivision or zoning regulations of the City of Iowa Colony.

CHILD DAY CARE CENTER (BUSINESS): A licensed operation providing care for seven (7) or more children under fourteen (14) years of age for less than 24 hours a day at a location other than the permit holder's home. This definition is in conformance with Texas State law, Chapter 745, Licensing, Subchapter B, Child Day-Care Operations Chart.

CHILD DAY NURSERY: Also commonly referred to as a *Registered Family Home* or *Child Care in a Place of Residence*. A facility that regularly provides care in the caretaker's own residence for not more than six (6) children under thirteen (13) years of age, excluding the caretaker's own children. Child day care can be provided for six (6) additional children before and/or after the customary school day. However, the total number of children, including the caretaker's own, provided care at such facility does not exceed twelve (12) at any given time. This definition is in conformance with Texas State law, Chapter 745, Licensing, Subchapter B, Residential Child-Care Operations Chart.

CHURCH/TEMPLE/PLACE OF WORSHIP: A building for regular assembly for religious public worship which is used primarily for and designed for such purpose, along with accessory activities which are customarily associated therewith, such as a place of residence for ministers, priests, nuns or rabbis on the premises, and that is tax exempt as defined by State law. For the purposes of this ordinance, Bible study and other similar activities which occur in a person's primary residence shall not apply to this definition. Also see *Institution of Religious, Educational or Philanthropic Nature*.

CITY: The City of Iowa Colony, Texas, or any authorized or responsible person acting on the City's behalf.

CITY CODE: All ordinances of the City, as they may be amended from time to time.

CITY ENGINEER: The Iowa Colony City Engineer or an authorized representative.

CITY MANAGER: That person holding the office of Iowa Colony City Manager or an authorized representative.

CITY SECRETARY: That person holding the office of City Secretary or an authorized representative.

CITY STANDARDS: All of the City's standards and specifications that apply to development, together with all tables, drawings and other attachments. All City standards described or referred to in this Unified Development Code are adopted by referenced and are a part of this Unified Development Code in the same way as if they were set out at length herein.

CIVIC BUILDING: A building that is allowed greater design flexibility due the prominence of its public functions and often its location. Civic buildings include municipal buildings, faith-based institutions, churches, synagogues, libraries, schools, educational facilities, auditoriums, and public recreation facilities. Civic buildings do not include retail buildings, residential buildings, or privately owned office buildings.

CIVIC CENTER (MUNICIPAL): A building or complex of buildings that house municipal offices and services, and which may include cultural, recreational, athletic, food service, convention or entertainment facilities owned or operated by a municipality.

“CLASS A” OFFICE: An office building that is ten (10) years of age or less and that has amenities such as full-time administrative staff support, high-speed internet access, telecommunications access, conference rooms or suites, break rooms, copier services, etc. Such a facility generally serves as office space for professionals such as lawyers, financial planners, engineers, etc.

CLEANING, DYEING OR LAUNDRY PLANT, COMMERCIAL: An industrial facility where fabrics are cleaned with substantially non-aqueous organic solvents on a commercial or wholesale basis.

CLINIC, MEDICAL OR DENTAL: An institution, public or private, or a station for the examination and treatment of out-patients by an individual or group of doctors, dentists, or other licensed members of a human health care profession.

COLONNADE: Similar to an arcade except that it is supported by vertical columns without arches.

COLUMN FACE: The front edge of the supporting pillar or cylindrical shaft.

COMMENCE(ING) CONSTRUCTION: The initial disturbance of soils associated with clearing, grading, or excavating activities or other construction or development.

COMMERCIAL AMUSEMENT, INDOOR: An amusement enterprise offering entertainment or games of skill to the general public for a fee or charge, wherein all portions of the activity taking place indoors, including, but not limited to, a bowling alley, ice skating rink, racquetball/handball club, indoor tennis courts/club, indoor swimming pool or scuba diving facility, and billiard parlor.

COMMERCIAL AMUSEMENT, OUTDOOR: An amusement enterprise offering entertainment or games of skill to the general public for a fee or charge, wherein any portion of the activity takes place outdoors, including, but not limited to, a golf driving range, archery range, miniature golf course, batting cages, go-cart tracks, and amusement park.

COMMERCIAL AMUSEMENT, TEMPORARY: An amusement enterprise that is in operation on a temporary basis (i.e., one month or less) offering entertainment or games of skill to the general public for a fee or charge. Activity may take place in or out of doors. Examples include a carnival or haunted house.

COMMERCIAL or BUSINESS MESSAGE: A message contains or conveys commercial context or information or advertising for any business, commodity, service, entertainment, product or other attraction or event.

COMMERCIAL USE: A type of nonresidential land use that has one or more of the following characteristics: 1) the use is service-oriented; 2) the use does not primarily sell retail items; 3) the use sells goods or products on a wholesale basis; or 4) the use has or has the need for open storage areas or warehouses its products. Such uses include motels, auto dealerships, welding shops, manufactured home sales, mini-warehouses, funeral homes, auto body repair shops, and air conditioning and/or heating services.

COMMERCIAL VEHICLE/TRUCK: See Heavy Load Vehicle definition herein.

COMMISSION: The City of Iowa Colony Planning Commission.

COMMON AREA (OUTDOORS): Land, not individually owned or dedicated for public use, within a development that is designed and intended for the common use and enjoyment of the residents of the development. May include complementary structures and improvements and is one or more of the following: a parking lot; a parking structure or covered vehicular entrance; a common entrance or public space shared by all occupants of the domiciles.

COMMON PROPERTY: A parcel or parcels of land, together with the improvements thereon, the use and enjoyment of which are shared by the owners and occupants of the individual building sites in a development.

COMMON WALL: An approved fire-rated wall separating two (2) dwelling units or businesses.

COMMUNITY HOME: A place where not more than six (6) physically or mentally impaired or handicapped persons are provided room and board, as well as supervised care and rehabilitation by not more than two (2) persons as licensed by the Texas Department of Mental Health and Mental Retardation (also see Chapter 123 of the Texas Local Government Code). The limitation on the number of persons with disabilities applies regardless of the legal relationship of those persons to one another.

COMMUNITY OR SOCIAL BUILDINGS: A building or complex of buildings that house cultural, recreational, athletic, food service or entertainment facilities owned or operated by a governmental agency or private nonprofit agency.

COMPATIBILITY: The characteristics of different land uses or activities that permit them to be located near each other in harmony and without conflict.

COMPLETE APPLICATION: An application that meets the standards of this UDC, and has been deemed complete by the City in accordance with the Texas Local Government Code, Chapter 245, or successor statute.

COMPREHENSIVE PLAN: The Comprehensive Plan of the City of Iowa Colony, including any portion thereof that is separately adopted and any amendment to the Comprehensive Plan or portion thereof.

CONCEPT PLAN: A component of the regulations for a Planned Development District that complies with the requirements of this Unified Development Code that illustrates elements of the proposed Planned Development District, such as the proposed location and arrangement of uses, the relationship of such uses to base zoning districts, development phasing, planned public improvements, open space, proposed amenities and the overall design of the development.

CONCRETE BATCHING PLANT: A permanent manufacturing facility engaged in the production of concrete.

CONCRETE MASONRY UNIT: Plain, indented, hammered, or split face concrete blocks usually in eight (8) inch by eight (8) inch by sixteen (16) inch dimensions.

CONDITIONAL USE PERMIT (CUP): Also called a Special Use Permit, a permit authorizing the establishment of a use that may be suitable only in certain locations in a zoning district, or that is allowed only when subject to standards and conditions that assure compatibility with adjoining uses.

CONDOMINIUM: Two or more dwelling units on a lot with individual ownership of a unit rather than of a specific parcel of real property, together with common elements. See Article 1301a, Tex. Rev. Civ. Stat.

CONSTRUCTION: With respect to a building, construction is the assembly of materials into a structure, or the rehabilitation or replacement of a structure which has been damaged, altered or removed or which is proposed to be altered or removed to an extent exceeding fifty percent (50%) of the area of the structure at the time of the damage, alteration or removal. For the purposes of this definition, *construction* includes the installation of a parking lot.

CONSTRUCTION PLANS: The drawings and technical specifications that conform to provisions of this UDC. Construction plans, including bid documents and contract conditions, where applicable, provide a graphic and written description of the character and scope of the work to be performed in construction of a development.

CONSUMER PRICE INDEX: The "Consumer Price Index for all Urban Consumers" as established by the Bureau of Labor Statistics for the Department of Labor.

CONTIGUOUS: Adjacent property whose property lines are shared (i.e., abutting property lines) or are separated by only a street, alley, easement or right-of-way.

CONVENIENCE STORE WITH (OR WITHOUT) GASOLINE SALES: Retail establishment selling food for off-premises consumption and a limited selection of groceries and sundries, including possibly gasoline, if pumps are provided. Does not include or offer any automobile repair services.

CONVENT OR MONASTERY: A place of dwelling and/or study for persons under religious vows.

COPY/PRINTING SHOP: An establishment which primarily reproduces, in printed form, individual orders from a business, profession, service, industry or government organization. Off-set, letter press, and duplicating equipment are used, but no rotary presses or linotype equipment are used. Related services might include faxing, digitizing, graphic reproducing, and report assembling.

CORNER LOT: A lot abutting upon two (2) or more streets at their intersection(s).

CORNICE: A decorative horizontal feature that projects outward near the top of an exterior wall.

CORRIDOR TREE: A tree of a species listed on the Large Tree list or the Small Tree list that has a caliper of 20 inches (20") or more and is situated in the building setback area along a local street or along a major thoroughfare, other than a portion of a major thoroughfare that has been designated as a green corridor.

COST ADJUSTMENT: shall be the increase in any cost specified in this article as subject thereto and calculated by the percentage change in the Consumer Price Index for a base year period to a

recent year period. The cost is payable where the sum of money is computed to the nearest cent according to the following formula:

$(A/B-1) \times \text{Cost subject to adjustment}$

In the foregoing formula:

'A' is the index value of the 'Consumer Price Index for All Urban Consumers, U.S. city average, All Items for base year period =100),' as published in the Monthly Labor Review by the Bureau of Labor Statistics of the Department of Labor of the United States of America ('index') applicable to the third month immediately preceding the month during which the computation is required to be performed.

'B' is the index value of such Index applicable the desired updated cost.

COUNCIL: The City of Iowa Colony City Council.

COUNTRY CLUB: An area of twenty (20) acres or more containing a golf course and/or a clubhouse and available to a private specific membership, which club may also contain adjunct facilities such as a dining room, swimming pool, tennis courts or other recreational or service facilities.

COURTYARD: A roofed or unroofed private open space surrounded by building walls on at least three sides.

CUL-DE-SAC: A local street having one (1) inlet/outlet to another street and terminated on the opposite end by a vehicular turnaround.

CURB: The edge of the vehicular pavement as a raised curb or a swale. The curb usually incorporates the drainage system.

DANCEHALL/NIGHTCLUB: An establishment offering to the general public facilities for dancing and/or entertainment.

DAY CAMP (FOR CHILDREN): A facility utilized for the organized recreation and instruction of children, including outdoor activities in the vicinity of the facility, on a daytime basis (i.e., no overnight stays).

DAY NURSERY: An establishment where children, separated from their parents or guardian, are housed for care or training during the day (no overnight stay) or a portion thereof on a regular schedule more often than once a week; does not include a public school, private school, kindergarten or registered family home.

DECIDUOUS PLANTS: Those which shed their leaves at one time each year, usually in the autumn.

DENSITY, GROSS: The number of dwelling units per gross acre. All density calculations shall be made using gross acreage, inclusive of easements, thoroughfare rights-of-way, and streets dedicated and accepted prior to platting of the property.

DENSITY, GROSS RESIDENTIAL: The number of dwelling units per gross acre used for residential use. All density calculations shall be made using gross acreage dedicated for residential use, exclusive of easements and thoroughfare rights-of-way, and inclusive of retention/detention areas, public or private streets that are platted or will be platted as part of the development

of the property, open space, recreational areas, and parks provided within the development.

DENSITY, NET: The number of dwelling units per net acre. Net density calculations are made using net acreage, exclusive of thoroughfare rights-of-way and retention/detention areas, and public or private streets that are platted or are to be platted as part of the development of the property, but inclusive of open space, recreational areas, or parks.

DEPARTMENT STORE: A store selling a wide variety of goods, which are arranged into departments.

DESIGNATED TREE: a specific tree designated by the City Council as having particular historical or arboricultural significance.

DETENTION/RETENTION POND: As defined within the City's Engineering Design Criteria Manual (EDCM).

DEVELOPED AREA: That portion of a plot or parcel upon which a building, structure, pavement or other improvements have been placed.

DEVELOPER: An individual, partnership, corporation or governmental entity undertaking the division or improvement of land and other activities covered by this Unified Development Code, including the preparation of a subdivision or development plat showing the layout of the land and the public improvements involved therein. The term "developer" is intended to include the term "subdivider," even though personnel in successive stages of a development project may vary.

DEVELOPMENT: Initiation of any activities related to the platting of land or construction of buildings or structures, the construction of impervious surfaces, the installation of utilities, roadways, drainage facilities or other infrastructure; or any disturbance of the surface or subsurface of the land in preparation for such construction activities, including without limitation removal of vegetation, grading, clearing, filling, or removal of soil.

DEVELOPMENT PERMIT: A decision by the Commission, Board or responsible official designated by this Unified Development Code, acting in an administrative or quasi-judicial capacity, that authorizes the holder of the permit to undertake one or more development activities or to file further applications needed to initiate or continue development activities authorized under the Unified Development Code. The filing of a complete application for a development permit may or may not stay the City from adopting new standards applicable to the permit or any subordinate permit, depending on the nature of the standards.

DEVELOPMENT STANDARDS: All regulations, design standards, requirements and restrictions that apply to a development.

DISTRICT: A zoning district under this Unified Development Code.

DORMERS: Small, roofed ancillary structures with windows providing light and air to habitable space within the roof. Dormers are permitted and do not constitute a story so long as they do not break the primary eave line.

DORMITORY: Any structure specifically designed to house student tenants associated with a university, college or school, public or private.

DRIPLINE: An imaginary circle drawn around a tree, extending to the tree's branching limit.

DRAG STRIP/RACE TRACK: An establishment where a pre-established race course of at least ¼-mile in length is located.

DRIVE-IN/REFRESHMENT STAND: Any place or premises used for sale, dispensing or serving of food and/or beverages to consumers in automobiles or on foot, or at an outdoor patio or table, and where indoor tables are not provided.

DRIVE-IN THEATER: An open lot with its appurtenant facilities devoted primarily to the showing of motion pictures or theatrical productions on a paid admission basis to patrons seated in automobiles.

DRIVEWAY: A minor private entranceway off the common access route into an off-street parking area.

DROUGHT TOLERANT PLANTS: Plants that, once established, survive on natural rainfall with occasional irrigation during dry periods

DUPLEX: See *Dwelling - Two-Family*.

(DUMPSTER: A large, metal refuse receptacle specifically designed to be emptied by heavy machinery and which is otherwise stationary.

DWELLING/DWELLING UNIT: Any building or portion thereof which is designed or used exclusively for residential purposes. The term "Dwelling Unit" shall not include rooms in hotels, motels or institutional facilities.

DWELLING - INDUSTRIALIZED HOME: (Also called *Modular Prefabricated Structure* or *Modular Home*.) A structure or building module as defined under the jurisdiction and control of the Texas Department of Labor and Standards, that is transportable in one or more sections on a temporary chassis or other conveyance device, and that is designed to be installed and used by a consumer as a fixed residence on a permanent foundation system. The term includes the plumbing, heating, air-conditioning and electrical systems contained in the structure. The term does not include mobile homes or HUD-Code manufactured homes as defined in the Texas Manufactured Housing Standards Act (Article 5221f, V.A.C.S.)

DWELLING - HUD-CODE MANUFACTURED HOME: A structure constructed on or after June 15, 1976, according to the rules of the United States Department of Housing and Urban Development, transportable in one or more sections, which, in the traveling mode, is eight (8) body feet or more in width or forty (40) body feet or more in length, or when erected on site, is three hundred and twenty (320) or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems.

DWELLING - MOBILE HOME: A structure that was constructed before June 15, 1976, transportable in one or more sections, which, in the traveling mode, is eight (8) body feet or more in width or forty (40) body feet or more in length, or when erected on site is three hundred and twenty (320) or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the

required utilities and includes the plumbing, heating, air conditioning, and electrical systems.

DWELLING - MULTIPLE-FAMILY: A residential building designed for occupancy by three or more families, with the number of families not to exceed the number of dwelling units. The residential building contains dwelling units that are designed to be occupied by families living independently of one another, exclusive of hotels or motels. This definition includes three-family units (triplexes) and four-family units (quadraplexes), as well as traditional apartments.

DWELLING - PATIO HOME: A single-family dwelling on a separately platted lot which is designed such that one side yard is reduced to zero feet in order to maximize the width and usability of the other side yard, and which permits the construction of a detached single-family dwelling with one side (i.e., wall) of such dwelling placed on the side property line.

DWELLING - QUADRIplex: Four (4) dwelling units joined by common sidewalls.

DWELLING - SINGLE-FAMILY: A residential building, other than a mobile home, designed for occupancy by one family or individual.

DWELLING - SINGLE-FAMILY DETACHED: A single-family dwelling unit with no attached wall(s) or dwelling unit(s).

DWELLING - TOWN HOUSE: One of a group of no less than three (3) nor more than twelve (12) attached dwelling units, separated by a fire rated wall, each dwelling unit located on a separate lot.

DWELLING - TWO-FAMILY: A residential building containing two attached dwelling units, each designed to be occupied by one family (i.e., the building is occupied by not more than two families).

EASEMENT: An interest in land granted to the City, to the public generally and/or to a private entity.

EDCM: The acronym for the City's Engineering Design Criteria Manual.

EFFICIENCY APARTMENT: An apartment without a bedroom separate from other living quarters.

ELEVATION: The exterior walls of a building not along a frontage.

EMERGENCY CONDITIONS: Generally, lighting that is only energized during an emergency; lighting fed from a backup power source; or lighting for illuminating the path of egress solely during a fire or other emergency situation; or, lighting for security purposes used solely during an alarm.

EMERGENCY VEHICLE: Any vehicle meeting the requirements for emergency vehicles under State Law or City Ordinance.

EMITTER: A device that applies irrigation water. This term is primarily used to refer to the low flow rate devices used in micro-irrigation systems.

ENFORCING OFFICER: The designated Enforcing Officer of the City of Iowa Colony or a designated representative.

ENGINEER: A person duly licensed under the Texas Engineering Practice Act to practice the profession of engineering.

ENTRANCE, PRIMARY: The principal place of pedestrian entry to a building. In the support of pedestrian activity, the primary entrance should give to the frontage rather than to the parking.

ENVIRONMENTAL PROTECTION AGENCY (EPA): The U.S. Environmental Protection Agency, or, where appropriate, the administrator or other duly authorized official of that agency.

ERECT: To construct, reconstruct, install or build.

ESPLANADE: An unpaved area between two paved roadway sections.

ETJ: Extraterritorial jurisdiction. See the definition of *Extraterritorial Jurisdiction* herein.

EVERGREEN PLANTS: Those plants that do not lose all of their leaves at one time, though they shed their old leaves intermittently, as new leaves come out.

EXCAVATION: Any digging, trenching, scraping or other activity that disturbs natural soil or rock to a depth of two feet or more, other than soil disturbance incidental to the removal of trees or vegetation.

EXISTING VEGETATION TO BE PRESERVED: Any viable grouping of or single existing evergreen or deciduous trees and associated understory for which tree or buffer preservation credit is being requested.

EXPRESSION LINE: A decorative horizontal feature that projects outward from an exterior wall to delineate the top of the first story of a multi-story building.

EXTENDED STAY HOTEL/MOTEL: A multi-unit, extended stay lodging facility consisting of efficiency units or suites with complete kitchen facilities and which is suitable for long-term occupancy. Customary hotel services such as linens and housekeeping, telephones, and upkeep of furniture shall be provided. Meeting rooms, club house, and recreational facilities intended for the use of residents and their guests are permitted. This definition shall not include other dwelling units as defined by this UDC.

EXTERIOR WALL: The exterior wall of a building that is visible from or used as the exterior surface of an exterior wall.

EXTRATERRITORIAL JURISDICTION: The unincorporated area, not a part of any other municipality, which is contiguous to the corporate limits of the City of Iowa Colony, the outer limits of which are measured from the extremities of the corporate limits of the City outward for the distances as may be stipulated in the Texas Local Government Code in accordance with the population of the City of Iowa Colony, or by valid petition from the land owner and in which area the City may enjoy violation of certain provisions of this Unified Development Code.

FAÇADE: The entire area of a side (the elevation) of a building or structure that extends from ground level to the top of a parapet, wall or eave(s) and from one corner to another. The area of a facade is defined by the outer limits of all of its visible exterior elements. Separate faces of a building oriented in the same direction or within 45 degrees of each other are considered part of the same façade.

FAÇADE TRANSPARENCY: The quality of being able to see through the primary face of a building.

FAMILY: A “family” is an individual or any number of persons related by blood or marriage or not more than four (4) unrelated persons living as a single housekeeping unit.

FARM (RANCH, LIVESTOCK): An area used for the raising thereon of the usual farm animals such as horses, cattle, and sheep and including the necessary accessory uses for raising, treating, and storing animals on the premises, but not including the commercial feeding of offal or garbage to swine or other animals and not including any type of husbandry specifically prohibited by ordinance or law.

FEED AND GRAIN STORE/FARM SUPPLY STORE: An establishment for the selling of corn, grain and other food stuffs for animals and livestock, and including implements and goods related to agricultural processes, but not including farm machinery.

FENCE: A tangible barrier constructed of any allowable materials (excluding natural vegetation) erected for the purpose of providing a boundary or as a means of protection, or to prevent uncontrolled access, or for decorative purposes, or to screen from viewers in or on adjoining properties and streets, materials stored and operations conducted behind such barrier. A “Gateway” as defined herein shall not be considered a fence.

FENCE, LIVING: A hedge of vegetation used as a screening device or a fence with vegetation growing to it or on it which at the time of maturity prevents a visually “open” effect, providing a visual barrier by blocking the normal line of sight.

FENCE, PRIVACY: A solid barrier erected or constructed to prevent views across the fence line.

FENCE, SUBDIVISION: A uniform fence, built at the time a residential subdivision is initially developed, that partially or completely surrounds the subdivision. Other characteristics can include construction by the subdivision developer, maintenance by a home owners association, and design requirements contained in recorded deed restrictions for that subdivision.

FENCE, WOOD RAIL: A fence constructed of narrow, or split wood timbers, placed between upright supporting posts and with a maximum opacity of 25%.

FINAL SUBDIVISION PLAT: The plat of a subdivision for which platting is required which, when approved, will be recorded in the official public records.

FINANCIAL INSTITUTION (WITH OR WITHOUT MOTOR BANK SERVICES): An establishment for the custody, loan, exchange and/or issue of money, the extension of credit, and/or facilitating the transmission of funds, examples of which include banks, saving and loans, and credit unions. The establishment may or may not have the ability to provide services via a drive-up window, also known as motor bank services.

FIRE STATION: Any public service building of the municipal government, or quasi-public entity, that is used in the provision of fire protection services, including the housing of fire-fighting personnel and/or apparatus.

FIRST FLOOR: For the purpose of determining facade requirements, first floor is defined as the vertical distance of a structure/building measured from the average established floor

elevation (slab) to the space above it between the floor and the next floor or ceiling or roof, the height of said space being no more than twelve feet (12').

FOOTCANDLE: The unit of measure expressing the quantity of light received on a surface. One foot-candle is the illuminance produced by a candle on a surface one-foot square from a distance of one foot.

FLOOD or FLOODING: A general or temporary condition of partial or complete inundation of normally dry land areas from:

- a. The overflow of inland or tidal waters.
- b. The unusual and rapid accumulation of runoff of surface waters from any source.

FLOOD FRINGE: That portion of the floodplain, outside the floodway, that is subject to inundation by the 100-year recurrence interval flood.

FLOOD HAZARD AREA: Land in the floodplain within the City, or its jurisdiction, subject to a one percent (1%) or greater chance of flooding in any given year. This area is shown as zones A, AE, AH, AO, A1--99, VO, V1--30, VE or V on the Flood Insurance Rate Map (FIRM).

FLOOD INSURANCE RATE MAP (FIRM): An official map of a community, on which the Federal Emergency Management Agency has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

FLOODPLAIN (or Flood-Prone Area): Any area of land that is subject to being inundated by water from any source.

FLOODWAY (Regulatory Floodway): The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

FLOOR AREA: The sum total area of all climate controlled floors as calculated from measurements to outside walls.

FOOD STORE/SUPERMARKET: A retail market primarily selling consumable goods that are not to be eaten on the premises. Prepared food and other items and/or services may be sold only in limited quantities as a secondary or accessory use.

FORWARD LIGHT: For an exterior luminaire, lumens emitted in the quarter sphere below horizontal and in the direction of the intended orientation of the luminaire.

FRANCHISED PRIVATE UTILITY: A utility such as one distributing heat, electricity, telephone, cable television or similar service and requiring a franchise to operate in the City of Iowa Colony.

FRATERNAL ORGANIZATION: An organized group having a restricted membership and specific purpose related to the welfare of the members. Examples include common organizations such as the Elks, Masons, Knights of Columbus, or a labor union.

FRATERNITY OR SORORITY HOUSE: A building other than a hotel that is occupied only by individuals enrolled in a college or university located within the City and persons to attend the house and supervise activities of the fraternity or sorority. Except for the attendants, each resident is a member of a fraternity or sorority that is recognized by the college or university and chartered by a state or national organization.

FRONTAGE: The linear distance of the property line abutting the street right-of-way upon which the property is addressed.

FRONT PORCH: see porch.

FULLY SHIELDED (LUMINAIRE): Outdoor light fixtures shielded or constructed so that all light rays emitted by the fixture, either directly from the lamp or a diffusing element, or indirectly by reflection or refraction from any part of the luminaire are projected below the horizontal plane passing through the lowest point on the fixture from which light is emitted, nearly 100 percent cut-off type, as evidenced by the manufacturer's photometric data.

FUNERAL HOME: A place for the storage of human bodies prior to their burial or cremation, which may also be used for the preparation of the deceased for burial and the display of the deceased and ceremonies connected therewith before burial or cremation.

GAMING ESTABLISHMENT: A video arcade, game room, or other establishment that has more than four (4) eight-liners or other amusement machines on which are played games of chance for use by the general public for a fee or charge.

GARDEN SHOP & OUTSIDE PLANT SALES: (Also referred to as *Plant Nursery*.) An establishment, including a building, part of a building or open space, for the growth, display and/or sale of plants, shrubs, trees and other materials used in indoor or outdoor planting.

GARDEN WALL: A masonry wall defining a property line or delineating a private area.

GASOLINE SERVICE STATION: An establishment where gasoline is sold and dispensed into motor vehicle tanks.

GATEWAY: A marker for a point of arrival or entrance.

GLARE: Excessive brightness of light entering the eye directly or indirectly from reflective surfaces in the field of view that is sufficiently greater than that to which the eyes are adapted, causing annoyance or visual discomfort or reduced visibility so as to jeopardize health, safety, or welfare.

GLASS CURTAIN WALL: An exterior building wall consisting of no less than sixty (60) percent glass, which carries no structural loads, and is made of a combination of metal, glass or other surfacing material supported in a metal framework.

GOLF COURSE (PRIVATE): An area of twenty (20) acres or more improved with trees, greens, fairways, hazards, and which may include clubhouses, and which is owned and operated by a private business entity.

GOLF COURSE (PUBLIC): An area of twenty (20) acres or more improved with trees, greens, fairways, hazards, and which may include clubhouses, and which is owned and operated by the City of Pearland.

GRADE (Adjacent Ground Elevation): The lowest point of elevation of the finished surface of the ground between the exterior wall of a building and a point five feet (5') in distance from said wall, or the lowest point of elevation of the finished surface of the ground between the exterior wall of a building and the property line if it is less than five feet (5') in distance from said wall. In case walls are parallel to and within five feet (5') of a public side-walk, alley or public way, the grade shall be the elevation of the sidewalk, alley or public way

GREEN CORRIDOR: Any portion of a major thoroughfare that has been designated as a green corridor by City Council.

GREEN CORRIDOR TREE: A tree of a species listed on the Large Tree list that has a caliper of 15 inches or more and is situated in the building setback area of a green corridor.

GREEN SPACE: The entire parcel less the building footprint, driveways, vehicular use areas, hardscapes such as decks, swimming pools, decorative fountains, patios, and other non-porous areas. Stormwater management systems, and wetland conservation areas, lakes, rivers and creeks are excluded in the calculation of green space area.

GROSS LEASABLE AREA: The total floor area of a building which is designed for tenant occupancy and use, including basements and mezzanines, and measured to center lines of joint partitions and to outside of exterior walls, excluding mechanical equipment, storage, restrooms, stairwells, elevator shafts and other common areas.

HABITABLE: A space in a structure available for living, sleeping, eating, cooking, or any commercial purposes. However, storage space is not considered to be habitable space.

HARDSCAPE: Permanent hardscape improvements to the site including parking lots, drives, entrances, curbs, ramps, stairs, steps, medians, walkways, and non-vegetated landscaping that is 10 feet or less in width. Materials may include concrete, asphalt, stone, gravel, etc.

HARDSCAPE AREA: The area measured in square feet of all hardscape. It is used to calculate the Total Site Lumens Limit in both the Prescriptive Method and Performance Methods. Refer to Hardscape definition.

HARDSCAPE PERIMETER: The perimeter measured in linear feet that is used to calculate the Total Site Lumen Limit in the Performance Method. Refer to hardscape definition.

HARDWARE STORE: A store in which the primary items offered for sale are wares such as fittings, tools, machinery, utensils and other similar objects.

HEAVY LOAD VEHICLE: A self-propelled vehicle having a manufacturer's recommended Gross Vehicle Weight (GVW) of greater than 16,000 pounds (including trailers), such as large recreational vehicles (originally manufactured as RVs, not converted), tractor-trailers, buses, vans, and other similar vehicles. The term "truck" shall be construed to mean "Heavy Load Vehicle" unless specifically stated otherwise.

HEAVY MACHINERY SALES, STORAGE & REPAIR: The sale, trade, transfer, storage, and/or repair of any motor propelled machinery used for excavation and/or construction purposes.

HELIPORT/HELIPAD: A landing facility for rotary wing aircraft subject to regular use and which may include fueling or servicing facilities for such craft.

HOBBY SHOP: See Specialty Shop.

HOLIDAY: A day on which custom dictates commemoration of a particular event. For the purposes of this UDC, holiday shall be deemed to include any day(s) of religious celebration, such as Christmas, Hanukah, and Easter, as well as the 4th of July, Labor Day, Memorial Day, Presidents' Day, Martin Luther King Day, Halloween, Valentine's Day.

HOME FOR ALCOHOLIC, NARCOTIC OR PSYCHIATRIC PATIENTS: An institution offering in- or out-patient treatment to alcoholic, narcotic or psychiatric patients.

HOME IMPROVEMENT CENTER: Materials, tools, and/or hardware customarily used in the construction of buildings and other structures, including facilities for storage of materials for retail sales.

HOME OCCUPATION: An occupation carried on in a dwelling unit, or in an accessory building to a dwelling unit, by a resident of the premises, and which is clearly incidental and secondary to the use of the premises for residential purposes.

HOMEOWNERS ASSOCIATION/PROPERTY OWNERS ASSOCIATION: An incorporated, nonprofit organization operating under recorded land agreements through which (a) each lot and/or home owner in a planned unit or other described land area is automatically a member, (b) each lot is automatically subject to charge for a proportionate share of the expenses for the organization's activities, such as maintaining a common property, and (c) the charge, if unpaid, becomes a lien against the property.

HOSPITAL (FOR PROFIT): A building or portion thereof, used or designed for the housing or treatment of sick or injured patients where they are given medical or surgical treatment intended to restore them to health and an active life, and which is licensed by the State of Texas. This definition does not include rooms in any residential dwelling, hotel, or apartment hotel not ordinarily intended to be occupied by said persons. Said building houses a business operation intended to make a profit for the financial gain of the shareholders/owners of the operation.

HOSPITAL (NON-PROFIT): A building or portion thereof, used or designed for the housing or treatment of sick or injured patients where they are given medical or surgical treatment intended to restore them to health and an active life, and which is licensed by the State of Texas. This definition does not include rooms in any residential dwelling, hotel, or apartment hotel not ordinarily intended to be occupied by said persons. Said building houses a business operation that is not intended to make a profit for financial gain of any shareholder/owner of the operation.

HOTEL/MOTEL: A facility offering temporary lodging accommodations or guest rooms on a daily rate to the general public and possibly providing additional services, such as restaurants, meeting rooms, housekeeping service and recreational facilities, on an accessory use basis. For the purposes of this definition, a guest room shall be defined as a room designed for the overnight lodging of hotel guests for an established rate or fee.

HOUSEHOLD CARE FACILITY: (Also referred to as *Hospice*.) A dwelling unit which provides residence and care to persons, regardless of legal relationship, who are elderly; disabled; orphaned, abandoned, abused, or neglected children; victims of domestic violence; or rendered temporarily homeless due to fire, natural disaster or financial setbacks, living together with not more than two supervisory personnel as a single housekeeping unit. This definition shall be consistent with that of "assisted living facility" in Texas Health and Safety Code Section 247.002 as it presently exists or may be amended in the future.

IDA: The International Dark-Sky Association is the authoritative voice on light pollution. IDA educates lighting designers, manufacturers, technical committees and the public about controlling light pollution.

IESNA: The Illuminating Engineering Society of North America, a non-profit learned society whose members are regarded as professionals in their industry and are globally respected for their knowledge to improve the lighted environment by bringing together those with lighting knowledge and by translating that knowledge into actions that benefit the public..

IMPERVIOUS COVER: The total amount of impermeable surfaces, including buildings, pavement, and rooftops, which prevent the infiltration of water into the soil.

a. Any outside area that is covered with a roof structure, whether fully enclosed or not, shall be considered as part of the total amount of impermeable surfaces.

b. Wooden decking – planks of wood with gaps (approximately 1/4-inch) in between – is not considered as part of the total amount of impermeable surfaces.

c. However, other typical outdoor surfaces that do not allow for water infiltration, such as exposed aggregate surfacing or concrete porches, shall be considered as part of the total amount of impermeable surfaces.

d. The portion of swimming pools designed to contain water shall not be considered as part of the total amount of impermeable surfaces.

IMPERVIOUS MATERIAL: Any material sealed to restrict water entry and movement.

IMPROVED LOT OR TRACT: A lot or tract that has a structure or other improvement on it that causes an impervious coverage of the soil under the structure or improvement.

INDUSTRIAL, MANUFACTURING: Establishments engaged in the manufacturing or transformation of materials into new products. These establishments are usually described as plants and factories, and characteristically use power driven machines and materials handling equipment. Manufacturing production is usually carried on for the wholesale market, rather than for direct sale to the domestic consumer.

INDUSTRY STANDARD LIGHTING SOFTWARE: Lighting software that calculates point-by-point illuminance that includes reflected light using either ray-tracing or radiosity methods.

INSTITUTION OF RELIGIOUS, EDUCATIONAL OR PHILANTHROPIC NATURE: A nonprofit, religious, or educational semi-public or public use, such as the Salvation Army, Habitat for Humanity, or an outreach religious facility.

INTEGRATED BUSINESS DEVELOPMENT: A subdivision of land into separate lots that are utilized for nonresidential uses, where:

1. The subdivision is achieved by a single plat that is filed by an owner who owns the entire property being platted;
2. The plat, or an amending plat or replat thereof, contains a note that individual on-premises ground signs shall not be allowed on any lot in said subdivision if the use on said lot is advertised on a multi-user sign is erected on any lot in the subdivision; and
3. Each lot in the subdivision is contiguous to at least one other lot in the subdivision.

INTERESTED PERSON: A person who is impacted by a final decision of the City to the extent that such impact exceeds the impact of the decision on a member of the general public. An interested person may include any officer or agency of the City.

IRRIGATION SYSTEM: Permanent watering systems designed to transport and distribute water to plants as a supplement to natural rainfall.

IRRIGATION ZONE: A control valve circuit containing emitters and/or sprinklers with consistent application rates.

ISO: Insurance services office, an independent statistical, rating and advisory organization that serves the property/casualty insurance industry. ISO collects information on a community's building-code adoption and enforcement services, analyzes the data, and then assigns a building code effectiveness classification (BCEGS) from 1- 10.

KEY BOX: A secure, tamperproof device with a lock operable only by a fire department master key, and containing building entry keys and other keys that may be required for access in an emergency.

KINDERGARTEN: Any school, private or parochial, whether operated for profit or not, attended by children during any part of a day, which provides a program of instruction for children below the first grade level in which constructive endeavors, object lessons and helpful games are prominent features of the curriculum.

LABORATORY, MEDICAL OR DENTAL: An indoor establishment that includes laboratories and/or experimental equipment for medical or dental testing, prototype design and development, and product testing.

LABORATORY, SCIENTIFIC OR RESEARCH: An indoor establishment equipped for experimental study in a science or for testing and analysis.

LAMP: A generic term for a source of optical radiation (i.e. "light"), often called a "bulb" or "tube". Examples include incandescent, fluorescent, high-intensity discharge (HID) lamps, and low pressure sodium (LPS) lamps, more commonly known as a bulb, as well as light-emitting diode (LED) modules and arrays.

LANDSCAPE BUFFER: The shielding or obscuring of one land use from another by the planting of evergreen trees or shrubs, or both, or the erection of a screening fence designed to minimize the transmission or propagation of noise, light, vibration, or dust, from traffic or other activity on one property to adjoining public or private properties.

LANDSCAPE LIGHTING: Lighting of trees, shrubs, or other plant material as well as ponds and other landscape features.

LANDSCAPE PLANT ZONE: A grouping of plants with similar water and cultural needs.

LANDSCAPED: Adorned or improved by contouring land and placing thereon live flowers, shrubs, trees, grass, other vegetation, water features, and/or pervious rock material.

LANDSCAPED AREA: The area of a developed site/lot that is required by this UDC to consist of landscaping materials, trees and/or groundcover.

LAUNDROMAT (SELF-SERVICE LAUNDRY): A facility where patrons wash, dry or dry clean clothing and other fabrics in machines that are operated by the patron.

LAUNDRY/DRY CLEANING (RETAIL ONLY - DROP OFF/PICK UP): A facility used for the purpose of receiving articles or goods of fabric to be subjected to the process of laundering, dry

cleaning, or cleaning elsewhere, and for the pressing and distribution of any such articles or goods that have been subjected to any such process.

LED: Light Emitting Diode

LIGHT INDUSTRIAL USE: A use engaged in the processing, manufacturing, compounding, assembling, packaging, treatment, or fabrication of materials and products, from previously manufactured materials. Such use is capable operating in such a manner as to control the external effects of the manufacturing process, such as smoke, noise, odor, etc.

LIGHT LOAD VEHICLE: A self-propelled vehicle having a manufacturer's recommended gross vehicle weight (GVW) not greater than 16,000 pounds and having no more than two axles, such as pick-up trucks, sport utility vehicles, vans and mini-vans, recreational vehicles (less than 32 feet in length), campers and other similar vehicles but not including automobiles and motorcycles.

LIGHT MANUFACTURING: Process(es) which does not emit detectable dust, odor, smoke, gas or fumes beyond the bounding property lines of the lot or tract upon which the use is located and which does not generate noise or vibration at the boundary of the district which is generally perceptible in frequency or pressure above the ambient level of noise in the adjacent areas.

LIGHT POLLUTION: Any adverse effect of artificial light including, but not limited to, glare, light trespass, sky-glow, energy waste, compromised safety and security, and impacts on the nocturnal environment.

LIGHT TRESPASS(Spillover): Light emitted by a luminaire or lighting installation, which is cast beyond the boundaries of the property on which the lighting installation is sited. The maximum intensity measured at the property line adjacent to all single-family and town home residential uses is 0.2 foot-candle.

LIGHTING: "Electric" or "man-made" or "artificial" lighting. See "lighting equipment".

LIGHTING EQUIPMENT: Equipment specifically intended to provide gas or electric illumination, including but not limited to, lamp(s), luminaire(s), ballast(s), poles, posts, lens(s), and other related structures, electrical wiring, and other necessary or auxiliary components.

LOCAL STREET: A public street that is not specifically designated on the adopted City of Iowa Colony Major Thoroughfare Plan as a Super Arterial, a Major Arterial, a Minor Arterial, a Major Collector, or a Minor Collector.

LOCAL UTILITY LINE (Above-Ground or Below-Ground): The facilities provided by a municipality or a franchised utility company for distribution or collection of gas, water, surface drainage water, sewage, electric power or telephone service, including pad- and pole-mounted transformers.

LODGING: Premises available for daily and weekly renting of bedrooms.

LOT: An undivided tract or parcel of land shown and designated with a tract or lot number on a duly recorded subdivision or development plat. A lot is or may be offered for sale, conveyance, transfer or improvement, which is designated as a distinct and separate tract,

and which is identified by a tract, or lot number or symbol in a duly approved subdivision plat that has been properly filed of record.

LOT COVERAGE: The amount of impervious cover (see definition) on a lot.

LOT MEASUREMENT:

a. **Lot Area** - The net area of the lot, expressed in square feet or acreage and shall not include portions of any public street or alley, but may include easements. For flag lots, the area of the lot that does not meet the applicable minimum lot width shall be excluded.

b. **Lot Depth** - The distance between the midpoints of straight lines connecting the foremost points of the side lot lines in front and the rearmost points of the side lot lines in the rear (the mean horizontal distance between the front and rear lot line). For flag lots, the distance between the midpoints of straight lines connecting the foremost points of the side lot lines where the lot satisfies the applicable minimum lot width and the rearmost points of the side lot lines in the rear.

c. **Lot Width** - The shortest distance in a straight line between the side lot lines, measured at any point on the lot from the required front setback line to the required lot depth.

d. **Lot, Double Frontage** - Any lot, not a corner lot, with frontage on two streets that are parallel to each other or within 45 degrees of being parallel to each other.

e. **Lot, Flag** – a lot which has frontage and width at the building line that is less than the minimum required width, but which satisfies the required lot width at a point further away from the front property line than is the building line. The portion of the lot that has frontage but does not satisfy the minimum width is hereby designated the “pole” and the portion that meets the minimum lot width but at a point further away from the front property line than is the building line is designated as the “flag.” No flag lot shall have more than one (1) pole portion, and said pole shall have a minimum length equal to the minimum lot depth for the zoning district in which the lot is located and a maximum length no greater than five hundred feet (500’). The entire flag portion of a flag lot shall meet the minimum lot width for that zoning district.

f. **Lot, Irregular** - Any lot not having equal front and rear lot lines or equal side lot lines; a lot, the opposite lot lines of which vary in dimension and the corners of which have an angle of either more or less than 90 degrees.

g. **Lot Line:** the boundary that legally and geometrically demarcates a lot.

h. **Lot, Thumbnail (or Eyebrow)** - A partial cul-de-sac bulb, usually with a central angle of 180 degrees or less.

LOW VOLTAGE LANDSCAPE LIGHTING: Landscape lighting powered at less than 15 volts and limited to luminaires having a rated initial luminaire lumen output of 525 lumens or less.

LUMEN: The unit of measure used to quantify the amount of light produced by a lamp or emitted from a luminaire (as distinct from “watt”, a measure of power consumption).

LUMINAIRE: The complete lighting unit (fixture), consisting of a lamp, or lamps and a ballast(s) (when applicable), together with the parts designed to distribute the light (reflector, lens, diffuser), to position and protect the lamps, and to connect the lamps to the power supply.

LUMINAIRE LUMENS: For luminaires with relative photometry per IES, it is calculated as the sum of the initial lamp lumens for all lamps within an individual luminaire, multiplied by the luminaire efficiency. If the efficiency is not known for a residential luminaire, assume 70%. For luminaires with absolute photometry per IES LM-79, it is the total luminaire lumens. The lumen rating of a luminaire assumes the lamp or luminaire is new and has not depreciated in light output.

LUX: The SI unit of illuminance. One lux is one lumen per square meter. 1 lux is a unit of incident illuminance approximately equal to 1/10 foot-candle.

MAIN BUILDING: The building on a lot which are occupied by the primary (main) use.

MANUFACTURED HOME: See *Dwelling – HUD-Code Manufactured Home*.

MANUFACTURED HOME DISPLAY, SALES AND/OR RENTAL (NEW OR USED): The offering for sale, rental, storage, or display of new or previously owned (i.e., used) manufactured housing units (e.g., mobile homes/trailers, HUD-Code homes, industrialized homes) on a parcel of land, but excluding the use of such facilities as dwellings either on a temporary or permanent basis.

MANUFACTURED HOME/MOBILE HOME SPACE: A division of a parcel of land into a single lot for use by a single manufactured home or mobile home, as applicable.

MANUFACTURING, PROCESSING and FABRICATION: Activities or facilities including, but not limited to, beverage plant, fabrication, metal finishing, foundry, ice plant, machine shop, planing mill, printing plant, publishing and bindery plant, masonry products manufacturing, refinery for nonagricultural products, food products, processing and packaging plant, precision instruments manufacturing, and research laboratory.

MARQUEE: A roof-like structure projecting over the entrance to a building. It may also project over a sidewalk adjacent and parallel to the front wall of a building.

MASONRY: Brick, stone brick veneer, custom treated tilt wall, decorative or textured concrete block, split face block and stucco.

MASTER PLAT: The initial plat for a subdivision to be developed in phases that delineates the sequence and timing of development within the proposed subdivision, and that is reviewed and decided under this Unified Development Code.

METAL: 24-gauge or heavier architectural panels (wall systems) with concealed fasteners and no exposed seams. Corrugated metal, exposed fasteners, and exposed seams are not included in this definition. Other materials (i.e., from technological advances) may be considered metal by the City when such materials are deemed to be the same or better in quality and appearance.

MICRO-IRRIGATION: An irrigation system with a maximum flow rate per emitter of 30 gallons per hour. Not appropriate for turf-grass applications.

MINI-WAREHOUSE/SELF-STORAGE: Small individual storage units for rent or lease, restricted solely to the storage of items, such as motor vehicles, trailers, boats, bulky household goods, and

sundry personal property. There is no conduct of sales, business or any other activity within the individual storage units.

MINOR SUBDIVISION PLAT: A plat dividing land into no more than four (4) lots that may be administratively approved under certain circumstances under this Unified Development Code.

MOBILE HOME: See *Dwelling – Mobile Home*.

MOLDINGS: An embellishment in strip form, made of wood or other structural material, which is used to decorate or finish a surface.

MOTION PICTURE THEATER (INDOORS): An indoor establishment charging admission to the general public for the privilege of observing a live, televised, or motion picture performance.

MOUNTING HEIGHT: The height of the photometric center of a luminaire above grade level.

MULCH: Any material except fresh grass clippings applied to the soil surface to retain soil moisture control erosion, inhibit weeds, and/or regulate soil temperatures.

MULLIONS: A vertical member, as of stone or wood, dividing a window or other opening.

MULTI-FAMILY RESIDENTIAL: Any building, or portion thereof, which is designed, built, rented, leased, let out or hired out to be occupied, or which is occupied as the home or residence of three or more families living independently of each other, and shall include flats, apartments and a condominium created under chapter 82 of the Texas Property Code.

MULTIPLE BUILDING COMPLEX: More than one (1) principal structure on a building lot.

MULTIPLE-OCCUPANCY or MULTI-TENANT: One or more adjacent premises containing two or more occupancies, each having main entrances directly from the exterior of a common building or complex of buildings and utilizing common facilities for vehicular access, parking, landscaping, etc.

NATURAL PLANTS: Plants that once established can survive on natural rainfall without irrigation.

NEW LIGHTING: Lighting for areas not previously illuminated; newly installed lighting or any type except for replacement lighting or lighting repairs.

NONCONFORMING LOT: A lot that does not conform to the regulations of this Code.

NONCONFORMING STRUCTURE: A structure that does not conform to the regulations of this Code.

NONCONFORMING USE: A use of property that does not conform to the regulations of this Code.

NONRESIDENTIAL USE: All uses other than single-family residential use.

NURSING/CONVALESCENT HOME: (Also referred to as *Long-Term Care Facility* or *Skilled Nursing Facility*.) A facility providing primarily in-patient health care, personal care, or rehabilitative services over a long period of time to persons who are chronically ill, aged or disabled and who need ongoing health supervision but not hospitalization.

OASIS PLANTS: Plants requiring frequent irrigation.

OBJECT: A permanent structure located on a site. Objects may include statues or artwork, garages or canopies, outbuildings, etc.

OBJECT HEIGHT: The highest point of an entity but shall not include antennas or similar structures.

OCCUPANCY: Any utilization of real property.

OFF-STREET PARKING INCIDENTAL TO NONRESIDENTIAL MAIN USE: Off-street parking spaces provided in accordance with the requirements of this Ordinance, located on the lot or tract occupied by the main nonresidential use or within the vicinity of such lot or tract, and located within the same zoning district as the main nonresidential use or in an adjacent parking district.

OFFICE/CLINIC, VETERINARIAN: A place where a veterinarian maintains treatment facilities for diseased or injured animals, including boarding facilities (no outside pens or kennels).

OFFICE, MEDICAL/DENTAL: An office or group of offices for one or more physicians for the examination and treatment of ill and afflicted human outpatients.

OFFICE, PROFESSIONAL AND GENERAL BUSINESS: An office or group of offices used for the provision of executive, management, administrative services, or any other vocation involving predominately mental or intellectual skills. Specifically excludes any activity involving sales of personal property and veterinary clinics.

OFFICE WAREHOUSE STORAGE OR SALES: An establishment where not more than 75% of the total floor area is devoted to warehousing, and may include the sales of office products, but sales are not generally accessible to the public.

OFFICIAL FILING DATE: The date that a complete application (see definition) has been accepted by the City for filing.

OPEN SPACE: Property designated for recreational use, including a private park, play lot, plaza or ornamental area intended for use or enjoyment by people. Open space does not include streets, alleys, utility easements, public parks or required setbacks.

ORCHARD: An area of two (2) acres or more which is used for the growing of farm products, vegetables, fruits, trees and/or grain and including incidental and/or necessary accessory uses for raising, treating and storing products raised on the premises, but not including the commercial feeding of offal and garbage to swine or other animals and not including any type of agricultural animal husbandry as specifically defined.

ORNAMENTAL LIGHTING: Lighting that does not impact the function and safety of an area but is purely decorative, or used to illuminate architecture and/or landscaping, and installed for aesthetic effect.

ORNAMENTAL STREET LIGHTING: A luminaire intended for illuminating streets that serves a decorative function in addition to providing optics that effectively deliver street lighting. It has a historical period appearance or decorative appearance, and has the following design characteristics:

- (1) Designed to mount on a pole using an arm, pendant or vertical tenon;
- (2) Opaque or translucent top and/or sides;
- (3) An optical aperture that is either open or enclosed with a flat, sag or drop lens;

(4) Mounted in a fixed position; and

(5) With the photometric output measured using Type C photometry per IESNA LM-75-01.

OVERSPRAY: Water delivered beyond the landscape area and wets pavement, walks, structures, or other non-landscaped areas.

OUTDOOR LIGHT FIXTURE: Outdoor artificial illuminating devices, installed or portable, used for floodlighting, general illumination, or advertisement. Such devices shall include but are not limited to search, spot, flood, and area lighting for:

- (1) Buildings and structures;
- (2) Recreational facilities;
- (3) Parking areas;
- (4) Landscape lighting;
- (5) Outdoor advertising;
- (6) Public and private street lighting; and
- (7) Walkway lighting.

OUTDOOR LIGHTING: Lighting equipment installed within the property line and outside the building envelopes, whether attached to poles, building structures, the earth, or any other location; and any associated lighting control equipment.

OUTSIDE DISPLAY: (Also referred to as *Outside* or *Outdoor Sales*.) Any primary use of a premises whereon goods, materials, or merchandise is displayed for the purpose of sale on a temporary basis for not more than twenty-four (24) hours, and which the display area is greater than thirty percent (30%) of the gross floor area of the principal building

OUTSIDE STORAGE: (Also referred to as *Open Storage*.) Keeping, displaying or storing, outside a building, of any goods, materials, merchandise or equipment on a lot or tract on a generally permanent basis for more than twenty-four (24) hours. This includes storage within boxes, containers, portable sheds, trailers, and other structures that are not permanently affixed to a foundation, do not resemble the main onsite building in architectural style, or are not assembled onsite.

OVERLAY ZONING DISTRICT: A zoning district that establishes regulations that combine with the regulations of an underlying (base) zoning district. The purposes of an overlay district shall be to prohibit uses otherwise allowed in the base district, to establish additional or different conditions for such uses, or to authorize special uses, together with standards for such uses, not otherwise allowed in the base district.

PARK OR PLAYGROUND (PRIVATE): A recreation facility, park or playground which is not owned by a public agency such as the City or School District, and which is operated for the exclusive use of private residents or neighborhood groups and their guests and not for use by the general public.

PARK OR PLAYGROUND (Public; Municipal): Publicly owned and operated parks, recreation areas, playgrounds, swimming pools and open spaces that are available for use by the general public without membership or affiliation. This land use shall include special event type uses such as rodeos, concerts, festivals and other special events requiring special event permits, as set forth in the City of Pearland's Code of Ordinances.

PARKING LOT: A paved, surfaced or leveled area designed and ordinarily used for accessory or public parking of motor vehicles, including commercial parking areas available for lease and leased premises available for public parking. The term shall not include parking garages.

PARKING AREA: An off-street area for the temporary storage of motor vehicles, whether free, for compensation or as an accommodation for clients or customers.

PARKING LOT TREE: A tree of a species listed on the Large Tree list and the Small tree list and includes both large and small parking lot trees as provided on the list.

PARKING LOT TREE LIST: A Large Tree list and a Small Tree list issued and revised from time to time by the City Engineer, which, based upon recognized arboricultural standards, shall designate trees that are required to be used for planting in parking lots. The City Engineer may only decline to include and may only remove otherwise suitable trees on the basis of health or disease concerns or warnings. The list shall be subdivided into large trees and small trees based upon canopy size characteristics.

PARKING SPACE: An individual vehicle parking space within a parking lot, which shall be computed on the basis of applicable provisions in other parts of the Ordinances of the City of Iowa Colony.

PARKING, STACKED: Also known as Tandem parking. An off-street parking stall arrangement, not more than two spaces in depth, wherein one space is located directly in front of another space and requires the moving of the rear vehicle in order for another vehicle to enter or leave the forward space.

PARKWAY AREA: That portion of the public right-of-way laying primarily between the edge of the pavement or curb and the private property line.

PARKWAY TREE: A tree of a species listed on the Large Tree list or the Small Tree list that is situated in the parkway area adjacent to any tract or parcel of land and that has a caliper equal to or greater than 1½ inches.

PARTIALLY SHIELDED: Shielding so that the lower edge of the shield is at or below the centerline of the lamp so as to minimize the light transmission above the horizontal plane, or at least ninety percent (90%) of the emitted light projects below the horizontal plane as evidenced by the manufacturer's photometric data.

PARTLY SHIELDED LUMINAIRE: A luminaire with opaque top and translucent or perforated sides, designed to emit most light downward.

PAVED: Ground surface covered with concrete and constructed in conformance with applicable requirements of the City of Iowa Colony Building Code.

PAWN SHOP: An establishment where articles are traded in exchange for money plus a right to redeem such articles within a given amount of time upon repayment of such money with interest. The establishment may also be involved in the retail sale of primarily used items is also allowed, provided that the sale of such items complies with local, State and Federal regulations.

PEDESTRIAN HARDSCAPE: Stone, brick, concrete, asphalt or other similar finished surfaces intended primarily for walking such as sidewalks and pathways.

PERMITTED USE: A use specifically allowed in one (1) or more of the various districts by right. This term does not include conditionally or special permitted uses.

PERSON: A natural person, the natural person's heirs, executors, administrators, or assigns and also includes a firm, partnership, or corporation, its or their successors or assigns, or the agent of any of the aforesaid.

PERSON IN CHARGE: Any person who has real or apparent care, custody, and control of real property or buildings located thereon.

PERSONAL SERVICE SHOP: A retail establishment for the purpose of supplying limited personal services, including but not limited to: cleaning and laundry collection station; interior decorating; watch and jewelry repair; art gallery; library; museum; studio for professional artwork, photography, dance or fine arts, including teaching of applied and fine arts; this definition does not include massage parlors, barber shops, beauty shops, or hairdressers.

PET CARE FACILITY/ANIMAL KENNEL: A commercial establishment in which dogs or other domesticated (pet) animals are housed, groomed, bred, boarded, trained, sold, or provided other health and well-being related services, for a fee or compensation. This term along with the parenthetical phrase "without outdoor pens" means that all of the listed activities occur indoors, except outdoor exercise under supervision for a limited period of time (e.g., one-half to one hour at a time). This term along with the parenthetical phrase "with outdoor pens" means that all of the listed activities may occur outdoors for an extended period of time. This term does not include a veterinary clinic.

PETITION FOR A LEGISLATIVE DECISION: A request for approval of an action authorized under this Unified Development Code requiring action by the City Council acting in its legislative capacity.

PETITION FOR CHANGE IN NON-CONFORMING STATUS: A request by a property owner to the City of Iowa Colony Zoning Board of Adjustment (ZBA) for a change in the status of a non-conforming use or structure to allow for modification to the use or property owned.

PETITION FOR RELIEF FROM DEDICATION OR CONSTRUCTION REQUIREMENT: A request for relief from a requirement imposed under this Unified Development Code to dedicate or construct a public improvement based on constitutional standards, and that is reviewed and decided under this Unified Development Code.

PETROLEUM PRODUCTS BULK STORAGE (WHOLESALE): A facility for the long-term storage and distribution of petroleum that may also involve wholesale sales, but not retail sales, of petroleum and petroleum-based products. No manufacturing or refining of petroleum or petroleum-based products occurs on the premises, only storage and/or distribution functions.

PHOTOELECTRIC SWITCH: A control device employing a photocell or photodiode to detect daylight and automatically switch lights off when sufficient daylight is available.

PHOTOMETRIC: Quantitative measurements of light levels and distributions.

PLANNED DEVELOPMENT: The terms Planned Development and Planned Unit Development shall have the same meaning.

PLANNED UNIT DEVELOPMENT (PD) DISTRICT: A land development project comprehensively planned which permits flexibility in building siting, mixtures of housing types and land uses, usable open spaces, and the preservation of significant natural features.

PLAT: A map, drawing, chart or plan showing the exact layout and proposed construction of a proposed development into one or more lots, blocks, streets, parks, school sites, commercial or industrial sites, easements, alleys and/or any other elements as required by this Unified Development Code and which a subdivider shall submit for approval in accordance with this Unified Development Code.

POLICE STATION: Any public service building of the municipal government that is used in the provision of police protection services, including the housing of police personnel and related automobiles.

PLAZA: An unroofed public open space designed for pedestrians that is open to public sidewalks on at least one side.

PORCH, (FRONT PORCH): The ground floor platform attached to the front or side of the main building.

PRELIMINARY SUBDIVISION PLAT: A plat that illustrates and thereby assures the general layout of a proposed subdivision, the adequacy of public facilities needed to serve the proposed subdivision, and the overall compliance of the land division with applicable requirements of the Unified Development Code and that is reviewed and decided prior to approval of a Final Subdivision Plat.

PREMISES: A parcel or tract of land or one or more platted lots under the same ownership and use, together with the buildings and structures located thereon.

PRIMARY FINISH: An exterior finish consisting of masonry, glass wall, cementitious stucco or a combination thereof.

PRIVATE OPEN SPACE: Private property under common ownership designated for recreational use, including a private park, play lot, plaza or ornamental area intended for use or enjoyment of property owners within a subdivision. Open space does not include streets, alleys, utility easements, public parks or required setbacks.

PROJECT COVERAGE: The total amount of impermeable surfaces (impervious cover) of an entire proposed development, as opposed to the lot-by-lot amount defined for the impervious cover calculation.

PROJECTING FAÇADE ELEMENTS: Building elements which attach to the outside of the primary building envelope. Projecting façade elements can include stoops, porches, bay windows, awnings, canopies, second-floor balconies, colonnades, or arcades.

PROPANE SALES (RETAIL): Retail sales of gaseous substances commonly used for household purposes such as propane or butane; does not include the storage, sale or distribution of other types of combustible substances or alternative fuels such as containerized natural gas, liquid propane, etc.

PROPERTY LINE: The edges of the legally-defined extent of privately owned property.

PROTECTED TREE: A corridor tree, designated tree, green corridor tree or parkway tree; any tree of a size twenty (20) caliper inches or more of any species; or any tree of a size of one and one-half (1 ½) caliper inches or more of any species included in the Large Tree list.

PROTECTED TREE REPLACEMENT REQUIREMENT: The requirement established to replace a protected tree as found elsewhere in this Code, as applicable.

PUBLIC ART: Art that is visually or physically accessible to the public (within the public realm e.g. a Street) and that is acquired by City funds, donated to the City, or provided by a private entity as a community benefit, including monuments and statues, building ornament, and visible public infrastructure such as bridges, etc.

PUBLIC EDUCATIONAL FACILITIES: Facilities that are used to provide instruction or education by primary or secondary schools or institutions of higher education that receive public funding. Private schools, day cares and other similar uses, and facilities not used for instructional purposes such as administrative and service facilities shall not be included in this definition.

PUBLIC FACILITIES: Infrastructure and municipal service improvements owned and/or operated by the City, excluding dry utilities such as gas, phone, cable, etc.

PUBLIC OPEN SPACE: Property that is owned by or dedicated to the City and that is designated for recreational use, including a park, play lot, plaza or ornamental area intended for use or enjoyment of citizens. Open space does not include streets, alleys, utility easements, public parks or required setbacks.

PUBLIC RIGHT-OF-WAY: A strip of land used or intended to be used, wholly or in part, as a public street, alley, crosswalk way, sidewalk or drainage-way.

PUBLIC STREET RIGHT-OF-WAY: The entire width between the boundary lines of every way which is held by the city, a county, the state or otherwise by the public in fee or dedication when any part thereof is open to the use of the public for purposes of vehicular travel.

PUBLIC VIEW: Areas that can be seen from any public street.

RAIN SENSOR DEVICE: A calibrated device that is designed to measure rainfall and override the irrigation cycle of the irrigation system when a pre-determined amount of rainfall has occurred.

RECONSTRUCTION: Rehabilitation or replacement of a structure which either has been damaged, altered or removed or which is proposed to be altered or removed to an extent exceeding fifty percent (50%) of the replacement cost of the structure at the time of the damage, alteration or removal.

RECORD DRAWINGS: See *As-Built/Record Drawings*.

RECORDED PLAT: A subdivision plat that has been finally approved by the City and that has been filed with the applicable County after meeting all City requirements for recordation under this Unified Development Code.

RECREATION CENTER (PRIVATE, FOR PROFIT): An indoor business establishment used for recreation and social activities.

RECREATIONAL VEHICLE (RV): A vehicle that is:

- a. Built on a single chassis;
- b. Four hundred (400) square feet or less when measured at the largest horizontal projection;
- c. Designed to be self-propelled or permanently tow-able by a light-duty truck; and
- d. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel or seasonal use.

REFUSE CONTAINER: Any container, including dumpster, used as temporary storage of routinely collected waste.

REFUSE DUMP: A place reserved or used for the dumping or accumulation of refuse or discarded matter.

REGISTERED FAMILY HOME: See *Child Day Nursery*.

REHABILITATION CARE FACILITY (HALFWAY HOUSE): A dwelling unit which provides residence and care to not more than nine (9) persons regardless of legal relationship who have demonstrated a tendency towards alcoholism, drug abuse, mental illness, or antisocial or criminal conduct living together with not more than two (2) supervisory personnel as a single housekeeping unit.

REHABILITATION CARE INSTITUTION (BUSINESS): A facility which provides residence and care to ten (10) or more persons, regardless of legal relationship, who have demonstrated a tendency toward alcoholism, drug abuse, mental illness, or antisocial or criminal conduct together with supervisory personnel.

RELATIVE PHOTOMETRY: Photometric measurements made of the lamp plus luminaire, and adjusted to allow for light loss due to reflection or absorption within the luminaire. Reference standard: IES LM-63

REMAINDER TRACT: Land that is part of a larger parcel that is not subject to a subdivision plat affecting the parcel.

REMODELING: Renovation, alteration or repair of an existing structure that is not an addition.

REMOVE OR REMOVAL: To take a tree away from its existing position, and includes such actions that may be reasonably expected to damage a tree sufficiently to cause it to die.

REPAIR: To restore or mend to sound working condition after damage, decay or failure.

REPAIR(S) (LIGHTING): The reconstruction or renewal of any part of an existing luminaire for the purpose of its ongoing operation, other than re-lamping or replacement of components including capacitor, ballast or photocell. Note that retrofitting a luminaire with new lamp and/or ballast technology is not considered a repair and for the purposes of this ordinance the luminaire shall be treated as if new. "Repair" does NOT include normal re-lamping or replacement of components including capacitor, ballast or photocell.

REPLACEMENT: The act of moving one structure from its existing location or site and replacing it with another structure.

REPLACEMENT LIGHTING: Lighting installed specifically to replace existing lighting that is sufficiently broken to be beyond repair.

RESERVE: A tract of land that is not restricted to single-family residential use and not designated on a subdivision plat as a lot or street right-of-way use and is designated as a reserve.

RESIDENTIAL USE: A dwelling unit or group of dwelling units; includes dwelling units within the upper story or stories of a building wherein other parts of the building are used for a nonresidential purpose or purposes, such as a retail establishment or office.

RESPONSIBLE OFFICIAL: The Building Official or an assign, or the City Engineer who has been designated to accept a type of development application or plans for filing, to review and make recommendations concerning such applications, and where authorized, to initially decide such applications, to initiate enforcement actions, and to take all other actions necessary for administration of the provisions of this Unified Development Code with respect to such development applications.

RESTAURANT (WITH DRIVE-IN SERVICE OR DRIVE-THRU SERVICE): An eating establishment where food or drinks are primarily served to customers in motor vehicles, or where facilities are provided on the premises which encourage the serving and consumption of food in automobiles on or near the restaurant premises. An area may also be provided for the consumption of food the premises.

RESTAURANT (WITH NO DRIVE-IN OR DRIVE-THRU SERVICE): An eating establishment where customers are primarily served at tables or are self-served, where food is consumed on the premises, and which do not have a drive-through window.

RETAIL SHOP FOR ACCESSORIES, GIFTS & SIMILAR GOODS: An establishment engaged in the selling of goods and merchandise to the general public for personal or household consumption and rendering services incidental to the sale of such goods.

RIBBON CURB: A concrete boundary marking the edge of a roadway or paved area and, unlike a typical raised curb, is not vertically separated from the roadway or paved area.

ROADWAY: That portion of a public street which is improved, designed, or ordinarily used for vehicular travel, exclusive of the curb, berm, or shoulder. In the event that a public street includes two or more separate roadways, "roadway" means each such roadway separately.

ROADWAY OR HIGHWAY LIGHTING: Lighting provided for freeways, expressways, limited access roadways, and roads on which pedestrians, cyclists, and parked vehicles are generally not present. The primary purpose of roadway or highway lighting is to help the motorist remain on the roadway and help with the detection of obstacles within and beyond the range of the vehicle's headlights.

ROOT COLLAR: An encircling structure of band-like markings or a marked color change (from the tree bark) located at the highest part of the root system joining into the trunk of the tree at or slightly below the surrounding soil line.

RUNOFF: Water that flows from the area where it fell because it is not absorbed soon enough by the soil.

SALES AREA: Uncovered area used for sales of retail goods and materials, including but not limited to automobiles, boats, tractors and other farm equipment, building supplies, and gardening and nursery products.

SCHOOL - OTHER THAN PUBLIC OR PAROCHIAL: A school under the sponsorship of a private agency or corporation, other than a religious agency, which offers a curriculum that is generally equivalent to public elementary and/or secondary schools.

SCHOOL - PUBLIC OR PAROCHIAL: A school under the sponsorship of a public or religious agency which provides elementary or secondary curricula, but not including private business or trade/commercial schools.

SCHOOL - TRADE OR COMMERCIAL: A for-profit business that offers vocational instruction and training in trades such as the computer industry, welding, brick laying, machinery operation/repair, and similar trades.

SCREENING WALL: (Also called *Solid Wall*.) A solid vertical barrier constructed of masonry materials that is intended to separate and limit visibility between that which is on either side of the barrier, for example adjacent land uses or particular site elements.

SEASONAL LIGHTING: Temporary lighting installed and operated in connection with holidays or traditions.

SEAT: One (1) sitting space equal to eighteen (18) inches of bench or pew width if other than an individual chair.

SECONDARY BUILDING SETBACK: The area of a lot measured from a lot line to a secondary building.

SECURITY DWELLING: An accessory dwelling incidental and subordinate to the primary use. The function of a security dwelling would be the protection and security of the primary use served.

SETBACK LINE: A line which marks the setback distance from the property line, and establishes the minimum required front, side or rear yard space of a building plot.

SHALL: As used in this Code, is mandatory and not discretionary.

SHARED USE OF TOWERS: Also referred to as "*Co-location*". The use of a single antenna support structure and/or site by more than one communications provider.

SHED: (Also referred to as *Tool Shed*.) An accessory structure typically used for storage that is: (1) constructed onsite; (2) securely affixed to the ground by means of a permanent foundation or with tie-downs designed to be used to anchor a shed to the ground; (3) resembles the main onsite structure in architectural style; and (4) does not exceed fifteen percent (15%) of the square footage of the main onsite structure in size.

SHELTERED CARE FACILITY: A nonprofit or for-profit boarding home for the sheltered care of persons with special needs, which, in addition to providing food and shelter, may also

provide some combination of personal care, social or counseling services, and transportation.

SHIELDED DIRECTIONAL LUMINAIRE: A luminaire that includes an adjustable mounting device allowing aiming in any direction and contains a shield, louver, or baffle to reduce direct view of the lamp.

SHOPPING CENTER OR INTEGRATED BUSINESS DEVELOPMENT: A commercial development such as a strip center, mall, multi-tenant office building, commercial center, or industrial complex in which two (2) or more separate businesses occupy a single or multiple structures which share on-site parking and common driveways.

SHRUB: Any plant, deciduous or evergreen, which is generally multi-stemmed and sold by height or spread and measured in inches or feet.

SIDEWALK: Also called a *Walkway*. The paved portion of a public street right-of-way which is between the curb lines, or the lateral lines of a roadway, and the adjacent property lines and is improved and designed for or is ordinarily used for pedestrian travel. A paved pedestrian way generally located within the public street right-of-way but outside the roadway but may be located outside the public street right-of-way when a public access easement is granted.

SIGHT TRIANGLE: A triangle-shaped area adjacent to the intersection of two streets, formed by two lines.

SIGN: Any object, device or display facing the exterior (outdoors), which is used to inform or give direction or to advertise or identify a person, organization, business, product, service, event or location by any means, including words, letters, numbers, symbols, figures, or illumination.

SIGN, ALLOWABLE EFFECTIVE AREA: The maximum effective sign area as allowed by the UDC, as measured from the highest point on the sign to the elevation of the center of the bottom of the sign (excluding base) by the width at the widest point. The highest point and the width shall be inclusive of all supports and framing.

SIGN COPY: The letters, numbers, symbols or geometric shapes, either in permanent or changeable form, on the surface of a sign.

SIGN PERMIT: A City-issued permit that authorizes the display, erection, rebuilding, expansion or relocation of any on-premises or off-premises sign and that conforms to this UDC.

SIGN, ANIMATED: A sign with any visual effect of a light source which causes the perception of movement of graphics or text.

SIGN, ATTACHED: Any sign attached to, applied on or supported by any part of a building or accessory structure, including awnings and other similar permanent attachments to the buildings. Also may be referred to as "building sign".

SIGN, BANNER A temporary sign that is designed to be attached or installed with rope, wire, or other temporary means to any part of the building façade, so as to allow ease of installation and removal.

SIGN, BILLBOARD: A, off-premise sign which is subject to regulation under the provisions of the Federal Highway Beautification Act, 23 U.S.C.A. Section 131 et seq., as amended.

SIGN, BLADE: A non-illuminated panel sign with dimensional copy suspended from a decorative bracket attached to the building, typically upon a merchant's storefront, permitted for occupant identification purposes only, and limited to 1 blade sign per public entrance where public foot traffic occurs, and limited to two square feet per face.

SIGN, BUILDER/SUBDIVISION: Any sign that advertises 1) a new subdivision for the purpose of selling lots, land, and/or buildings and/or 2) a builder(s) that has lots, land, or buildings for sale. Such sign may or may not be directional.

SIGN, COMMUNITY INFORMATION: Any sign which promotes items of general interest to the community including time, temperature, date, atmospheric conditions and upcoming noncommercial events or charitable causes.

SIGN, ELECTRONIC CHANGEABLE MESSAGE: Any sign with a fixed or changing display/message composed of a series of lights that may be changed through electronic means. Includes Electronic Changeable message board and scrolling signs.

SIGN, ELECTRONIC CHANGEABLE MESSAGE BOARD: Any sign with a fixed or changing display/message composed of a series of lights that may be changed through electronic means.

SIGN, FLASHING/BLINKING: Sign with a type of animation characterized by cyclical switching of visual content or colors between on and off states in rapid successive increments of less than four (4) seconds.

SIGN, FREESTANDING: An on-premise sign which advertises an establishment and is located on the premises owned or controlled by said establishment, which is supported by a single vertical support anchored or set into the ground.

SIGN, GROUND: Also referred to as a *Monument Sign*. A sign which is supported by one (1) monolithic structure which is not less in width than one-half ($\frac{1}{2}$) the maximum sign height, set upon the ground and is not part of a building, including ground signs that advertise for more than one occupancy on the premises (multi-tenant).

SIGN, ILLUMINATED: A sign exposed to artificial lighting by light sources located on or in the sign or specifically directed toward the sign.

SIGN, MARQUEE: A sign with slots or wires for inserting individual letters so that a message about products sold or services provided on the same premises may be changed.

SIGN, MONUMENT: See *Ground Sign*.

SIGN, MULTI-TENANT: An on-premise sign with the name of the primary on-site facility and a list of the individual stores or businesses mounted on such sign. Examples include signs describing a mall arrangement, a shopping center development, and industrial park complex, or a complex of buildings with a unifying name and group of businesses.

SIGN, MULTI-USER: A ground sign used to advertise more than two (2) businesses that are part of an integrated business development. A multi-user sign shall be located on the premises of one of said businesses, but shall be allowed to be off-premise signage as to the other businesses that are part of the integrated business development.

SIGN, NON-COMMERCIAL or NON-BUSINESS: A sign with a message that does not contain or convey commercial context or information or advertising for any business, commodity, service, entertainment, product or other attraction or event.

SIGN, NONCONFORMING: means any sign lawfully existing on the effective date of the ordinance from which the sign regulations in this Unified Development Code derive which does not conform to all the standards and requirements of this Unified Development Code.

SIGN, OFF-PREMISE PORTABLE: An off-premise sign which is also a portable sign.

SIGN, OFF-PREMISE: A sign displaying advertising copy that pertains to a business, person, organization, activity, event, place, service, or product not principally located or primarily manufactured or sold on the premises on which the sign is located.

SIGN, ON-PREMISE: A sign displaying advertising copy that pertains to a business, person, organization, activity, event, place, service, or product principally located or primarily manufactured or sold on the premises on which the sign is located.

SIGN, PERMANENT: A sign designed to be anchored to the ground, a building or other structure for the duration of the use of the premises.

SIGN, POLITICAL: A sign that contains primarily a political message and that is located on private real property with the consent of the property owner.

SIGN, PORTABLE: Any sign designed or constructed to be easily moved from one location to another, including, but not limited to, signs mounted upon or designed to be mounted upon a trailer, bench, wheeled carrier, A-frame, or other non-motorized mobile structure; a portable sign which has its wheels removed shall still be considered a portable sign hereunder. For the purpose of this definition, trailer signs and signs on benches are "portable signs".

SIGN, REAL ESTATE: A sign which has the purpose of advertising for sale a parcel of real property or an estate in land, including rentals.

SIGN, SCROLLING: Sign with a type of animation which causes displayed text or graphics to move continuously up, down, or across the screen, so that a line of text or graphics appears at one edge of the screen for each line that moves off the opposite edge.

SIGN, SUBDIVISION IDENTIFICATION: Any sign that is a permanent sign identifying an entrance to a residential or nonresidential (e.g., office park) subdivision.

SIGN, SUSPENDED: Signs which hang or are suspended from any projecting element off the façade of the building. This can include Blade Signs.

SIGN, TEMPORARY: Any sign constructed of cloth, canvas, light fabric, cardboard, wallboard, plywood, or other light materials with short life expectancies. A portable sign shall not be considered a temporary sign.

SIGN, TOTAL EFFECTIVE SIGN AREA: The total effective area provided by a sign, measured from the highest point on the sign to the elevation of the center of the bottom of the sign (excluding base) by the width at the widest point. The highest point and the width shall be inclusive of all supports and framing.

SINGLE-FAMILY RESIDENTIAL: A building (attached or detached) designed to contain one or two separate living units with facilities for living, sleeping, cooking or eating.

SITE: A tract of property that is the subject of a development application.

SITE DEVELOPMENT PLAN: The final step of the development process within a PD district, if required by the ordinance adopting the PD.

SITE PLAN: A scaled and detailed drawing that conforms to the requirements of this UDC, and that shows the roads, parking, footprints of all buildings, existing trees, proposed landscaping, parkland, open space, grading and drainage, and similar features needed to verify compliance with the City's approved land use plan and development standards.

SITE PREPARATION PERMIT: A permit that is issued under this Unified Development Code, that authorizes site preparatory activities other than construction or placement of a structure on the land under one or more site plans and that, upon approval, authorizes the property owner to apply for a construction permit.

SKY GLOW: The brightening of the nighttime sky that results from scattering and reflection of artificial light by moisture and dust particles in the atmosphere. Sky-glow is caused by light directed or reflected upwards or sideways and reduces one's ability to view the night sky.

SPACE: A plot of ground within a mobile home or manufactured housing park designed for the accommodation of one (1) mobile home or manufactured home, together with the open space as required by this UDC. This term also includes the terms "lot", "stand" and "site". *Space* may also mean any plot or parcel of ground upon which is erected any accommodation for any recreational vehicle or structures of a temporary nature for living and sleeping purposes.

SPECIAL EXCEPTION: A City-authorized modification of zoning standards applicable to particular types of development within any zoning district in a manner consistent with the overall intent of the zoning regulations and for which express standards are prescribed

SPECIALTY SHOP: An establishment for the purpose of supplying limited specialty items for hobbies and other similar activities including but not limited to: antiques, art objects and supplies, ceramic supplies, books, camera and photo supplies, candy, florist, gifts, greeting cards, framing, stamps and coins, stationery, and tobacco.

SPECIMEN TREE: An exemplary tree of good health and true to species habit and form, containing a minimum caliper of 1½ inches.

STABLE, COMMERCIAL: A facility used for the rental of a stall space or or spaces, or for the sale or rental of horses or mules.

STABLE (PRIVATE, PRINCIPAL OR ACCESSORY USE): A facility used solely for the owner's private purposes for the keeping of horses, mules or ponies which are not kept for remuneration, hire or sale.

STONE MATERIAL: Hard or durable naturally occurring rock, weathered, cut, or dimensioned, and manufactured stone products.

STOOP: A staircase on the facade of a building, usually constructed of concrete or stone, that leads either to a small un-walled entrance platform or directly to the main entry door.

STOREFRONT WINDOWS: The large glass window facing the front of the building in a commercial, retail or office structure.

STREET: The entire width between property lines when any part thereof is open to the use of the public, as a matter of right, for the purpose of vehicular traffic. This definition shall include public as well as private streets. An "Alley" is not considered to be a street, and is separately defined herein.

STREET LIGHT: Any man-made light installed for the purpose of vehicular traffic illumination purposes on a pole with a minimum fixture height of thirty (30) feet above natural ground located within public or private street right-of-way.

STREET LIGHTING: Lighting provided for major, collector, and local roads where pedestrians and cyclists are generally present. The primary purpose of street lighting is to help the motorist identify obstacles, provide adequate visibility of pedestrians and cyclists, and assist in visual search tasks, both on and adjacent to the roadway.

STREETSCAPE: The principal variables of streetscape are the type and dimension of curbs, walks, planters, street trees and streetlights.

STREET TREE: A list of trees (large Trees and Small Trees) issued and revised from time to time by the Building Official or the City Engineer, which, based upon recognized arboricultural standards, shall designate trees that are required to be used for planting adjacent to and within street rights-of-way within the city. The Building Official or City Engineer may only decline to include and may only remove otherwise suitable trees on the basis of health or disease concerns or warnings. The list shall be subdivided into categories of trees that may be planted under power lines and trees that shall not be planted under power lines. The categories of trees that may be planted under power lines shall include live oak trees.

STREET TREE LIST: The Large Tree list and the Small Tree list indicated in Appendix 3.1.3.12 and Appendix 3.1.3.13

STRUCTURE: Anything constructed, the use of which requires permanent location on the ground or attachment to something having a permanent location on the ground. Also see "Building".

STUDIO, HEALTH REDUCING OR SIMILAR SERVICE: Includes, but is not limited to, an establishment which provides facilities and equipment, such as gymnasiums, weight rooms, swimming pools or spas, exercise apparatus and instruction classes, which are intended to promote

health, fitness, weight reduction and/or similar health-related activities. Such facilities may include such accessory uses as food service, sales of sundries and apparel, and child care services, provided that such accessory uses are clearly incidental to the primary use and are for the use of studio patrons only.

STUDIO - TATTOO OR BODY PIERCING: A building or portion of a building used for selling and/or applying tattoos (by injecting dyes/inks into the skin), and/or for piercing the skin with needles, jewelry or other paraphernalia, primarily for the purpose of ornamentation of the human body.

STUDIO FOR RADIO AND/OR TELEVISION: A building or portion of a building used as a place for radio or television broadcasting.

SUBDIVIDE:

(a) Is the following when done for the purpose of sale or building development:

1. The division of any tract of land into two or more tracts or lots; or
2. The assembly of two or more tracts of land into one tract or lot.

(b) Is the following with regard to changes to a recorded subdivision plat:

1. A re-subdivision of all or part of the subdivision;
2. Any change of lot size or lot lines; or
3. The relocation of any street.

SUBDIVIDER: Any person or any agent of the person dividing or proposing to divide land so as to constitute a subdivision, as that term is defined in this section. In any event, the term "subdivider" is restricted to include only the owner, equitable owner or authorized agent of the owner or equitable owner of land to be subdivided.

SUBDIVISION: Pertaining to land for which a plat has been recorded, *subdivision* means an area of subdivided lots; pertaining to the act of subdividing land, see the definition of *subdivide* herein.

SUBMITTAL DATE: The date upon which the responsible City staff person makes a determination that a zoning or development application is complete and when a fee receipt is issued by the City for the required application fee.

SURVEYOR: A licensed state land surveyor or a registered professional land surveyor, as authorized by state statutes, to practice the profession of surveying.

SWIMMING POOL, COMMERCIAL: A swimming pool with accessory facilities which is not part of the municipal or public recreational system and which is not a private swim club, but where the facilities are available for use by the general public for a fee.

SWIMMING POOL, PRIVATE (USE ONLY BY RESIDENT): A swimming pool constructed for the exclusive use of the residents of a one-family, two-family or multiple-family dwelling and located, fenced and built in accordance with the City of Pearland Code of Ordinances. A

private swimming pool shall not be operated as a business nor maintained in a manner to be hazardous or obnoxious to adjacent property owners.

TCEQ: The acronym for the Texas Commission on Environmental Quality.

TELEMARKETING AGENCY: An establishment which solicits business or the purchase of goods and/or services by telephone only. No sales of goods or services to the public occurs at or on the premises. No products are stored at or on the premises.

TEMPORARY CLASSROOM BUILDING: A building(s) built on skids and which is utilized by a public school district for the purpose of eliminating the shortage of classrooms in order to bring the student/teacher ratio into compliance with state law.

TEMPORARY LIGHTING: Lighting installed and operated for periods not to exceed 60 days, completely removed and not operated again for at least 30 days.

TENNIS OR SWIM CLUB: A recreational area containing a swimming pool or tennis courts or both with related facilities and/or clubhouse, all of which facilities are available to the public through a private membership.

THIN BRICK: Brick which does not have the thickness of Brick material but is at least one-half (1/2) inch thick and meets the latest version of ASTM Standard C-1088 Thin Veneer Brick Units, Clay or Shale, Exterior grade.

THIRD PARTY: A party contracted to provide lighting.

THIS ORDINANCE: The entire Uniform Development Code, as herein defined.

THROUGH STREET: A street that is not a cul-de-sac street and which intersects with at least two other streets that are not cul-de-sacs streets, at intersections that are 3-way or 4-way intersections.

TIEDOWN: Any device designed for the purpose of anchoring a mobile home or manufactured home to ground anchors, as required by V.T.C.A., Occupations Code, Chapter 1201.

TIME SWITCH: An automatic lighting control device that switches lights according to time of day.

TOTAL TREE PLANTING REQUIREMENT: The total number of trees, if any, that must be planted under this article, excluding any which might be planted as part of a landscape buffer and further excluding the protected tree replacement requirement.

TOTAL TREE REQUIREMENT: The total number of trees that must be provided under this article, excluding any which might be provided as part of a landscape buffer, and further excluding the protected tree replacement requirement. This sum shall be made up of:

- (1) Any street and parking lot trees to be planted; and
- (2) Planting equivalency credits earned pursuant to section 3.1.2.3.

TRANSFER STORAGE & BAGGAGE TERMINAL: An area and building where cargo is stored and where trucks, including tractor and trailer units, load and unload cargo on a regular basis. May include facilities for the temporary storage of loads prior to shipment.

TRANSIT TERMINAL: Any premises for the transient housing and/or parking of motor-driven buses and the loading and unloading of passengers.

TRANSLUCENT: Allowing light to pass through, diffusing it so that objects beyond cannot be seen clearly (not transparent or clear).

TRAVEL TRAILER/RV PARK/CAMPGROUND: An area or commercial campground for users of recreational vehicles, travel trailers, and similar vehicles to reside, park, rent or lease on a temporary basis. For the purpose of this definition, “temporary” means a maximum three-month time period.

TREE: Any evergreen or deciduous tree which at the time of planting has a caliper equal to or greater than 1½ inches as measured six inches above the root collar, which is not less than six feet in height as measured from the root collar, and which meets the Standard for Nursery Stock Specifications as established by the American Association of Nurserymen (1986 ed.).

TREE, LARGE: A tree that is a minimum of three inches (3”) in caliper at the time of planting, and is a minimum planted height of eight feet (8’) at the time of planting.

TREE, ORNAMENTAL: A tree that is a minimum of two-inch (2”) in caliper at the time of planting, and is a minimum planted height of six feet (6’) at the time of planting.

TREE PRESERVATION: All definitions related to tree preservation that are contained within this UDC.

TRUCK: See Heavy Load Vehicle.

TRUCK AND BUS LEASING: The rental of new or used panel trucks, vans, trailers, recreational vehicles or motor-driven buses in operable condition and where no repair work or intensive cleaning operations are performed.

TRUCK SALES (HEAVY TRUCKS): The display, sale or rental of new or used heavy load vehicles in operable condition.

TURF AND/OR TURFGRASS: Continuous plant coverage consisting of grass species appropriately suited to the site where it was planted.

TXDOT: The acronym for the Texas Department of Transportation.

UNDERSTORY: The small tree, shrub and grass constituents of a plant association, excluding canopy vegetation.

UNIFORM DEVELOPMENT CODE or UDC: The following ordinances of the City, as they may be amended from time to time: this ordinance, the Zoning Ordinance, the Subdivision Ordinance, all Building Codes of any kind, and any ordinance providing that it amends or is part of the Uniform Development Code.

UNSHIELDED: Fixtures lacking any means to restrict emitted light to below the horizontal plane.

UNSHIELDED LUMINAIRE: A luminaire capable of emitting light in any direction including downward.

UPLIGHT: For an exterior luminaire, flux radiated in the hemisphere at or above the horizontal plane.

USABLE OPEN SPACE: An open area or recreational facility that is designed and intended to be used for outdoor, active or passive, recreation purposes. An area of usable open space has a slope that does not exceed ten percent (10%), and no dimension of less than ten feet (10'). An area of usable open space may also include landscaping elements (e.g., trees, ground cover), trails, recreational facilities, water features and decorative objects such as art or fountains.

USE: The classification of the purpose or activity for which land or buildings are designated, arranged, intended, occupied or maintained.

UTILITY: A business that provides an essential commodity or service, such as electric, gas transmission, and local telephone, and that is generally under government regulations. Unless otherwise specified, this term (or the plural "utilities") when used within this UDC refers to a public utility.

UTILITY, DRY: Facility that provides a service for electricity, natural gas, telecommunications, cable television, and/or internet/data. Also referred to as private utility.

UTILITY, WET: Facility that provides a service for potable water distribution, wastewater collection, and storm drainage. Also referred to as public utility.

VIDEO SALE or RENTAL: An establishment primarily engaged in the retail sales or rental/lease of video tapes, films, CD-ROMs, and electronic media.

VISIBLE: Capable of being seen by or perceptible to the general public.

VARIANCE: Authorization to deviate from or vary one or more standards applicable to a development application that is reviewed and decided under this Unified Development Code.

VERTICAL ILLUMINANCE: Illuminance measured or calculated in a plane perpendicular to the site boundary or property line.

VESTED RIGHTS PETITION: A request for relief from one or more standards of this Unified Development Code based on an assertion that the petitioner has acquired a vested right requiring the City to review and decide the application under standards in effect prior to the effective date of the standards of this Unified Development Code.

VIOLATION: The failure of a structure or other development to fully comply with this article.

VISIBILITY TRIANGLE: A triangle sight area, at all intersections, 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. The triangle is established by measuring a distance of forty-five feet (45') from the intersection of the extended curb or edge of the pavement of major thoroughfares, and twenty-five feet (25') from the extended edge of the curb or pavement of local streets. A straight line connecting the ends of each measured distance which forms the hypotenuse shall establish the visibility triangle. The visibility triangle shall not contain any visual or physical impediments or obstructions to the vertical view between thirty inches (30") and seven feet (7') in height. Visibility triangle shall also mean a triangle sight 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 lot within a right triangle with the right angle at the point where the curb break begins and the sides forming the right angle being fifteen feet (15') long, one of which extends back along the adjacent curb and the other back toward the private property or parkway. (Also refer to the definition of Visibility Triangle as it applies to tree preservation in section 4.2.3.2 of the UDC)

WAIVER: Authorization to deviate from or vary one or more standards applicable to a development application that is reviewed and decided this Unified Development Code.

WALKWAYS: Passages or paths for walking.

WATER FEATURES: Features of a site that holds water temporarily or permanently. These may include either natural features (lakes, wetlands, rivers, creeks, etc.) or artificial features (retention and detention ponds, fountains, ditches, and canals).

WAREHOUSE STORAGE or DISTRIBUTION FACILITY: Building or facility used for the storage and/or distribution of wholesale items/products.

WHOLESALE DISTRIBUTOR: An establishment or place of business primarily engaged in the selling and/or distributing merchandise to retailers; to industrial, commercial, institutional, or professional business users, or to other wholesalers; or engaged in acting as agents or brokers and buying merchandise for, or selling merchandise to, such individuals or companies.

WRECKING OR SALVAGE YARD: A yard or building where motor vehicles, parts of motor vehicles, building materials, or machinery are stored, dismantled and/or offered for sale in the open as whole units, as salvaged parts or as scrap or processed metal.

XERISCAPE: Quality landscape that conserves water, protects the environment, and is drought tolerant and adaptable to local conditions. The principles of xeriscape include planning and design, appropriate choice of plants, soil analysis which may include the use of solid waste compost, efficient irrigation, practical use of turf, appropriate use of mulches, and proper maintenance.

YARD: Open space on the lot or parcel on which a building is situated, between the property line and an imaginary straight line that incorporates the nearest face of the main building and drawn to bisect the property, which is open and unobstructed to the sky by any structure except as herein provided.

YARD, FRONT: That portion of the yard located between the front property line and a parallel imaginary straight line through the point nearest the front property line in the front-most face of the principal building(s).

YARD, FRONT (FLAG LOT): The distance between the front of the building and the point nearest the abutting street where the lot satisfies applicable width requirements.

YARD, REAR: That portion of the yard located between the rear property line and an imaginary straight line parallel to the front property line through the point nearest the rear property line in the rearmost face of the principal building(s).

YARD, REQUIRED an area being equal to the required setback areas (front, side, and rear) for a given zoning district.

YARD, SIDE: That portion of the yard bounded by the front yard, the rear yard, the side property line, and the side facade of the principal building(s).

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CITY OF IOWA COLONY

UNIFIED DEVELOPMENT CODE



ORIGINAL ADOPTION DATE: MAY 15, 2017

AMENDED BY ORD. 2017-21 – ADDED BUILDING STANDARDS, OCTOBER 16, 2017

AMENDED BY ORD. 2017-22 – ADDED STREET LIGHTS, OCTOBER 16, 2017

AMENDED BY ORD. 2017- - REVISED BUILDING STANDARDS, NOVEMBER 20, 2017

AMENDED BY ORD. 2017 - - REVISED LANDSCAPE STANDARDS, DECEMBER 18, 2017

DRAFT REVISIONS – August 18, 2021 JKM

Section 0.1.1.1. Facts and Recitations

The facts and recitations contained in the preamble to this Unified Development Code are hereby found to be true and correct and incorporated herein for all purposes.

- (a) **City Limits.** All provisions of this ordinance shall apply throughout the incorporated limits of the City.
- (b) **ETJ.** The following provisions of this ordinance shall also apply throughout the extraterritorial jurisdiction of the City:
 - (1) Any provision applicable upon a subdivision of land; and
 - (2) Any provision, to the extent made applicable to the extraterritorial jurisdiction by a development agreement, strategic partnership agreement, or other agreement of any kind.
- (c) **Limited Purpose Annexation Area.** An area annexed into the City for limited purposes shall be subject to this ordinance only to the extent, if any, provided by the limited purpose annexation, unless explicitly provided otherwise herein.

Section 0.1.1.3. Definitions and Meanings

Words, terms, and phrases defined in Chapter 5 shall have the meanings set forth therein, unless indicated otherwise, for the purposes of this Ordinance.

Section 0.1.1.4. Special Provisions

Special Provisions.

- (a) **Plat Approval Required.**

Unless a subdivision is specifically exempted from the requirements to obtain a plat by this Ordinance or any other adopted Ordinance of the City of Iowa Colony:

- (1) It shall be unlawful for any person to subdivide any tract, lot, or parcel of land within the territorial limit of the City of Iowa Colony or within the extra-territorial jurisdiction of the City of Iowa Colony until an appropriate plat of such subdivision is approved and recorded in conformity with this Ordinance.
- (2) It shall be unlawful for any person to construct, or cause, allow, or permit to be constructed any public or private street, utility service or facility, building, structure, or other improvement on any tract, lot, or parcel of land until each plat required by this ordinance or any other ordinance of the City has been approved and recorded in conformity with such ordinance.
- (3) It shall be unlawful for any person to connect or serve any utility service or facility to any tract, lot, or parcel of land until each plat required by this ordinance or any

other ordinance of the City is approved and recorded in conformity with such ordinance.

- (4) No building, electrical, mechanical, plumbing, sign, certificate of occupancy, or any other permit issued by the City of Iowa Colony will be issued for the construction or repair of any improvement or the occupancy of any building or structure until each plat required by this ordinance or any other ordinance of the City is approved and recorded in conformity with such ordinance; and it shall be unlawful for any person to construct or repair any improvement, or occupy any building or structure , without first obtaining from the City of Iowa Colony each permit required by any ordinance of the City.

(b) Improvements.

All improvements required by this Ordinance, any other City of Iowa Colony ordinance, an adopted Comprehensive Plan of the City of Iowa Colony, a drainage district, a county, the state, or any other governmental entity having jurisdiction over the subdivision, or any improvement which, in the judgement of the Planning and Zoning Commission or the City Council is necessary for the adequate provision of streets, drainage, utilities, city services, and facilities to serve the subdivision shall:

- (1) be constructed at the sole expense of the developer unless the City deems oversizing is necessary; and
- (2) comply with the rules and regulations of any entity having jurisdiction over the subdivision. If there is a conflict between the regulations of jurisdictions, the City's regulations shall apply unless otherwise provided by law.

Section 0.1.1.5. Exemptions

Exemption from Platting.

- (a) Land used for agricultural purposes only. To qualify for this exemption, a tax designation that such land is used for agricultural purposes only must be submitted to the City.
- (b) A subdivision of land into parts greater than five (5) acres, where each part has access to a public road and no public improvements is being or is required to be dedicated.
- (c) Any exemption provided by Chapter 212 of the Texas Local Government Code.

Section 0.1.1.6. Addition to Building Codes, Subdivision Ordinance, and Zoning Ordinance

- (a) All portions of this ordinance shall be part of all Building Codes of any kind of the City, as they may be amended from time to time.
- (b) All portions of this ordinance that apply upon the subdivision of land shall be part of the Subdivision Ordinance of the City, as it may be amended from time to time.
- (c) A portion, if any, of this ordinance within the authority of statutes concerning zoning shall be a part of the Zoning Ordinance of the City, as it may be amended from time to time.

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Chapter 1: General Provisions

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Division 1 – General Provisions

Section 1.1.1.1. Source of Authority

- (a) Authority under this Unified Development Code shall be vested in and delegated to the officials and decision-makers designated in this Article 1, the constitution, and laws of the state of Texas and the City Code. This authority shall be deemed supplemental to any other authority lawfully conferred upon the officials and decision-makers. The omission of a citation in this Unified Development Code to any authority conferred upon the officials and decision-makers under the constitution or laws of the state of Texas or the City Code, nor the failure to identify in this article authority conferred by other provisions of this Unified Development Code, shall not be construed as limiting the actions of such officials and decision-makers taken in accordance with and in reliance upon such authority.

Section 1.1.1.2. Implied Authority

- (a) The officials and decision-makers shall have all implied authority necessary to carry out the duties and responsibilities expressly delegated by this Unified Development Code to the extent the implied authority is not in conflict with the expressly delegated authority.

Section 1.1.1.3. Limitation on Authority

- (a) It is the policy of the City that the standards and procedures applicable to development of property within the City limits and within the City's extraterritorial jurisdiction are as stated in this Unified Development Code, notwithstanding any representation by any City official summarizing, paraphrasing or otherwise interpreting such standards to the contrary, whether generally or as applied to development of specific property.
- (b) No City official, whether an employee of the City or a member of an appointed board or commission, or a member of the governing body of the City, shall have the authority to make representations to a property owner concerning the likelihood of an outcome of that official's decision or the decision of an appointed board or commission or the City Council, on any development application or legislative action that has yet to be filed or is pending before the City for decision. An official may, however, upon request of a person, convey information concerning that official's position on a pending application in accordance with procedures established in this Chapter 1. No person is entitled to rely upon any representation made by an official in contravention of this Subsection, and each and every such representation shall be deemed in violation of the policy of the City and is not binding

on the City in any respect. No subsequent decision of the City shall be deemed a ratification of any representation made in contravention of this Subsection.

- (c) No City official, whether an employee of the City or a member of an appointed board or commission, or a member of the City Council, shall have the authority to make binding representations to any person concerning the likelihood that a change in any legislative classification or a change in the text of this Unified Development Code as applied to a specific tract of land will be granted, or that an existing legislative classification or text provision will remain in effect, or that any petition for relief will be granted. No person is entitled to rely upon any representation made by an official in contravention of this Subsection, and each such representation shall be deemed in violation of the policy of the City and is not binding on the City in any respect. No subsequent decision of the City shall be deemed a ratification of any representation made in contravention of this Subsection.
- (d) The City's approval of a permit or plat application under the standards and procedures of this Unified Development Code does not guarantee or assure that development of the property in accordance with the standards will prevent, minimize, or mitigate harm to adjoining property. A person who undertakes development activities shall not rely on the City's approval of a development application as ensuring that the development activities will not result in harm to adjoining property. The regulations contained in this Unified Development Code constitute an exercise of the City's governmental authority, and approval of a development application shall not give rise to any liability on the part of the City or its officers, agents, and employees, nor will an approval release the applicant from any liability for harm arising out of development of the property under applicable law.
- (e) Except as expressly provided for in this Unified Development Code, no official, board, commission of the City, or the City Council, shall have authority to waive any requirement or standard for an application. Any attempted waiver of a requirement or standard for an application in contravention of this Subsection shall hereby be deemed null and void, and, upon discovery, shall be grounds for revocation of a permit or approval, or reconsideration of a legislative decision.

Section 1.1.1.4. Conflict in Authority

- (a) In the event of a conflict between the terms of this ordinance, or between this ordinance and any other ordinance, the more restrictive provision shall govern and control.
- (b) Whenever a specific standard or procedure of this Unified Development Code is incomplete when applied in isolation, such standard shall be supplemented by any general or specific provision of this Code or the City Code to give effect to the incomplete provision.

Division 2 – City Staff

Section 1.1.2.1. Responsible Official

- (a) The responsible official shall be the Building Official or the City Engineer who is assigned responsibility under this Unified Development Code for taking the following actions regarding a particular type of application or relief petition authorized under this Chapter 1:
- (1) Accepting the application or petition for filing and processing the application;
 - (2) Reviewing and making recommendations concerning the application or petition;
 - (3) Seeking advice of other City officials and coordinating any recommendations from such officials concerning the application or petition;
 - (4) Initially deciding the application or petition, where so authorized;
 - (5) Determining a request for exemption;
 - (6) Preparing reports to and advising any board, commission or the City Council that has responsibility for making recommendations on or deciding the application or petition;
 - (7) Promulgating additional or modified policies, standards, and administrative rules for adoption by the City Council that apply to the application or petition;
 - (8) Initiating enforcement actions concerning compliance with the standards applicable to the application or petition and the conditions imposed thereon; and
 - (9) Taking all other actions necessary for administration of the provisions of this Unified Development Code with respect to the application or petition.
- (b) The specific duties of the responsible official shall include those authorized under the universal procedures applicable to all types of development applications pursuant to Article 2 of this Chapter 1, those authorized under the provisions governing procedures for deciding applications under this Chapter 1, and those authorized under relief procedures pursuant to Article 3 of this Chapter 1.
- (c) The responsible official may delegate the official's authority under this Code to subordinate officials, who shall thereupon be deemed the responsible official for purposes of carrying out the delegated duties.

Section 1.1.2.2. City Engineer

- (a) The City Engineer is the responsible official for the following types of development applications and relief petitions (except as provided):
- (1) Application for approval of construction plans, and all related construction management tasks, including without limitation, approval of contracts for public improvements;
 - (2) Application for a Development/Grading Permit for compliance with flood plain regulations;

- (3) Appeal of a decision on any application for which the City Engineer is the responsible official;
 - (4) Variance petition for any application for which the City Engineer is the responsible official;
 - (5) Vested rights petition for any decision where the City Engineer is the responsible official for the application for which the vested rights petition is filed; and
 - (6) Petition for relief from a dedication or construction requirement.
 - (7) Application for a Subdivision Master Plat, Preliminary Subdivision Plat, Preliminary Development Plat, Final Subdivision Plat, Final Development Plat, Minor Subdivision Plat, amending plat, and replat;
- (b) The City Engineer is the initial decision-maker for the following types of development applications and relief petitions, subject to appeal as provided in this Chapter 1:
- (1) Application for approval of construction plans, and all related construction management tasks, including without limitation approval of a contract for public improvements;
 - (2) Application for a Development/Grading Permit for compliance with flood plain regulations;
 - (3) Vested rights petition for any decision for which the City Engineer is the initial decision-maker;
 - (4) Application for a Subdivision Master Plat, Preliminary Subdivision Plat, Preliminary Development Plat, Final Subdivision Plat, Final Development Plat, Minor Subdivision Plat, amending plat, and replat;
 - (5) Application for a site preparation permit; and
 - (6) Park dedication fee determination.
- (c) The City Engineer is the Floodplain Administrator for the City and shall carry out duties and responsibilities as authorized in Flood Hazard Prevention Ordinances.

Section 1.1.2.3 Building Official

- (a) The Building Official is the responsible official for and shall initially decide the following types of applications:
- (1) Building permit;
 - (2) Certificate of occupancy;
- (b) The Building Official is the initial decision-maker for appeals of the following application, subject to further appeal as provided for in this Chapter 1:
- (1) Certificate of Occupancy;

Section 1.1.2.4. City Manager ~~(Reserved)~~

(a) Initial Decision-Maker on Appeals. The City Manager is the initial decision-maker for appeals of the following types of development applications, subject to further appeal as provided for in this Chapter 1:

(1) A Site Preparation Permit;

(2) An impact fee decision; and,

(3) A Site Plan

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Section 1.1.2.5. Other City Officials

(a) The City Attorney and any other official delegated responsibilities under this Unified Development Code are authorized to take all actions necessary to carry out their responsibilities in accordance with the requirements and limitations prescribed herein.

Division 3 – Planning and Zoning Commission

Section 1.1.3.1. Structure of Commission

(a) The members of the Planning and Zoning Commission are appointed by the Mayor and ratified by the City Council and serve without compensation. In making appointments to the Planning and Zoning Commission, the Council shall seek to ensure broad representation and expertise among the membership. The Planning and Zoning Commission shall establish bylaws to govern rules of procedure and the election of officers.

Section 1.1.3.2. Advisory Capacity

(a) The Planning and Zoning Commission shall advise the City Council on applications and petitions for legislative decisions as authorized by this Unified Development Code. In that capacity, the Planning and Zoning Commission shall review, prepare reports upon, and make recommendations concerning approval, conditional approval, or denial of the following types of petitions and development applications, in accordance with the procedures and standards that apply to the petition or development application:

~~(1) Subdivision plat review;~~

~~(2)~~(1) Petition for amending the Comprehensive Plan;

~~(3)~~(2) Petition for a zoning map amendment, including a petition for creation of an overlay district, Special Use Permit (SUP), or Planned Development (PD) district;

~~(4)~~(3) Amendments to the text of the Unified Development Code (UDC); and

~~(4)~~ Other advisory duties as assigned by City Council.

Section 1.1.3.3. Final Authority

(a) The Planning and Zoning Commission shall have final authority on applications and petitions concerning approval, conditional approval, or denial of the following types of petitions and applications, in accordance with the procedures and standards that apply to the petition or application:

(5) (1) Subdivision plat review

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~~Division 4 – City Council~~

~~Section 1.1.4.1. Authority for Amendments to the Unified Development Code (UDC)~~

~~(a) The City Council may from time to time amend, supplement or change by ordinance the text of this Unified Development Code on its own initiative or upon petition for a text amendment.~~

~~Section 1.1.4.2. Authority for Deciding Legislative Applications~~

~~(a) The City Council shall finally decide all types of legislative applications authorized under this Unified Development Code.~~

~~Section 1.1.4.3. Authority for Deciding Appeals and Relief Petitions~~

~~(a) The City Council shall finally decide appeals on the following development applications and relief petitions:~~

~~(1) A vested rights petition filed in conjunction with an application for which the City Council is the final decision maker; and~~

~~(2)(1) A parkland dedication fee appeal that has been forwarded by the City Engineer.~~

~~(b)(a) The City Council shall finally decide the following petitions for relief:~~

~~(1) Petition for relief from a dedication or construction requirement.~~

Division 54 – Zoning Board of Adjustment (ZBA)

Section 1.1.54.1. Structure of the Board

- (a) The members of the Zoning Board of Adjustment are appointed by the Mayor and ratified by the City Council and serve without compensation. In making appointments to the Zoning Board of Adjustment, the Council shall seek to ensure broad representation and expertise among the membership.
- (b) All members of the Zoning Board of Adjustment shall reside within the City limits.
- (c) The Zoning Board of Adjustment shall establish bylaws to govern rules of procedure and the election of officers. These rules must be consistent with this chapter and state law. Officers of the ZBA shall include a chairperson and a chairperson pro-tem and other officers as may be deemed necessary by the ZBA. In the absence of both the chairperson and the chairperson pro-tem, a member of the ZBA may be a temporary chairperson, as voted by the attending ZBA Board of Adjustment members, any of whom may administer oaths and compel the attendance of witnesses. The chairperson may vote to the same extent as any other member of the ZBA.
- (d) Meetings of the ZBA shall be held at the call of the chairperson and at other times as the ZBA may determine. All meetings of the ZBA shall be open to the public, except that the ZBA may hold closed meetings as permitted under state law.
- (e) The ZBA shall keep minutes of its proceedings, showing the vote of each member upon each question, or, if absent or failing to vote, indicating that fact, and shall keep records of its official actions, all of which shall be filed in the office of the ZBA and shall be public information.

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Section 1.1.54.2. Authority for Deciding Applications

- (a) The Zoning Board of Adjustment shall finally decide the following types of applications:
 - (1) An application for a special exception;
 - (2) An application for a change in the status of a non-conformity; and
 - (3) An application for a zoning variance.
- (b) The Zoning Board of Adjustment shall finally decide appeals on the following matters:
 - (1) An appeal of the Building Official's decision on a sign permit or an interpretation of the sign regulations;
 - (2) An appeal of a city official's interpretation of the requirements of this UDC, unless a separate appeals process is otherwise defined within this UDC.

Section 1.1.54.3. Rules Governing Proceedings

- (a) A super-majority (75%) concurring vote of the members of the ZBA is necessary to reverse an order, requirement, decision, or determination of any administrative official, or to decide in favor of the applicant on a matter upon which the ZBA is required to pass under this Unified

Development Code, or to authorize a variance or special exception from the terms of a provision of this Unified Development Code.

- (b) A quorum shall consist of a majority of the total members of the ZBA.
- (c) The authority delegated to the Zoning Board of Adjustment under this Unified Development Code shall not be construed to effect any of the following:
 - (1) Approval of a petition for a zoning map amendment;
 - (2) Approval of a Special Use Permit;
 - (3) Authorization of a use not authorized in the zoning district in which the applicant's property is located, except to the extent necessary to decide a special exception or a petition for a change in status of a non-conformity.
- (d) The Zoning Board of Adjustment shall not render any decision on an application, appeal, or relief petition while a petition for a zoning amendment, application for a Special Use Permit, or plat application for the same land is pending and until such petition or application has been finally decided pursuant to procedures in this Chapter 1.
- ~~(e) Appeals shall be processed and decided in the manner provided in Article 3, division 1 of this Chapter 1.~~

~~(e)~~

~~(f) Any public hearing shall be preceded by published, personal and posted notice in the manner provided in Article 2, Division 2 of this Chapter 1. Public hearings shall be conducted in the manner provided in Article 2, Division 3 of this Chapter 1.~~

~~(g) Appeals of any decision of the ZBA may be taken to a state district court, county court, or county court-at-law by filing a verified petition stating that the decision of the ZBA is illegal - within ten (10) days after the date the decision is filed with the City Secretary.~~

Division 5 – Building Code Board of Adjustment (BCBA)

Section 1.1.5.1. – Structure of the Board

- ~~(a) The members of the Building Code Board of Adjustment are appointed by the Mayor and ratified by the City Council and serve without compensation. In making appointments to the Building Code Board of Adjustment, the Council shall seek to ensure broad representation and expertise among the membership.~~

~~(f)(a) Any public hearing shall be preceded by published, personal and posted notice in the manner provided in Article 2, Division 2 of this Chapter 1. Public hearings shall be conducted in the manner provided in Article 2, Division 3 of this Chapter 1.~~

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~~Appeals of any decision of the ZDA may be taken to a state district court, county court, or county court at law by filing a verified petition stating that the decision of the ZDA is illegal within ten (10) days after the date the decision is filed with the City Secretary.~~

~~Division 6 — Building Code Board of Adjustment (BCBA)~~

Section 1.1.6.1. — Structure of the Board

- ~~(a) The members of the Building Code Board of Adjustment are appointed by the Mayor and ratified by the City Council and serve without compensation. In making appointments to the Building Code Board of Adjustment, the Council shall seek to ensure broad representation and expertise among the membership.~~
- (b) All members of the Building Code Board of Adjustment shall reside within the City limits.
- (c) The Building Code Board of Adjustment shall establish bylaws to govern rules of procedure and the election of officers. These rules must be consistent with this chapter and state law. Officers of the BCBA shall include a chairperson and a chairperson pro-tem and other officers as may be deemed necessary by the BCBA. In the absence of both the chairperson and the chairperson pro-tem, a member of the BCBA may be a temporary chairperson, as voted by the attending BCBA members, any of whom may administer oaths and compel the attendance of witnesses. The chairperson may vote to the same extent as any other member of the BCBA.
- (d) Meetings of the BCBA shall be held at the call of the chairperson and at other times as the BCBA may determine. All meetings of the BCBA shall be open to the public, except that the BCBA may hold closed meetings as permitted under state law.
- (e) The BCBA shall keep minutes of its proceedings, showing the vote of each member upon each question, or, if absent or failing to vote, indicating that fact, and shall keep records of its official actions, all of which shall be filed in the office of the BCBA and shall be public information.

Section 1.1.6.2. Authority for Deciding Applications

- (a) The Building Code Board of Adjustment shall finally decide the following types of applications:
 - (1) An application for a special exception to any building code adopted by the City of Iowa Colony;
 - (2) An application for a change in the status of an existing non-conformity to any building code adopted by the City of Iowa Colony; and
 - (3) An application for a building code variance.
- (b) The Building Code Board of Adjustment shall finally decide appeals on the following matters:
 - (1) An appeal of the Building Official's decision on a building permit or an interpretation of the building code regulations;

Section 1.1.65.3. Rules Governing Proceedings

- (a) A super-majority (75%) concurring vote of the members of the BCBA is necessary to reverse an order, requirement, decision, or determination of any administrative official, or to decide in favor of the applicant on a matter upon which the BCBA is required to pass under this Unified Development Code, or to authorize a variance or special exception from the terms of a provision of any building code adopted by the City of Iowa Colony.
- (b) A quorum shall consist of a majority of the total members of the BCBA.
 - (1) The authority delegated to the Building Code Board of Adjustment under this Unified Development Code, or any other ordinance or regulation shall not be construed to affect any other rule, regulation, or interpretation for or within any code, manual, or ordinance except those rules, regulations, or interpretations for or within an adopted building code of the City of Iowa Colony.
- (c) The Building Code Board of Adjustment shall not render any decision on an application, appeal, or relief petition while a petition for a zoning amendment, application for a Special Use Permit, or plat application for the same land is pending and until such petition or application has been finally decided pursuant to procedures in this Chapter 1.
- (d) Appeals shall be processed and decided in the manner provided in Article 3, division 1 of this Chapter 1.
- (e) A public hearing shall be held at a Building Code Board of Adjustment meeting with the only posted notice as required for public meetings by state law and conducted in the manner provided in Article 2, Division 3 of this Chapter 1.
- (f) Appeals of any decision of the BCBA may be taken to a state district court, county court, or county court-at-law by filing a verified petition stating that the decision of the BCBA is illegal ~~within ten (10) days after the date the decision is filed with the City Secretary.~~

Division 46 – City Council

Section 1.1.46.1. Authority for Amendments to the Unified Development Code (UDC)

- (a) The City Council may from time to time amend, supplement or change by ordinance the text of this Unified Development Code on its own initiative or upon petition for a text amendment.

Section 1.1.46.2. Authority for Deciding Legislative Applications

- (a) The City Council shall finally decide all types of legislative applications authorized under this Unified Development Code.

Section 1.1.46.3. Authority for Deciding Appeals and Relief Petitions

(a) The City Council shall finally decide appeals on the following development applications and relief petitions:

(1) A vested rights petition filed in conjunction with an application for which the City Council is the final decision-maker; and

(2) A parkland dedication fee appeal that has been forwarded by the City Engineer.

(b) The City Council shall finally decide the following petitions for relief:

(1) Petition for relief from a dedication or construction requirement.

(f) —

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Article 2 – Universal Procedures

Division 1 – Application Processing

Section 1.2.1.1. Initiation of Application

(a) Unless otherwise expressly provided by this Unified Development Code, a petition for legislative action affecting land, other than a petition for a text amendment or a zoning amendment, or an application for a permit, may be initiated only by a City official or body, the owner of an interest in the land subject to the application, or the owner's designated agent. If the applicant is a designated agent, the application shall include a written statement from the property owner authorizing the agent to file the application on the owner's behalf. The responsible official may establish the type of documents needed to determine ownership or agency.

Section 1.2.1.2. Complete Application

(a) Every petition for a legislative action or application for a permit or approval (referred to in this section as an "application") authorized by this Unified Development Code shall be subject to a determination of completeness by the official responsible for processing the application.

(1) No application shall be accepted by the responsible official for processing unless it is accompanied by all documents required by and prepared in accordance with the requirements of this Unified Development Code.

(2) The incompleteness of the application shall be grounds for denial or revocation of the application.

(3) A determination of completeness shall not constitute a determination of compliance with the substantive requirements of this Code. A determination of completeness shall be made by the responsible official in writing to the applicant no later than the tenth (10th) business day after the official filing date that the application is submitted to the responsible official. The determination shall specify the documents or other information needed to complete the application and shall state the date the application will expire if the documents or other information is not provided. An application shall be deemed complete on the eleventh 11th business day after the application has been received if the applicant has not otherwise been notified that the application is incomplete.

- a. The application shall expire on the forty-fifth (45th) day after the date the application is filed ~~if the~~ ~~if:~~ The applicant fails to provide documents or other information necessary to comply with the City's requirements relating to the permit application;
- b. The City provides to the applicant, not later than the tenth (10th) business day after the date the application is filed, written notice that specifies the necessary documents or other information, and the date the application will expire if the documents or other information is not provided; and
- c. The applicant fails to provide the specified documents or other information within the time provided in the notice.

(4) If the application is not completed on the 45th day after the application is submitted to the responsible official, the application will be deemed to have expired, and it will be returned to the applicant together with any accompanying applications.

(4)

Section 1.2.1.3. Waiver

- (a) Notwithstanding the requirements of Section 1.2.1.2, the responsible official may initially waive the submission of any information in the application and accompanying materials that is not necessarily due to the scope and nature of the proposed activity. The decision maker may withdraw a waiver of application requirements if the decision maker determines that meeting the previously waived requirements is necessary to determining compliance with applicable standards of approval.

Section 1.2.1.4. Official Filing Date

- (a) The time period established by state law or this Unified Development Code for processing or deciding an application shall commence on the official filing date. The official filing date is the date the applicant delivers the complete application or plan to the City or deposits the application or plan with the United States Postal Service by certified mail addressed to the City.

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Section 1.2.1.5. ~~Conference~~ Post-Submission Conference

- (a) An applicant is encouraged to request a post-submission conference with the responsible official after submittal of an application to determine whether the application is complete. The purposes of the post-submission conference are to ascertain the nature of the proposed development; to identify the procedures and standards that apply to the application; to discuss any project modifications recommended by the responsible official; to identify any requests for relief to be sought by the applicant; to determine whether any waiver of application requirements should be granted; and to outline the schedule for acting on the application.
- (1) A post-submission conference is optional and shall not be required as a standard of approval of the application.
 - (2) An applicant is encouraged to contact and meet with neighborhood organizations and neighborhood property owners for the area in which the applicant's proposed development is located. An applicant may request, in connection with a post-submission conference, contact information for neighborhood organizations known by the City. Contact with these organizations is optional and shall not be required as a standard of approval of the application.

Section 1.2.1.6. Universal Development Application Contents

- (a) The City is hereby authorized to prepare application forms that include information requirements, checklists, drawing sizes, applicant contact information, and any other relevant information.
- (b) All development applications or petitions for a legislative decision shall contain the following information:
- (1) Identification of property owner and authorized agent;
 - (2) Description of the property and the nature of the development that is the subject of the application;
 - (3) Identification of all zoning classifications (inside the City only) or Plan of Development for the property;
 - (4) Identification of all pending legislative applications for the property;
 - (5) Identification of decisions on all quasi-judicial or administrative applications for the property that remain in effect;
 - (6) Identification of all accompanying applications;
 - (7) Identification of all pending or accompanying requests for relief;
 - (8) Demonstration of compliance with approved priority permits;
 - ~~(9)~~ Proposed waiver, if any, of the time for decision on the application; and
 - (9)

~~(10)~~(10) Any other information concerning such application and requested by the City or the responsible official.

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Section 1.2.1.7. Application Fees

- (a) Every petition for a legislative action or application for a permit or approval shall be accompanied by the prescribed fees set forth in the fee schedule prepared and adopted by the City. The prescribed fee shall not be refundable, except when the City Council in its discretion waives the application fee for resubmission of an approval that was denied. The fee schedule may be amended from time to time by resolution of the City Council.

Section 1.2.1.8. Modification of Applications

- (a) The applicant may modify any application following its filing and prior to the expiration of the period during which the City is required to act on the application. If the modification is under revisions requested by the City, and the modification is received at least five (5) working days prior to the time scheduled for decision on the application, the application

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shall be decided within the period for decision prescribed by this Unified Development Code. In all other instances (e.g., when the applicant chooses to submit a revised application on his own accord because of a change in development decisions), submittal of a modified application shall extend the time for deciding the application for a period equal to the time specified in this Unified Development Code to decide the original application, commencing on the date the modified application is received, unless a waiver of the time for decision is first required, in which case the terms of the approved waiver shall govern the period within which the City must act on the application.

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Section 1.2.1.9. Action by Responsible Official

- (a) Following the determination that an application is complete; the responsible official shall circulate the application to all other administrative officials whose review is required for a decision on the application and compile the comments and recommendations of the officials. The responsible official shall render a decision in the time prescribed if the official is the decision-maker for the application. In all other cases, the responsible official shall forward the application for review to any advisory body and the final decision-maker, and prepare a report to such board or commission, or to the City Council including the compilation of any comments and recommendations by other administrative officials. The responsible official also shall prepare required notices and schedule the application for decision within the time and in the manner required by this Unified Development Code.

Section 1.2.1.10. Exemption Determination

- (a) For any application for a development permit for which exemptions are listed, an exemption from the requirement to apply for such permit shall be determined in the following manner:
- (1) The application for exemption must be filed on a form supplied by the responsible official, must be accompanied by the review fee set by the City Council, and must include all the following information:
 - a. Name, address, and telephone number of the property owner and the applicant.
 - b. A brief description of the activity or development for which exemption is sought;
 - c. A scale drawing depicting the boundaries of the site, the location of existing improvements on the site, and the location of the proposed development activities on the site.
 - d. Information establishing the basis for the exemption.
 - (2) The responsible official shall notify the applicant of the decision. If the responsible official denies the application for exemption, the official shall require that an application for the development permit be prepared in accordance with this Code.

- (b) An exemption is a separate and distinct consideration that is differentiated from a special exception and/or a variance.
- (c) Other sections within this UDC contain exemptions.

Section 1.2.1.11. Action by Advisory Body

- (a) In the absence of a recommendation from an advisory body by a majority vote on a proposed application, the advisory body shall be presumed conclusively to have recommended that the application be considered by the City Council with a recommendation for denial from the advisory body.

Section 1.2.1.12. Decision-maker

- (a) The decision-maker for the application shall approve, approve with conditions, or deny the application within the time prescribed by this Unified Development Code. Unless otherwise prescribed by law, where the decision-maker is a board, commission or the Council, the application shall be decided by majority vote of a quorum of the members of the board, commission, or the Council, provided that a super-majority vote or other decision rule on the application has not been invoked in accordance with the provisions of law or this Code.

Section 1.2.1.13. Conditions to the Approval

- (a) The initial or final decision-maker may attach such conditions to the approval of an application as are reasonably necessary to assure compliance with applicable requirements of this Unified Development Code.

Division 2 – Notice Requirements

Section 1.2.2.1. Initiation of Application

- (a) Unless otherwise expressly provided by this Unified Development Code, a petition for legislative action affecting land, other than a petition for a text amendment or a zoning amendment, or an application for a permit, may be initiated only by a City official or body, by the owner of an interest in the land subject to the application, or the owner's designated agent. If the applicant is a designated agent, the application shall include a written statement from the property owner authorizing the agent to file the application on the owner's behalf. The responsible official may establish the type of documents needed to determine ownership or agency.

Section 1.2.2.2. Published Notice

- (a) Whenever notice of a public hearing before a board or commission or the City Council is required to be published in a newspaper under state law or other City ordinances, the responsible official shall cause notice to be published in a newspaper of general circulation in the City before the 15th day before the date set for the required hearing. The notice shall set forth the date, time, place, and general purpose of the hearing, and, where the decision concerns an individual tract or parcel of land, an identification of the subject property.

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Section 1.2.2.3. Personal Notice

- (a) Whenever personal notice of a public hearing before a board or commission or the City Council is required by state law, the responsible official shall cause notice to be sent by regular mail before the 10th day before the hearing date to 1) each owner of real property located within 200 feet of the exterior boundary of the property in question, 2) the applicant and/or property owner, and 3) if the matter to be considered is an appeal, to the appellant. The notice shall set forth the name of the applicant, the time, place and purpose of the hearing, identification of the subject property, and if the matter to be considered is an appeal, the name of the appellant.
- (1) Ownership for purposes of notice under this ordinance shall be as indicated on the most recently approved municipal tax roll for land inside the City limits, and on the most recently approved county tax roll for land in the extraterritorial jurisdiction. For recently annexed land that is not included on the most recently approved municipal or county tax roll, notice may be given by publication.
 - (2) Notice may be served by depositing the notice in the United States Mail, properly addressed, postage prepaid, by first class or certified mail as chosen by the City.

Section 1.2.2.4. Posting Notice on Property

- (a) Any person, firm or corporation requesting a zoning change, a special use permit (SUP), or a zoning variance to be reviewed by the ZBA or Planning and Zoning Commission shall be required to erect and maintain a sign(s), to be inspected by the City, upon the property for which a variance or zoning change, SUP, or a zoning variance has been requested. Such sign(s) shall be located as follows:
- (1) One (1) sign per public street frontage shall be located within thirty feet (30') of the abutting street, or as determined by the Building Official or a designee.
 - (2) To be clearly visible and readable from the public right-of-way and not obstructed in any manner.
 - (3) So as not to create a hazard to traffic on the public rights-of-way abutting the property.

(4) In the case of a variance request, on the subject property at least ten (10) days prior to the hearing of such variance request by the Zoning Board of Adjustment, and to remain continuously on said property until final action by the Board or withdrawal of the case by the applicant. Removal of the sign by the applicant prior to a decision by the Zoning Board of Adjustment shall constitute a withdrawal of the request.

(5) In the case of a zoning change request or a request for a SUP, on the subject property at least ten (10) days prior to the hearing of such request by the Planning and Zoning Commission or City Council, and to remain continuously on said property until final action by the City Council or withdrawal of the case by the applicant.

(6) Removal of the sign by the applicant prior to a recommendation by the Planning and Zoning Commission and/or a final decision by the City Council or ZBA shall constitute a withdrawal of the request.

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(b) The signs shall be of a size, type, and message content as determined by the City, but shall advise that a variance, SUP, or zoning change has been requested and shall list the telephone number of the City Secretary for more information. The City is hereby authorized to establish size, type and message requirements for such signs and to distribute such requirements to applicants.

(c) Upon making an application for a variance, SUP, or zoning change, the applicant shall place sign(s) as required by this section. The City may inspect such sign(s) to ensure compliance as required by this section.

(d) In the case of a zoning variance request, after the variance request is approved by the Zoning Board of Adjustment, denied by the Zoning Board of Adjustment, or withdrawn by the applicant, the applicant shall remove the sign from the area of the request within ten (10) days of such event.

(e) In the case of a zoning change request or a request for a SUP, after the request is approved by the City Council, denied by the City Council, or withdrawn by the applicant, the applicant shall remove the sign from the area of the request within ten (10) days of such event.

(f) It shall be unlawful for anyone to remove, destroy, deface, or obstruct the view of a sign which gives notice that a variance, SUP, or zoning change has been requested.

(g) In the event the applicant shall fail to erect and/or maintain signs in accordance with this section, then the public hearing before the appropriate body shall be postponed to a date in the future which would allow time for compliance.

(h) The erection of any sign required by this section shall not require a sign permit.

(i) The owner or applicant shall promptly notify the Building Official of any sign required by this section which becomes lost, stolen or vandalized. In the case of a zoning variance request, the Zoning Board of Adjustment shall have the power to decide whether there has been substantial compliance with the posting requirements in the case of lost, stolen, or vandalized signs. In the case of a zoning change request or a request for a SUP, the City Council shall have the power to decide whether there has been substantial compliance with the posting requirements in the case of lost, stolen or vandalized signs.

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(i) ~~The owner or applicant shall promptly notify the Building Official of any sign required by this section which becomes lost, stolen or vandalized. In the case of a zoning variance request, the Zoning Board of Adjustment shall have the power to decide whether there has been substantial compliance with the posting requirements in the case of lost, stolen, or vandalized signs. In the case of a zoning change request or a request for a SUP, the City Council shall have the power to decide whether there has been substantial compliance with the posting requirements in the case of lost, stolen or vandalized signs.~~

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Section 1.2.2.5. Notification Following Decision

- (a) Within ten (10) working days of the date of a responsible official, board, commission, or City Council determination on an application, written notification of the action shall be mailed to the applicant, stating the action taken. Record of this notification shall be filed with the secretary of the board or commission or City Council on the date of notification.

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Section 1.2.2.6. Notification of Appeal or Revocation

- (a) Whenever appeal is taken from a final decision on an application following a public hearing, or whenever the City is to consider revocation of a permit which was obtained following a public hearing, personal notice of the appeal or revocation proceeding shall be provided in the manner prescribed by Section 1.2.2.3. If no public hearing was held prior to approval of the application, personal notice of revocation shall be given only to the holder of the permit.

Division 3 – Public Hearings

Section 1.2.3.1. Setting of the Hearing

- (a) When the responsible official determines that an application is complete and that a public hearing is required by this Unified Development Code, the official shall consult with the secretary of the body required to conduct the hearing and shall select a place and a time certain for the hearing and shall cause notice of such hearing to be prepared and made under Section 1.2.2.1. The time set for the hearing shall conform to the time periods required by this Code.

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Section 1.2.3.2. Conduct of Hearing

- (a) Any person may appear at the public hearing and submit evidence, either individually or as a representative of an organization. Each person who appears at a public hearing shall state his or her name, address, and if appearing on behalf of an organization, state the name and mailing address of the organization for the record.
- (b) The public hearing shall be conducted in accordance with State law.

Section 1.2.3.3. Record of Proceedings

- (a) The body conducting the hearing shall record the proceedings by any appropriate means.

Section 1.2.3.4. Continuance of Proceedings

- (a) The body conducting the hearing may, on its own motion or at the request of any person, for good cause, continue the hearing to a fixed date, time and place. No notice shall be required if a hearing is continued. If a public hearing is closed, no further public testimony shall be taken

Section 1.2.3.5. Additional Rules

- (a) The body conducting the hearing may adopt rules of procedure to limit the number of applications for development approval which may be considered per meeting and the time for each presentation and may apply such additional rules to govern the public hearing which are not inconsistent with this section.

Section 1.2.3.6. Joint Public Hearing

- (a) The City Council may convene a joint public hearing with the Planning and Zoning Commission in the manner prescribed in Chapter 211.007(d) of the Texas Local Government Code.

Division 4 – Post-Decision Procedures

Section 1.2.4.1. Re-Application Following Denial

- (a) A request which has been denied by the responsible official, the Planning and Zoning Commission, and/or the City Council may be resubmitted at any time for reconsideration by the city (a new filing fee must accompany the request). The responsible official, the Planning and Zoning Commission, and/or the City Council may deny any request with prejudice. If a request has been denied with prejudice, the request may not be resubmitted to the City for one (1) year from the original date of denial.

Section 1.2.4.2. Amendments and Revisions to Approval

- (a) Unless another method is expressly provided by this Unified Development Code, any request to amend or revise an approved application shall be considered a new application, which must be decided in accordance with the procedures governing the original application and the standards in effect at the time such new application is filed with the City.

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Division 5 – Expiration, Extension, & Reinstatement

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Section 1.2.5.1. Time of Expiration

- (a) Unless otherwise expressly provided by this Unified Development Code, a complete, officially filed application shall automatically expire and become null and void, and all activities under the permit thereafter shall be deemed in violation of this Code, if (1) the applicant fails to satisfy any condition that was imposed as part of the approval of the development application or that was made under the terms of any development agreement, within the time limits established for satisfaction of such condition or term, or (2) the applicant fails to submit a subsequent application required by this Unified Development Code within the time so required. If no time limit for satisfaction of conditions is specified in the decision on the application, the time shall be presumed to be two (2) years from the date the complete application was officially filed, except as provided in Section 1.2.5.8.

Section 1.2.5.2. Effect of Expiration

- (a) Upon the expiration of a complete, officially filed application, all previously approved applications for the same land also shall expire on the expiration date if the filing of an application for the expired permit was required to avoid expiration for the previously approved permit or permits, except as provided in Section 1.2.5.8. Thereafter, a new application for each permit deemed expired under this section must be approved subject to regulations in effect at the time the new application is accepted for filing.

Section 1.2.5.3. Extension Procedures - Initial Request

- (a) Unless a different time is expressly provided for a specific procedure by this Unified Development Code, the responsible official or the board, commission or the City Council that finally approves an application may grant an initial extension of the time for expiration of the application for a period not to exceed one (1) year from the date of the expiration of the application, provided that a request for extension is made in writing at least thirty (30) days before the approved application expires. Every request for extension shall include a statement of the reasons why the expiration date should be extended. The decision-maker may grant a request for an initial extension upon demonstration that circumstances beyond the control of the permit holder have resulted in the permit holder's inability to perform the tasks necessary to prevent the permit from expiring before the expiration date.

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Section 1.2.5.4. Extension Procedures - Subsequent Extension

- (a) A permit-holder may apply for an extension of the expiration date for an application for a period not to exceed two (2) years from the date of the expiration of an officially filed, complete application. A second (2nd) extension of the expiration date of an officially filed, complete application may be granted for a period not to exceed one (1) additional year. The extension application must be in writing. Such an extension may be granted only by the City Council. In determining whether to grant a request, the Council shall consider the reasons for the requested extension, the ability of the applicant to comply with any conditions attached to the original approval, whether extension is likely to result in timely completion of the project, and the extent to which any newly adopted regulations should be applied to the proposed development.

Section 1.2.5.5. Conditions

- (a) In granting an extension, the official or body deciding the request may impose such conditions as are needed to assure that the land will be developed in a timely fashion and that the public interest is served. In granting a subsequent extension request, the City Council may require that one or more newly adopted development standards be applied to the proposed development.

Section 1.2.5.6. Reinstatement

- (a) Unless otherwise provided by this Unified Development Code, an applicant may request reinstatement of an expired application by filing a written request with the responsible official within thirty (30) days of the date of expiration. The request for reinstatement shall include a statement of the reasons why the application should be reinstated and extended. A request for reinstatement shall be processed and decided in the manner provided for an extension of an expiration period for more than one (1) year. The expiration date shall not be extended for more than two (2) years from the date a complete application was officially filed.

Section 1.2.5.7. Effect of Decision on Extension or Reinstatement

- (a) The granting of an extension or reinstatement request for a permit also extends or reinstates any other permits otherwise deemed expired under Section 1.2.5.2. The denial of an extension or reinstatement results in the immediate lapse of the permit and any other permits deemed expired under Section 1.2.5.2. Thereafter, the permit holder shall file a new application for a permit or permits before undertaking any activity authorized by the lapsed permit.

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Section 1.2.5.8. Expiration for Projects Commenced ~~On~~ or After Effective Date of Ordinance

~~(a)~~ Notwithstanding any other provision of this Unified Development Code, for any permit authorized by this Code for which an expiration date is established and which is submitted for filing after the effective date of this ordinance, the expiration date shall be two (2) years following the date of approval of the permit, unless the holder of the

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(a) permit files a petition before such date for a vested rights alleging that progress has been made toward completion of the project for which the application subject to expiration was filed. If a vested rights petition is timely filed, the City Council shall determine the expiration date of the permit in deciding the petition.

(b) Notwithstanding any other provision of this Unified Development Code, for any permit authorized by this Code which is submitted for filing after the effective date of this ordinance and which has expired under subsection (a), all previously approved applications for the same land also shall expire no later than five years from the date of filing of the first application for the project for which the expired application was filed, if the filing of an application for or approval of the expired permit was required to avoid expiration for the previously approved permit or permits, unless the holder of such permits files a petition before such date for a vested rights determination alleging that progress has been made toward completion of the project for which the applications subject to expiration were filed. If a vested rights petition is timely filed, the City Council shall determine the expiration date of the previously approved permits in deciding the petition.

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Division 6 – Enforcement & Revocation of Permits

Section 1.2.6.1. Enforcement Activities

- (a) Enforcement activities include informal contacts with individuals to advise them of requirements, the issuance of verbal warnings, written warnings, and municipal court citations, formal court action, billing and collection, and any other action to enforce this ordinance. Employees of the Fire Marshal's office and Building Inspections are authorized to issue municipal court citations for violations of this article.

Section 1.2.6.2. Right to Enter

- (a) The authorized official shall have the right to enter upon any premises at any reasonable time for the purpose of making inspections of buildings or premises that may be necessary to carry out the duties in the enforcement of this Unified Development Code. Submittal of any application for a permit that authorizes construction of structures or improvements shall be construed as a grant of authority to the responsible official to enter on land subject to the application for purposes of enforcing the approved permit.

Section 1.2.6.3. General Remedies

- (a) If any building or structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained or any building, structure, or land is used or developed in violation

of this Unified Development Code or any development application approved hereunder, in addition to other remedies, the City may institute any appropriate action or proceedings to prevent, enjoin, or abate such activity. Appropriate action or proceedings may include termination of utility services (water, gas, electric) by providers; revocation of permits, licenses, or bonds; and institution of legal action in a court of competent jurisdiction.

Section 1.2.6.4. Stop Work Orders

- (a) Whenever any construction or development activity is being done contrary to any term, condition, or requirements of an approved application or this Unified Development Code, the authorized official may order the work stopped by notice in writing, served on the property owner or authorized agent. Notice shall be given before the order shall be effective, except when the order should be effective immediately to protect and preserve the public health, safety, or general welfare. Any person thereafter shall cease and desist from further development or construction material to the alleged noncompliance, until corrected by compliance and authorized by the responsible official to proceed with the work. This prohibition shall extend throughout any appeal period.
- (b) The owner or authorized agent may appeal the stop work order to the authorized official by giving written notice. The authorized official shall hear the appeal within five (5) working days of receiving the notice.
- (c) The appellant may appeal a negative ruling by the authorized official in writing to the City Manager, who shall hear the appeal within five (5) working days after receipt of the notice of appeal.
- (d) The decision-maker on the appeal may require the placement of temporary erosion control, drainage protection or other measures by the owner or appellant to protect the site and the community resources during the appeal period.
- (e) The authorized official or the City Council shall decide the appeal and make such order as is necessary to assure compliance with the terms of this Unified Development Code and all approved development applications.

Section 1.2.6.5. Municipal Court Actions

- (a) The City Attorney is authorized to prosecute violations of this Unified Development Code in the municipal court where jurisdiction lies for the action.
- (b) In prosecutions for violations of this Unified Development Code, it shall not be necessary to allege or prove a culpable mental state, as said requirement is hereby waived.

Section 1.2.6.6. Civil Court Actions

~~(a)~~ (a) With the approval of the City Council, the City Attorney or any attorney chosen by the City is authorized to file and prosecute a civil action at law or in equity, in any court of competent jurisdiction to enforce the provisions of this Unified Development Code.

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Section 1.2.6.7. Cumulative Remedies. No Election of Remedies

- (a) All rights and remedies of the City, and all liabilities and obligations of any other person, under any provisions of this ordinance and any other source shall be cumulative of each other.
- (b) Pursuit or receipt by the City of any enforcement action or remedy shall not impair the right of the City to pursue or receive any other enforcement action or remedy of any nature. The doctrine of election of remedies shall not apply against the City.

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Section 1.2.6.8. Fines and Penalties

- (a) A person who violates any provision of this Unified Development Code pertaining to fire safety, zoning or public health and sanitation, including dumping of refuse, shall be punished, upon conviction, by a fine not to exceed \$2,000. A person who violates any other provision of this Unified Development Code shall be punished, upon conviction, by a fine not to exceed \$500. The owner or owners of any building or premises or part thereof, where anything in violation of this ordinance shall be placed or shall exist, any architect, builder, contractor, agent, persons, or corporation employed in connection therewith, and who may have assisted in the commission of any such violation, shall be guilty of a separate offense and upon conviction shall be fined as herein provided. This Subsection does not apply to enforcement of an ordinance in the City's extraterritorial jurisdiction.

Section 1.2.6.9. Separate Offenses

- (a) Each calendar day or portion of a calendar day that a violation continues or recurs shall be deemed a separate offense.

Section 1.2.6.10. Nonwaiver by Nonenforcement

- ~~—~~(a) The failure or omission of the City, upon one or more occasions, to enforce any right, obligation, or remedy hereunder shall never be construed as a waiver of the City's right to strictly enforce such right, obligation, or remedy, and the City may resume such strict enforcement without advance notice.

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Section 1.2.6.11. Nonwaiver of Immunity. Nonliability of the City.

- (a) Nothing herein or in any notice, order, or other document issued pursuant hereto shall ever be construed as a full or partial waiver of governmental immunity, official immunity, or any other immunity of the City.
- (b) To the fullest extent allowed by law, the City shall not be liable for any act, omission, or condition related in any way, directly or indirectly, wholly, or partly, to this ordinance.

Section 1.2.6.12. Revocation Proceedings

- (a) If an authorized official determines, based on inspection or investigation by the City, that there are reasonable grounds for revocation of an approved application, the official shall set a hearing before the board or commission to which appeal may be taken from such decision under this Unified Development Code. If the City Council was the original decision-maker, the Council may refer the proposed revocation to the Planning and Zoning Commission for its report and recommendation prior to such hearing. Circumstances that warrant revocation of an approved application shall include but not be limited to the following:
 - (1) A material mistake was made in approving the application;
 - (2) Approval of the application was procured based on material misrepresentations or fraud on the part of the applicant;
 - (3) Development activities being undertaken on the land subject to the permit are not in conformity with terms of the approved application; or
 - (4) The use authorized by the permit is in violation of a condition of approval of the approved application.
- (b) The applicant and any interested parties shall be given notice of the hearing in the manner provided in Chapter 1, Article 2, Division 2. The public hearing shall be conducted in accordance with the procedures described in Chapter 1, Article 2, Division 3.
- (c) In rendering its decision whether to revoke the approved application, the decision-maker shall determine whether the activity authorized under the original approved application complies with the terms, conditions, and requirements of such approval. The decision-maker may revoke the application, affirm it, or affirm it with attached conditions that assure that the terms, conditions and requirements of the application shall be met.
- (d) Following revocation and pending any appeal, it shall be unlawful to undertake or perform any activity that was previously authorized by the approved application without applying for and obtaining approval of a new application for the activity. Appeal from the decision to revoke the approved application shall be to the City Council, unless the decision to revoke was made by the Council, in which case revocation is final.

Section 1.2.6.13. Exemption

- (a) This division does not apply to building permits issued under separate ordinance or provision of the City Code.

Division 7 – Text Amendments

Section 1.2.7.1. Amendments to the Unified Development Code (UDC)

- (a) The City Council may from time to time amend, supplement, or change the text of this Unified Development Code.

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Section 1.2.7.2. Hearing and Notice

- (a) The City Council shall conduct a public hearing on a proposed text amendment in accordance with Chapter 1, Article 2, Division 3.
- (b) The hearing and notice requirements of this section do not apply to an action of the City Council imposing a moratorium on the acceptance, processing or issuance of development permits or petitions for legislative actions.

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Section 1.2.7.3. Recommendation of Advisory Body

- (a) Where required by this Unified Development Code or other law, the City Council shall first consider the recommendation of the Planning and Zoning Commission, together with the recommendations of any other advisory body prescribed by this Code, concerning the proposed text amendment. Where action is required of the Planning and Zoning Commission or other advisory body on a proposed text amendment, the advisory body also shall conduct a public hearing.

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Section 1.2.7.4 Initiation of Text Amendments

- (a) Unless otherwise limited by this Unified Development Code, a petition for amending the text of the Unified Development Code may be initiated by the City Council, the Planning and Zoning Commission, a board, commission or advisory body described in Chapter 1, Article 1, an ad hoc advisory body appointed by the Council, a responsible official designated in this Code, any citizen or owner of land within the City limits, or any citizen or owner of land within the City's extraterritorial jurisdiction (for a regulation that applies to the ETJ).
 - (1) Except for amendments initiated by the City Council, the petition to amend the text of this Unified Development Code shall state with particularity the nature of the amendment and the reason for the amendment.
 - (2) A petition for a text amendment may be submitted in conjunction with a development application, approval of which depends on approval of the amendment, but shall in every such instance be decided prior to any action by the City on the development application.
 - (3) The City Council may establish rules governing times for submission and consideration of text amendments.

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Article 3 – Relief Procedures

Division 1 – Appeals

Section 1.3.1.1. Purpose, Applicability and Effect

- (a) The purpose of an appeal is to contest an initial decision on an application based upon alleged misapplication of the criteria for approval of the application. An appeal shall not be used as a means of amending, varying, or otherwise modifying the standards of this Code that apply to the development application.
- (b) Unless otherwise provided by this Code, any final administrative decision on an application by a City official, including a determination by the responsible official that a proposed development is exempt from one or more applications, may be appealed to the board or commission designated in the regulations establishing the procedure by which the decision was made. For administrative decisions on applications appeal shall be to the Zoning Board of Adjustment. Final decisions on an application by a board or commission may be appealed to the City Council only if expressly provided for in the regulations establishing the procedure by which the decision was made.
- (c) The granting of an appeal supersedes the decision from which appeal was taken, and results in approval, conditional approval, or denial of the application for which approval was sought.

Section 1.3.1.2. Appeal Requirements

- (a) The applicant and any interested person may appeal a final decision on an application to the appellate body designated by this Code, if any.
- (b) The appeal shall contain a written statement of the reasons why the final decision is erroneous and shall be accompanied by the fee established by the City Council. An appeal by an applicant shall be accompanied by a copy of the application on which the initial decision was rendered. An appeal may include any other documents that support the position of the appellant.
- (c) A written appeal must be filed with the responsible official within ten (10) working days from the date of notification of the final decision on the application.

Section 1.3.1.3. Processing of Appeal and Decision

- (a) The responsible official for an appeal is the responsible official designated by this Code for processing of the application at issue in the appeal. Upon receipt of a written appeal, the responsible official shall compile all documents constituting the record of the decision on appeal and transmit the record to the appellate body.

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- (1) Receipt of a written appeal of a decision on an application stays all proceedings of the City in furtherance of the decision from which appeal is taken, including without limitation acceptance, processing or issuance of any applications that are dependent on the application being appealed, and any development activities authorized by initial approval of the application. The stay shall be lifted only if the responsible official certifies in writing to the appellate body that a stay would cause imminent peril to life or property.
 - (2) Thereafter, the stay may be reinstated only by order of the appellate body or a court of record, on application, after notice to the responsible official, for due cause shown.
- (b) Notification of the appeal and conduct of the public hearing thereon shall be in accordance with Article 2, divisions 2 and 3 of this Chapter 1. The initial public hearing on the appeal shall be held within twenty-five (25) working days after the filing of the appeal with the responsible official unless a different time is prescribed by the provisions of this chapter.
 - (c) The appellate body shall decide the appeal within thirty (30) working days of the close of the public hearing. The appellate body shall affirm, reverse, or modify the decision from which the appeal was taken.
 - (d) The appellant and the applicant for the development permit shall be notified of the decision on appeal in the manner provided in Article 2, Division 2 of this Chapter 1.

Section 1.3.1.4. Criteria

- (a) In deciding the appeal, the appellate body shall apply the same criteria that govern the initial decision on the application under the provisions of this Code.

Section 1.3.1.5. Expiration and Extension

- (a) For purposes of determining expiration or extension periods under this Code, the date of the appellate body's granting of relief on an appeal is the date on which the application is deemed approved.

Section 1.3.2.1. Purpose, Applicability and Effect

- (a) The purpose of a petition for relief from a dedication or construction requirement is to assure that the application of uniform dedication and construction standards to a proposed development does not result in a disproportionate burden on the property owner, taking into consideration the nature and extent of the demands created by the proposed development on the City's public facilities systems.
- (b) A petition for relief under this section may be filed by a property owner to contest any requirement to dedicate land or to construct public improvements for dedication to the public that is imposed under the City's public facilities standards in Chapter 3 of this Unified Development Code to an application or to any related application authorized under this Code, whether the requirement is under uniform standards, or attached as a condition to approval of the petition or permit. A petition under this section shall not be used to waive standards on grounds applicable to a petition for a waiver under Section 3.1.1.6 of this UDC.
- (c) If the relief requested under the petition is granted in whole or in part by the City Council, the dedication or construction requirement initially imposed shall be modified accordingly, and the standards applied, or the conditions attached to initial approval of the application shall be thereafter applied in accordance with the relief granted. In the event the original application was denied by the decision-maker based upon the property owner's failure to incorporate the dedication or construction requirement in the proposed permit, the application shall be remanded to the original decision-maker for a decision consistent with the relief granted by the Council.

Section 1.3.2.2. Petition Requirements

- (a) A petition for relief from a dedication or construction requirement may be filed by a property owner or the applicant for an application, in which the dedication or construction requirement has been applied or attached as a condition of approval, or as grounds for denying the application.
- (b) The petition for relief from a dedication or construction requirement shall allege that application of the standard or the imposition of conditions relating to the dedication or construction requirement is not roughly proportional to the nature and extent of the impacts created by the proposed development on the City's facilities system or does not reasonably benefit the proposed development.
 - (1) The petitioner shall provide a study in support of the petition for relief that includes information as required by the City Engineer including any other information that shows the alleged disproportionality between the impacts created by the proposed development and the dedication or construction requirement imposed by the City.
- (c) A petition for relief from a dedication or construction requirement shall be filed with the responsible official within ten (10) days of the decision to conditionally approve or deny an application for approval of an application that has been submitted. The study in support of the petition shall be filed within 30 days of the initial decision unless the petitioner seeks an extension in writing. The responsible official may extend the time for submitting the study for a period not to exceed an additional 30 days for good cause shown.

Section 1.3.2.3. Land in Extraterritorial Jurisdiction

- (a) Where land or facilities to be dedicated are located in the extraterritorial jurisdiction of the City and are to be dedicated to a county under an interlocal agreement under Tex. Loc. Gov't Code Chapter 242, or are located with a drainage district and are to be dedicated to the District, a petition for relief or study in support of the petition shall not be accepted as complete for filing by the responsible official unless the petition or study is accompanied by verification that a copy has been delivered to the county or drainage district in which the facilities are to be located.

Section 1.3.2.4. Processing of Petitions and Decision

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- (a) The City Engineer is the responsible official for a petition for relief from a dedication or construction requirement. Where the petition is for relief from dedication of rights-of-way for or construction of a facility in the City's extraterritorial jurisdiction that is to be dedicated to a county under an interlocal agreement under Texas Local Government Code, Chapter 242, or to a drainage district, the City Engineer shall coordinate a recommendation with the county or drainage district official responsible for reviewing plats in the county.
- (b) The City Engineer shall evaluate the petition and supporting study and shall make a recommendation to the City Council based upon the information contained in the study, any comments received from the county, and the City Engineer's analysis. In evaluating the petition and study, the City Engineer may utilize any reasonable methodology in evaluating the petitioner's study, including but not limited to impact methodologies.
- (c) The City Council shall decide the petition for relief from a dedication or construction requirement.
- (d) The City Council shall conduct a public hearing in accordance with Article 2, Division 3 of Chapter 1, within thirty (30) working days after the study supporting the petition is filed with the City Engineer.
- (e) The petitioner bears the burden of proof to demonstrate that the application of a dedication or construction requirement that is uniformly applied imposes a disproportionate burden on the petitioner.
- (f) The City Council shall consider the petition for relief from a dedication or construction requirement and, based upon the criteria set forth in Section 1.3.2.5, shall take one of the following actions:
 - (1) Deny the petition for relief, and impose the standard or condition in accordance with the initial decision; or
 - (2) Deny the petition for relief, upon finding that the proposed dedication or construction requirements are inadequate to offset the impacts of the development and either deny the application or require that additional dedications of rights-of-

way for or improvements to such systems be made as a condition of approval of the application; or

- (3) Grant the petition for relief, and waive in whole or in part any dedication or construction requirement to the extent necessary to achieve proportionality; or
- (4) Grant the petition for relief, and direct that the City participate in the costs of acquiring land for or constructing the capital improvement under standard participation policies.

- (g) The petitioner shall be notified of the decision on the petition for relief in the manner provided in Article 2, Division 2 of Chapter 1.

Section 1.3.2.5. Criteria for Approval

- (a) Criteria for Approval.

- (1) In deciding the petition for relief from a dedication or construction requirement, the City Council shall determine whether the application of the standard or condition requiring dedication of an interest in land for public improvements or construction of capital improvements is roughly proportional to the nature and extent of the impacts created by the proposed development and reasonably benefits the development.
- (2) In making such determination, the Council shall consider the evidence submitted by the petitioner, the City Engineer's report and recommendation and, where the property is located within the City's extraterritorial jurisdiction, or a drainage district, any recommendations from the county or district.

Section 1.3.2.6. Expiration and Extension

- (a) Where an application was denied based upon the imposition of the standard or condition requiring dedication of land or construction of a capital improvement, the petitioner shall resubmit the application to the original decision-maker within ninety (90) days of the date the petition for relief is granted, in whole or in part, showing conformity with the City Council's decision on the petition.
 - (1) If such re-submittal of the application is not made within the ninety-day (90-day) period, the relief granted by the City Council on the petition shall expire.
 - (2) The Council may extend the time for filing the application for good cause shown, but in any event, the expiration date for the relief granted shall not be extended beyond one year from the date the petition was granted.
 - (3) If the application is modified to increase the number of residential units or the intensity of non-residential uses, the responsible official may require a new study to validate the relief granted by the City Council.

- (4) If the development application for which relief was granted is denied on other grounds, a new petition for relief may be required.
- (b) Where approval of the application was conditioned on satisfaction of the dedication or construction requirement, the City Engineer may require the applicant to submit a modified application or supporting materials consistent with the relief granted by the City Council on the petition.
 - (1) The relief granted on the petition shall remain in effect for the period the plat or related approved application is in effect and shall expire upon expiration of the application.
 - (2) Extension of the plat also shall result in extension of the relief granted on the petition.

Division 3 – Vested Rights Petition

Section 1.3.3.1. Purpose, Applicability and Effect

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- (a) The purpose of a vested rights petition is to determine whether one or more standards of this Unified Development Code should not be applied to a development application by operation of state law, or whether certain permits are subject to expiration.
- (b) A vested rights petition may be filed for an application authorized under this Unified Development Code, filed in accordance with the Texas Local Government Code, Chapter 245 or successor statute. A vested rights petition may not be filed with a petition for a text amendment, a zoning map amendment, or any other request for a legislative decision by the City Council. A vested rights petition also may be filed prior to expiration of certain permits pursuant to Section 1.2.5.8.
- (c) Upon granting of a vested rights petition in whole or in part, the responsible official shall process the application and the decision-maker shall decide the application in accordance with the standards specified in the relief order based on prior ordinance requirements or development standards or extend the permit otherwise subject to application pursuant to Section 1.2.5.8.

Section 1.3.3.2. Petition Requirements

- (a) A vested rights petition may be filed by a property owner or the owner's authorized agents, including the applicant, with any development application identified in Section 1.3.2.1, or by the holder of a permit subject to expiration pursuant to Section 1.2.5.8.
- (b) The vested rights petition shall allege that the petitioner has a vested right for some or all the land subject to the development application under Texas Local Government Code, Chapter 245 or successor statute, or pursuant to Texas Local Government Code, Section 43.002 or successor statute, that requires the City to review and decide the application

under standards in effect prior to the effective date of the currently applicable standards. The petition shall include the following information and documents:

- (1) A narrative description of the grounds for the petition;
 - (2) A copy of each approved or pending application or permit (the "Vesting Permit") which is the basis for the contention that the City may not apply current standards to the application which is the subject of the petition;
 - (3) The date of submittal of the application for the Vesting Permit, or of a plan pursuant to which the Vesting Permit was subsequently filed, if the submittal date is different from the official filing date.
 - (4) The date the project for which the application for the Vesting Permit was submitted was commenced.
 - (5) Identification of all standards otherwise applicable to the application from which relief is sought;
 - (6) Identification of any current standards which petitioner agrees can be applied to the application at issue;
 - (7) A narrative description of how the application of current standards affect the application for which the petition is filed; and
 - (8) A copy of any prior vested rights determination involving the same land.
 - (9) Where the petitioner alleges that a permit subject to expiration under Section 1.2.5.8 should not be terminated, a description of the events constituting progress toward completion of the project for which the permit subject to expiration was approved.
- (c) A vested rights petition shall be filed with an application for which a vested right is claimed, except that the petition may be filed before the date of expiration of any permit when filed pursuant to Section 1.2.5.8. Where more than one application is authorized to be filed by this Unified Development Code, the petition may be filed simultaneously for each application.

Section 1.3.3.3. Processing of Petitions and Decision

- (a) The responsible official for a vested rights petition is the responsible official for processing the application with which the petition is associated, except where a petition is submitted pursuant to Section 1.2.5.8. Where multiple applications are submitted, and there is more than one responsible official, the decision of each responsible official shall be coordinated with that of any other responsible official on the vested rights petition. The responsible official shall promptly forward a copy of the vested rights petition to the City Attorney following acceptance.
- (b) If the responsible official is the decision-maker on the application, the official shall determine whether the relief requested in the vested rights petition should be granted in whole or in part, and shall formulate a written report summarizing the official's reasoning and setting forth the decision on the petition, which shall be delivered to the applicant

within ten (10) business days from the date the vested rights petition is accepted for filing, unless the tenth business day falls on a weekend or a City holiday, in which case the deadline shall be the next business day following said weekend or holiday.

- (c) If the application is to be decided by the Planning and Zoning Commission or another board or commission, the Building Official shall submit a report in the form of a recommendation to the decision-maker. The commission or board shall render a decision on the vested rights petition in conjunction with its decision on the application.
- (d) Where the City Council is the final decision-maker on the application, or for any petition submitted pursuant to Section 1.2.5.8, the petitioner may submit a written request that the vested rights petition be immediately forwarded to the Council for a determination. The request must be accompanied by a waiver of the time for decision on the application imposed under this Unified Development Code pending decision by the Council on the petition, which shall stay further proceedings on the application. Upon receipt of the request, the responsible official shall prepare a recommendation and forward the matter to the Council for decision, which shall decide the petition within thirty (30) calendar days of the petitioner's request. If no written request for Council referral is filed, the Council shall decide the vested rights petition with its decision on the application.
- (e) The petitioner or any interested person may appeal the responsible official's or the commission's or board's decision on the vested rights petition within ten (10) working days of the date of such decision to the City Council in accordance with the procedures in Division 1 of this Article 3. An appeal under this Subsection stays acceptance of filing of any related applications. The Council shall decide the petition within thirty (30) days of receipt of the notice of appeal.

Section 1.3.3.4. Action on Petition and Order

- (a) The decision-maker on the vested rights petition may take any of the following actions:
 - (1) Deny the relief requested in the petition, and direct that the application shall be reviewed and decided under currently applicable standards;
 - (2) Grant the relief requested in the petition, and direct that the application shall be reviewed and decided in accordance with the standards contained in identified prior regulations; or
 - (3) Grant the relief requested in part, and direct that certain identified current standards shall be applied to the application, while standards contained in identified prior regulations also shall be applied; or
 - (4) For petitions filed pursuant to Section 1.2.5.8, specify the expiration date or the conditions of expiration for the permit(s).
- (b) The responsible official's report and each decision on the vested rights petition shall be memorialized in an order identifying the following:
 - (1) The nature of the relief granted, if any;
 - (2) The approved or filed application(s) upon which relief is premised under the petition;

- (3) Current standards which shall apply to the application for which relief is sought;
- (4) Prior standards which shall apply to the application for which relief is sought, including any procedural standards;
- (5) The statutory exception or other grounds upon which relief is denied in whole or in part on the petition;
- (6) To the extent feasible, subordinate applications that are subject to the same relief granted on the petition; and
- (7) For petitions filed pursuant to Section 1.2.5.8, the date of expiration of the permit or permits.

Section 1.3.3.5. Criteria for Approval

- (a) The decision-maker shall decide the vested rights petition based upon the following factors:
 - (1) The nature and extent of prior applications filed for the land subject to the petition;
 - (2) Whether any prior vested rights determinations have been made with respect to the property subject to the petition;
 - (3) Whether any prior approved applications for the property have expired or have been terminated in accordance with law;
 - (4) Whether current standards adopted after commencement of the project-affect proposed use of the land based upon the proposed application;
 - (5) Whether any statutory exception applies to the standards in the current Unified Development Code from which the applicant seeks relief;
 - (6) Whether any prior approved applications relied upon by the petitioner have expired;
 - (7) For petitions filed pursuant to Section 1.2.5.8, whether any of the events in Section 1.3.3.8(c) have occurred; and
 - (8) Any other provisions outlined in the Texas Local Government Code Chapter 245 or successor statute.
- (b) If the claim of vested rights under a petition is based upon a pending application subject to standards that have been superseded by current standards under this Unified Development Code, the decision-maker may condition any relief granted on the petition on the approval of the application under such prior standards.

Section 1.3.3.6. Application Following Final Decision on Petition

- (a) Following the City's final decision on the vested rights petition, the property owner shall conform the application for which relief is sought to such decision. The decision-maker on the application shall consider any application revised under this Subsection in accordance with the procedures for deciding the initial application under this Unified Development

Code and in conformity with the relief granted on the petition. If the relief granted on the vested rights petition is consistent with the application on file, no revisions are necessary. If proceedings have been stayed on the development application pending referral of the vested rights petition to the City Council, proceedings on the application shall resume after the Council's decision on the vested rights petition.

Section 1.3.3.7. Expiration and Extension

- (a) Relief granted on a vested rights petition shall expire on occurrence of one of the following events:
 - (1) The petitioner or property owner fails to submit a required revised application consistent with the relief granted within forty-five (45) days of the final decision on the petition; or
 - (2) The application for which relief was granted on the vested rights petition is denied under the criteria made applicable through the relief granted on the petition; or
 - (3) The application for which relief was granted on the vested rights petition expires.
- (b) Extension of the date of expiration for the application for which relief was granted on a vested rights petition shall result in extension of the relief granted on petition for a like period.

Section 1.3.3.8. Dormant Projects

- (a) For purposes of this section only:
 - (1) Initial permit means any of the following types of approvals granted under the UDC Ordinance, as amended, or any predecessor ordinance that was in effect prior to the adoption of this UDC, including: site plan, design plan, special use permit, variances or any other application that was approved subject to a schematic drawing illustrating the location, arrangement, orientation, or design improvements on a site intended for development.
 - (2) Final permit means a building permit or certificate of occupancy, approved under the UDC Ordinance, as amended, or any predecessor ordinance that was in effect prior to the adoption of this UDC.
- (b) Any application for an initial permit that was approved or filed before, but that was not subject to an expiration date, two (2) years prior to the adoption date of this UDC shall expire on the effective date of this Unified Development Code.
- (c) The owner of the land subject to an initial permit that expires under Subsection (b) above may petition the City Council to reinstate such permit by filing a written petition within sixty (60) calendar days of the effective date of this Unified Development Code. The petition shall clearly state the grounds for reinstatement, and shall be accompanied by documentation of one of the following:

- (1) As of two (2) years prior to the adoption date of this ~~UDC, one~~UDC~~one~~ of the following events had occurred:
- a. A final permit for all or part of the land subject to the approved initial permit was approved, or was filed and was subsequently approved;
 - b. An application for a final permit was submitted for all or part of the land subject to the expired initial permit, but such application was rejected on grounds of incompleteness;
 - c. Costs for development of the land subject to the initial permit, including but not limited to costs associated with roadway, utility and other infrastructure facilities designed to serve the land in whole or in part, but exclusive of land acquisition costs, were incurred in the aggregate amount of five percent (5%) of the most recent appraised market value of the land;
 - d. Fiscal security was posted to ensure performance of an obligation required for all or a part of the land subject to the approved initial permit; or
 - e. Utility connection fees for all or part of the land subject to the approved initial permit were paid.
- (2) After two (2) years prior to the adoption date of this UDC but before the expiration date specified in Subsection (b) above, one of the following events had occurred:
- a. A final permit was approved for all or part of the land subject to the approved permit, and remained in effect for such land on such expiration date; or
 - b. A complete application for approval of a final permit for all or part of the land subject to the approved initial permit was pending for decision on such expiration date.

(d) The City Council may take one of the following actions:

- (1) Reinstate the expired initial permit without an expiration date, if it finds that the petitioner has met any one of the criteria listed in Subsection (c)(1);
- (2) Reinstate the initial permit for all or part of the land subject thereto, if it finds that the petitioner has met any one of the criteria listed in Subsection (c)(2), subject to such expiration dates or other conditions that assure that the remaining land that is not subject to an approved or pending final permit application will be developed in a timely fashion. In granting relief under this provision, the Council may require that development of such remaining land is subject to standards enacted after approval of the initial permit;
- (3) Deny the petition, if it finds that the petitioner has failed to meet any of the criteria in Subsection (c); or
- (4) Reinstate the permit for only that part of the land subject to a pending final permit application, if it finds that the petitioner has met the criteria in Subsection (c)(2)(b) and the pending application subsequently was approved and deny the petition for the remaining land subject to the expired initial permit.

Section 1.3.4.1. Purpose, Applicability and Effect

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- (a) The purpose of a petition for a waiver is to determine whether one or more standards of applicable to applications or permits within this Unified Development Code should not be applied to an application by operation of state law.
- (b) The applicant may file a petition for waiver of one or more standards applicable to a application or permit.

Section 1.3.4.2. Application & Decision-maker

- (a) The waiver petition shall be decided by the City Council.

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Section 1.3.4.3. Criteria for Approval

- (a) The following criteria shall be applied in deciding a waiver:

~~(a)~~

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- (1) There are special circumstances or conditions arising from the physical surroundings, shape, topography, or other feature affecting the land such that the strict application of the provisions of this Chapter to the proposed use would create an unnecessary hardship or inequity upon or for the applicant, as distinguished from a mere inconvenience, in developing the land or deprive the applicant of the reasonable and beneficial use of the land;
 - (2) The circumstances causing the hardship do not similarly affect all or most properties in the vicinity of the petitioner's land;
 - (3) The waiver is necessary for the preservation and enjoyment of a substantial property right of the petitioner;
 - (4) Granting the waiver will not be detrimental to the public health, safety, or welfare, or injurious to other property within the area;
 - (5) Granting the waiver will not have the effect of preventing the orderly use and enjoyment of other land within the area in accordance with the provisions of this Code, or adversely affect the rights of owners or residents of surrounding property;
 - (6) The hardship or inequity is not caused wholly or in substantial part by the petitioner;
 - (7) The request for a waiver is not based exclusively on the petitioner's desire for increased financial gain from the property, or to reduce an existing financial hardship; and
- (8) The degree of variation requested is the minimum amount necessary to meet the needs of petitioner and to satisfy the standards in this section.

~~(a)~~

(b) The petitioner bears the burden of proof to demonstrate that the application of a dedication or construction requirement that is uniformly applied imposes a disproportionate burden on the petitioner.

~~(b)~~

(c) The City Council shall consider the waiver petition and, based upon the criteria set forth in Subsection (a) above, shall take one of the following actions:

~~(c)~~

(1) Deny the petition, and impose the standard or requirement as it is stated in this UDC; or

(2) Grant the petition and waive in whole or in part the standard or requirement as it is stated in this UDC.

(d) The petitioner shall be notified of the decision on the waiver petition in the manner provided in Article 2, Division 2 of Chapter 1.

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Section 1.3.4.4. Effect of Approval

(a) The waiver granted shall remain in effect for the period the approved development application is in effect and shall expire upon expiration of the application. Extension of the application also shall result in extension of the relief granted on the petition.

Chapter 3: Site Development Design and Improvements

Article 1 – Landscape

Division 1 – General

Section 3.1.1.1. Purpose

- (a) These regulations are enacted to ensure the health, safety, and welfare of the Citizens of Iowa Colony, Texas by protecting the existing natural environment and providing additional exterior landscaping requirements that enhance the outdoor visual character and quality of life.

Section 3.1.1.2. Application/Authority/Jurisdiction

- (a) This article is applicable to all persons, including, without limitation, the city and other governmental agencies and entities, except that its application shall not extend to real property owned or controlled by the State of Texas or the United States of America.
- (ab) The Building Official or an assign shall have authority and jurisdiction over all trees, shrubs and plants of any kind and character that are now or may hereafter be planted on or along the streets or other public places of the city, including all plantings of every kind and character lying outside of the property lines of privately owned property and as prescribed in this Code.
- (bc) The Building Official or an assign shall have the duty to:
- (1) Direct, regulate and encourage the planting, culture and preservation of shade and ornamental trees and plants on the streets and public places of the City;
 - (2) Direct, regulate and encourage the pruning, spraying, cultivation and maintenance of such trees and plants, and to direct the time and method of pruning and trimming the same;
 - (3) Remove or cause to be removed any tree or plant, or other obstruction that a would interfere with the development of adjoining trees or plants or with the free use of the streets or sidewalks;
 - (4) Advise property owners with respect to the kinds of trees to plant or shrubbery desired on the particular street, and the method of planting the same;
 - (5) Take all such measures as may be deemed necessary or desirable to control all dangerous insects, pests and plant diseases that may affect trees or shrubbery on the streets or other public places in the city;

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- (6) Devise plans for the planting of trees on and along the streets between the curbs and property lines within the city, where trees may be desirable;
- (7) Prescribe the character, kind, size, space, and position of all trees so planted on or along public streets or other public places;
- (8) Prevent the planting of trees, shrubs or other plants that are not desirable; and
- (9) Plant or cause to be planted such trees on or along such streets or other public places as the Building Official or an assign may deem proper.

Section 3.1.1.3. Designation of Trees.

- (a) The city council may by motion designate a tree that:
 - (1) Has historical significance arising from any historical event or events that are associated with the tree; or
 - (2) Has arboricultural significance as listed on the county, state or national tree register by American Forests, the Texas Forest Service, or an equivalent arboricultural organization.
- (b) No tree shall be designated except upon application made or joined by the owner of the tree, which application shall be filed with the Building Official or an assign in such for as the Building Official or an assign may require and shall set forth and document the grounds for the requested designation.
- (c) The Building Official or an assign shall review each application that is received and shall return any application that is determined to be incomplete or inconsistent with the requirements of this section. A complete and consistent application that is based upon historical significance shall be submitted for review by the Building Official or an assign, which shall review the same and provide a response, if any, within 45 days. The Building Official or an assign shall submit comments of the City Council together with the Building Official or an assign's own recommendation for approval or denial.
- (d) The City Council shall consider each application based on the application itself and the recommendations and comments provided. City Council shall not be obligated to conduct any hearing on the matter, provided that interested persons may make an appearance on the matter or may submit written comments to the city secretary for distribution to the council members.
- (e) The City Council shall approve or disapprove an application that is referred by the Building Official or an assign by motion. The decision of the City Council shall be final, and if the application is disapproved, another application for designation of the same tree may not be considered for a period of three years.

- (f) To the extent permitted by laws governing the filing of documents in Brazoria County real property records, a notice setting forth each tree designation shall be filed by the City in the real property records of Brazoria County.

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Section 3.1.1.4. Green Corridors

(a) A green corridor may be designated in accordance with this section.

~~(a)~~

- (b) In this section, a tract or parcel of land and its contiguous parkway that is devoted by actual use or by valid deed restrictions or covenants running with the land to single-family residential use or being located within a single-family residential zoning district is referred to as a "single-family property." The provisions of this section shall not be construed to prohibit a single-family property from being physically situated within a green corridor. However, a single-family property shall not be subject to any requirement created by the green corridor designation.
- (c) Each green corridor shall consist of the right-of-way of a major thoroughfare and building setback areas of abutting and contiguous properties. A green corridor shall be not less than one (1) mile long.
- (d) A green corridor may be designated by the City Council by motion following a hearing and determination that designation of the green corridor would significantly enhance the beautification of the city. Trees within the green corridor shall be entitled to enhanced protection as provided in this article, and the City Council may, in designating the green corridor, specify one or more particular species, varieties, and/or colors of trees to be planted, to the exclusion of others within the green corridor. Additionally, green corridors may be given priority for expenditure of city moneys for street tree planting, to the extent permitted by law.
- (e) Petitions for the designation of a green corridor shall be submitted to the city secretary upon a form promulgated by the Building Official or an assign for that purpose. Each petition shall be joined and signed by the owners of properties representing three quarters of the front footage of tracts or parcels that would be adjacent to the major thoroughfare in the proposed green corridor, single-family properties and their owners excluded. All required signatures must be collected within a period not exceeding 90 days, and the petition must be filed with the city secretary not later than the fifteenth day after the last date of any property owner's signature on the petition.
- (f) The City Council shall conduct a hearing regarding each petition within 90 days following the date of its filing. Written notice of the hearing shall be given by the city secretary in such manner as the City Council may specify in the call for the hearing. Any person may present testimony at the hearing. Additionally, written comments may be provided to the city secretary for distribution to council members. If a petition is disapproved, another petition for designation of the same or substantially the same green corridor shall not be considered for a period of three years.

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- (g) Nothing in this section shall be construed to prohibit the City Council from waiving any irregularity in any petition or from designating any green corridor for which a petition has not been presented.

Section 3.1.1.5. Removal of Protected Trees

- (a) The provisions of this section shall be applicable to the removal of a protected tree unless:
- (1) The tree is situated upon the site of a construction or enlargement of a building or parking lot such that Division 2 of this article is applicable; or
 - (2) The tree is not a designated tree and is situated upon a tract or parcel of land devoted by use or by valid deed restrictions or covenants running with the land to single-family residential use or within a single-family residential zone; and the term "protected tree" is so restricted as used in this section.
- (b) No person shall cause a protected tree to be removed without complying with a protected tree replacement requirement, which may be satisfied as follows:
- (1) By the planting anywhere on the tract or parcel of land where the protected tree to be removed is situated or in the adjacent parkway area of additional trees based on one caliper inch of tree planted for one caliper inch of tree removed; or
 - (2) By contributing to the fund created under section 3.1.2.3 (a) (2) of this Code an amount equal to:
 - a. If the tree is a parkway tree, \$225.00 per caliper inch of tree removed for a six-inch (6") caliper tree and smaller, \$375.00 per caliper inch of tree removed for over six inch and up to twelve-inch (12") caliper trees, and \$500.00 per caliper inch of tree removed for over twelve-inch (12") caliper trees; or
 - b. If the tree is a corridor tree or green corridor tree, \$103.00 per caliper inch of tree removed; or
 - c. A combination of the foregoing;

any or all of which shall be subject to a cost adjustment from January 2016 in accordance with the formula established in the definition of the term "cost adjustment."

Installation of trees provided shall be subject to the planting standards established in Division 2 of this article, and the trees shall be planted within 30 days following the removal of the tree unless a documented assurance of planting is provided to the Building Official or an assign with the notice, in which case the trees shall be placed within six months of the removal of the trees. A documented assurance may be provided in the same manner as under section 3.1.2.12 (b) of this Code. A variance may be requested in the same manner provided in sections 3.1.2.14 through 3.1.2.16 of this Code. Additionally, the mitigation

provisions of section 3.1.2.17 of this Code shall be applicable to trees that are provided to satisfy a protected tree replacement requirement.

- (c) No person shall cause a protected tree to be removed without first filing with the Building Official or an assign a written notice of removal of the protected tree, which must be filed at least 20 days prior to the removal. The notice shall include a map depicting the tract or parcel of land upon which the protected tree or trees to be removed are situated and shall demonstrate the way the protected tree replacement requirement will be provided.
- (d) It is an affirmative defense to prosecution under this section that the protected tree sustained damage from fire, windstorm, accident or other cause such that the protected

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tree became an immediate threat to persons or property, provided that the owner of the tree caused the circumstances to be documented and filed written notice of the removal with the Building Official or an assign within ten days following the removal of the tree.

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- (e) It is a defense to prosecution under this section that the protected tree was removed by or on behalf of a public utility or a governmental entity and that its removal without notice was reasonably required for the maintenance or installation of public facilities or utility systems.
- (f) The Building Official or an assign shall promulgate forms of notices and procedures under this section. A map need not be prepared in the form of a survey map, if it shall provide sufficient information to unmistakably identify the protected tree that is to be removed and the location of any tree that is to be planted to provide the protected tree replacement requirement, as well as the species and caliper of each tree. If the owner elects to contribute to the fund created under section 3.1.2.3 (a) (2) of this Code, then the contribution shall be tendered with the notice. No provision of this section shall be construed to require city personnel to review any notice filed under this section for accuracy or sufficiency or to perform any site inspection of trees for which notices are filed.
- (g) No provision of this article shall be deemed to excuse compliance with Division 3 of this chapter. If a notice of removal calls for the removal of a tree situated in a public right-of-way that is protected under Division 3, then written permission for its removal issued by Building Official or an assign shall be submitted with the notice of removal that is required under subsection (c), above.

Section 3.1.1.6. Cumulative Effect

- (a) The protections afforded to trees under this article are cumulative of other provisions of this Code, including, but not limited to, section 3.1.1.2 and Division 3 of this chapter. Without limitation of the foregoing, nothing in this article shall be construed to authorize the removal or damaging of a tree growing in whole or in part within a public street that is subject to protection under Division 3 without full compliance with the provisions of Division 3.

Section 3.1.1.7. Tree Protection; Affirmative Defense

- (a) No person shall perform or cause or allow to be performed any construction activity, including, without limitation, construction or repair of buildings or other structures, installation or repair of utilities, or installation or repair of streets or sidewalks within the dripline circle area of any protected tree that is not to be lawfully removed, without complying with the applicable provisions of the City of Iowa Colony Engineering Design Criteria Manual with respect to any protected tree. It is an affirmative defense to

prosecution under this section that the construction activity is an emergency repair of utilities on public or private property.

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Section 3.1.1.8. Records

~~(a)~~ Notices, maps, applications, landscape plans and other documents received by the city under this article are governmental records, and any person providing a false governmental document shall be subject to prosecution as provided by the Texas Penal Code.

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(a)

- (b) Governmental records received by the city under this article are subject to public inspection and copying as provide by law.

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Section 3.1.1.9. Fines and Penalties

(a) See Chapter 1

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Section 3.1.1.10. Single-family Residential Properties

- (a) While properties with an existing single-family residence are not subject to the requirements of Division 2 of this article, it is the policy and requirement of the city that no final building permit inspection approval shall be given by the building official for construction of a new single-family residential house unless the property owner has complied with this section by preserving or planting a tree or trees or obtaining credit therefor, as follows:

- (1) The required tree or trees, whether planted or preserved, shall be one and one-half inches (1½) caliper size or larger.
- (2) The required tree or trees may be either new trees that are planted in compliance with this article or trees already existing on the building site or abutting street right-of-way as herein below provided that have been preserved in accordance with this article.
- (3) The required tree or trees, whether newly planted or preserved, must be of species listed on the Large Tree list or the Small Tree list.
- (4) Except as provided in subsection (b), below, the requirement for building sites or lots being one (1) acre or more in size is:
 - a. Planting or preservation of one tree of one and one-half inch (1½") caliper or larger, per six-thousand three-hundred (6,300) square feet of lot or building site; or
 - b. If the tree is an existing tree that is preserved, then it may be situated anywhere on the building site or in the abutting street right-of-way.
 - c. For a newly planted tree, up to one-half (1/2) of the total tree requirement, it may be planted in the abutting street right-of-way, unless the Building Official or an assign requires it to be planted elsewhere on the building site upon determination by the Building Official or an assign that no adequate planting site exists in the abutting street right-of-way.

(5) Except as provided in subsection (b), below, the requirement for building sites or lots being between six-thousand and three hundred (6,300) square feet and one (1) acre in size is:

- a. Planting of two (2) new trees of one and one-half inch (1½") caliper or larger per six-thousand three-hundred (6,300) square feet of lot or building site area; if this option is selected, then one tree must be planted in the abutting street right-of-way unless the Building Official or an assign requires it to be planted elsewhere on the building site upon determination by the Building Official or an assign that no adequate planting site exists in the abutting street right-of-way, and the other tree shall be planted on the building site; or
- b. Planting of one new tree of four inch (4") caliper or larger per six-thousand three-hundred (6,300) square feet of lot or building site area; if this option is selected, then the tree may be planted in the abutting street right-of-way, unless the Building Official or an assign requires it to be planted elsewhere on the building site upon determination of the Building Official or an assign that no adequate planting site exists in the abutting street right-of-way; or
- c. Preservation of an existing tree of 1½-inch caliper or larger, up to one-half (1/2) of the total tree requirement and planting of one new tree of 1½-inch caliper or larger per six-thousand three-hundred (6,300) square feet of lot or building site area; if this option is selected, then one tree may be preserved in the abutting street right-of-way and the other tree shall be planted either (1) within the abutting street right-of-way unless the Building Official or an assign requires it to be planted elsewhere on the building site upon determination by the Building Official or an assign that no adequate planting site exists in the abutting street right-of-way, or (2) elsewhere on the building site.

(b) The Building Official or an assign may excuse the planting or preservation of the tree or trees otherwise required under this section and instead authorize the property owner to purchase credits under section 3.1.2.3 of this Code upon determination that the size and configuration of the property and the house do not afford sufficient space for the planting or preservation of even one tree.

(c) Nothing in this ordinance shall waive any rights of the City to control its rights-of-way, including but not limited to the right to remove a tree from the right-of-way.

Section 3.1.1.11. Screening of Electric Meters on Residential Properties

A single-family or multi-family residential development that contains three or more electric meters that are clustered together in a group meter or gang meter configuration that is visible

from the right-of-way shall install screening around the electric meters in accordance with the following:

- (1) The screen must be constructed out of wood, lattice, metal, brick, vegetation, or other opaque fencing material;
- (2) The screen must be tall enough to obstruct the view of the electric meters from the right-of-way; and
- (3) The screen shall provide for at least three (3) feet of front clearance from the face of the meter and at least two (2) feet of side clearance from the electric meter, or the minimum clearance for electric meters required by all utility companies with authority to service the electric meters.

Section 3.1.1.12. Limitation on Tree Mitigation Requirements and Fees

(a) In this section:

(1) "Residential structure" means:

- a. A manufactured home as that term is defined by Section 1201.003 Texas Occupations Code;
- b. a detached one-family or two-family dwelling, including the accessory structures of the dwelling;
- c. a multiple single-family dwelling that is not more than three (3) stories in height with a separate means of entry for each dwelling, including the accessory structures of the dwelling; or
- d. any other multifamily structure.

(2) "Tree mitigation fee" means a fee or charge imposed by the City in connection with the removal of a tree from private property.

(b) This Code does not require a person to pay a tree mitigation fee for the removed tree if the tree:

- (1) is located on a property that is an existing one-family or two-family dwelling that is the person's residence; and
- (2) is less than ten (10) inches in diameter at the point on the trunk four-point-five (4.5) feet above the ground.

(c) To the extent that this Code imposes a tree mitigation fee for tree removal on a person's property, that person may apply for a credit for tree planting under this Article to offset the amount of the fee, and the City must grant the credit to the extent provided by this Article, if the application complies with this section.

- (d) An application for a credit under subsection (c) must be in the form and manner prescribed by the Building Official. To qualify for a credit under this section, a tree must be:
- (1) planted on property:
 - a. for which the tree mitigation fee was assessed; or
 - b. mutually agreed upon by the City and the person; and
 - (2) at least two (2) inches in diameter at the point on the trunk four-point-five (4.5) feet above the ground.
- (e) For purposes of subsection (d) (1) b, the City and the person may consult with an academic organization, state agency, or nonprofit organization to identify an area for which tree planting will best address the science-based benefits of trees and other reforestation needs of the City.
- (f) The amount of a credit provided to a person under this section must be applied in the same manner as the tree mitigation fee assessed against the person and;
- (1) equal to the amount of the tree mitigation fee assessed against the person if the property is an existing one-family or two-family dwelling that is the person's residence (Note: The mitigation fee is zero in these circumstances, per subsection (b), if the tree removed is less than ten (10) inches in diameter at a height of four-point-five (4.5) feet above the ground, so this paragraph applies only to trees at least ten (10) inches in these circumstances);
 - (2) at least fifty (50) percent of the amount of the tree mitigation fee assessed against the person if;
 - a. the property is a residential structure or pertains to the development, construction, or renovation of a residential structure; and
 - b. the person is developing, constructing, or renovating the property nor for use as the person's residence; or
 - (3) at least forty (40) percent of the amount of the tree mitigation fee assessed against the person if;
 - a. the property is not a residential structure; or
 - b. the person is constructing or intends to construct a structure on the property that is not a residential structure.
- (g) As long as the City meets the requirement to provide a person a credit under subsection (c), this section does not affect the ability of or require the City to determine the following, and does not impair any provisions of this Article requiring the determining the following:
- (1) the type of trees that must be planted to receive a credit under this section, except as provided in subsection (d);

- (2) the requirement for tree removal and corresponding tree mitigation fees, if applicable;
 - (3) the requirements for tree-planting methods and best management practices to ensure that the tree grows to the anticipated height at maturity; or
 - (4) the amount of a tree mitigation fee.
- (h) This Code does not prohibit the removal of or impose a tree mitigation fee for the removal of a tree that:
- (1) is diseased or dead; or
 - (2) poses an imminent or immediate threat to persons or property.

Division 2 – Building Sites

Section 3.1.2.1. Application

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(a) The requirements of this division shall only apply to a building site where any of the following conditions is present:

- (1) There is new construction of a nonresidential or multifamily residential building for which a building permit is required;
- (2) There is an enlargement exceeding one thousand (1,000) square feet in area of the exterior dimensions of an existing nonresidential or multifamily residential building for which a building permit is required;
- (3) There is either a new parking lot for which site plans are required for initial construction or an existing parking lot which is expanded in area to provide additional parking spaces; or
- (4) There is a city-funded construction or reconstruction project that includes the entire width of the pavement of a public street and is at least thirty (30) feet in length.

(b) The requirements of this division apply to the entirety of the building site if:

- 1) It is completely developed by the new construction of a building (or buildings) and appurtenant surface parking area, or
- 2) It is a city-funded construction or reconstruction project that includes the entire width of the pavement of a public street and is at least thirty (30) feet in length.

In case the entirety of the building site is only partially developed by new construction or enlargement, the requirements of this division shall be applied incrementally. Trees, shrubs, and landscape buffers are required with respect to and in proportion to:

- 1) The area of the new or increased building and off-street parking spaces, or
- 2) The length of street pavement, if the building site is a city-funded construction or reconstruction project that includes the entire width of the pavement of a public street and is at least 30 feet in length. This subsection shall control over any other conflicting or inconsistent provision.

(c) The requirements of this division do not apply to:

- (1) The reconstruction of an existing single family structure;
- (2) The reconstruction of any existing non-residential building of which fifty (50) percent of the existing building floor area square footage or less was physically destroyed or ruined by flooding, fire, windstorm, or act of God. This exemption shall apply only where reconstruction of that building will not result in an increase in the paving area of the parking facilities to be provided; or
- (3) The placement of a temporary classroom building if there is a reasonable likelihood that the condition necessitating a temporary classroom building will not continue for more than five (5) years and an analysis of the public-school site and the buildings thereon support the conclusion that timely compliance with the statutory

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student/teacher ratio cannot be achieved without the installation of the temporary classroom building(s).

- (d) Nothing in this division shall be construed to require a landscape plan or landscape plan review for finish work performed by an owner, a tenant or on behalf of a tenant, in a portion of a building unless that tenant finish work or remodeling results in an increase in the paving area of the parking facilities to be provided or in an enlargement of the exterior dimensions of an existing building.
- (e) Nothing in this division shall be construed to preclude the filing of a landscape plan where the requirements of this division are not otherwise applicable, and the property owner desires to plant trees and obtain a credit under section 3.1.2.3 (c) of this Code.

Section 3.1.2.2. Landscape Plan Required

- (a) A landscape plan for the building site shall be submitted to the Building Official or an assign by an applicant for a building permit for approval in accordance with the provisions of this division.
- (b) The landscape plan may be depicted on either the development plans or parking lot site plan, provided the drawing scale is sufficient to properly depict the landscape plan requirements. The landscape plan shall identify and show the locations of existing and proposed utility lines (both above and below ground), roadways, sidewalks, streetlights, trees, shrubs, understory, natural features, other landscape elements, and planting or construction details. Where credit is being requested for the preservation of existing trees and associated understory, the landscape plan shall also demonstrate the way the requirements for preservation established under section 3.1.2.10 are to be satisfied. A plant schedule shall be provided which includes quantities, minimum size at time of planting, and botanical and common names keyed to the plan.
- (c) If the building site includes any protected trees, then the landscape plan shall depict the location of each and indicate whether each is to be removed or preserved. If any protected trees are to be removed, then a protected tree replacement requirement shall be applicable, in addition to any other tree planting requirements of this division, which may be satisfied as follows:
 - (1) By the planting anywhere on the building site or in the adjacent parkway area of additional trees based on one (1) caliper inch of tree planted for one (1) caliper inch of tree removed;
 - (2) By contributing to the fund created under section 3.1.2.3. (a) (2) of this Code an amount equal to either:

- a. If the tree is a parkway tree, two hundred and twenty-five dollars (\$225.00) per caliper inch of tree removed for a six-inch (6") caliper tree and smaller, three hundred and seventy-five dollars (\$375.00) per caliper inch of tree removed for over six-inch (6") and up to twelve-inch (12") caliper trees, and

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five hundred dollars (\$500.00) per caliper inch of tree removed for over twelve-inch (12") caliper trees; or

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b. If the tree is a green corridor tree, \$103.00 per caliper inch of tree removed, which shall be subject to a cost adjustment from January 2016 in accordance with the formula established in the definition of the term "cost adjustment".

(3) By preservation credits as provided in section 3.1.2.3 (b) of this Code; or

(4) By a combination of the foregoing.

(d) The protected tree replacement requirement shall not be applied to trees;

(1) That must reasonably be removed to:

- a. Install or maintain public utilities;
- b. Construct or maintain access drives, streets and sidewalks;
- c. Prevent visual impairment in a visibility triangle;
- d. Prevent visual impairment where a driveway intersects with a street; or
- e. Conduct emergency repairs of utilities on public or private property; or

(2) That are in poor condition, such that it is more likely than not that the tree would have died within one (1) year if not removed.

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(e) Based upon the landscape plan as filed, the Building Official or an assign shall review the landscape plan to verify compliance with all requirements of this article prior to the issuance of a building permit. If an artificial lot is delineated, it shall be depicted on the building plans prior to the issuance of the building permit. Nothing in this section shall be construed to require that city personnel perform a site inspection prior to the issuance of the building permit.

(f) No building permit shall be issued by the building official for the construction or alteration of a building within the city unless the Building Official or an assign approves the landscape plan verifying that the applicant has provided for the planting of trees and shrubs to the extent required in this article. If the landscape plan calls for the removal of any protected tree, then the building permit shall be conditioned such that the protected tree may not be removed until the twentieth day following the date of filing of the landscape plan.

(g) Except as provided in subsection (h) below, no final certificate of occupancy shall be issued by the building official for the occupancy of a new or altered building unless the plantings required by this article have been provided. Prior to the issuance of a certificate of occupancy, the building official shall inspect the planting provided to verify compliance with the approved landscape plan.

(h) A conditional certificate of occupancy may be issued if the owner provides the building official with either the documented assurances specified in section 3.1.2.3 or a bond or assigned certificate of deposit as set forth in section 3.1.2.13.

- (i) Except for section 3.1.1.12. which concerns tree removal mitigation, no provision of this article shall be deemed to excuse compliance with Division 3 of this chapter. If a landscape plan calls for the removal of a tree situated in a public right-of-way that is protected under Division 3 of this chapter, then written permission for its removal issued by the Building Official or an assign and shall be submitted with the landscape plan filed under this section.

Section 3.1.2.3. Tree Planting Equivalency Credits

(a) The following credits may be claimed against the total tree requirement under this division:

- (1) Credit for planting trees exceeding the minimum caliper required. Credit toward the total tree requirement shall be given for the planting of trees that exceed the minimum caliper required by this division at the rate of two (2) trees for each tree with a caliper of four inches (4") or more that is planted.
- (2) Credit for depositing with the City a sum of money equal to the cost of planting the required trees. Money so deposited shall be placed in a special fund designated for the purposes of planting street trees in city parks or public street rights-of-way that are located as near as possible to the area in which the removed trees were located. The credit shall be calculated based on a planting cost per tree of five hundred dollars (\$500.00) per fifteen (15) gallon container-grown tree, planted and maintained for a year, subject to a cost adjustment from January 2016 in accordance with the formula established in the definition of the term "cost adjustment." The maximum allowable credit under this option shall not exceed thirty percent (30%) of the total tree requirement.
- (3) Credit for preserving existing on-site trees. Credit for the preservation of existing on-site trees (including any to be transplanted) may be granted when requested and depicted on the landscape plan in accordance with section 3.1.2.2. In order to be eligible for credit, an existing tree to be preserved on the site shall have a minimum caliper of one and one-half inches (1½"), shall be in good condition, and shall be true to species habit and form. Credit for preserving existing trees shall be granted based upon the caliper of the trees preserved, with a credit of one (1) tree to be allowed for each one and one-half (1½) total caliper inches of eligible trees that are preserved, subject to the limitations otherwise provided in this division. This item (3) shall not apply to trees situated in the abutting street right-of-way.
- (4) Credit for preserving existing right-of-way street trees. Credit for the preservation of existing trees situated within the abutting street right-of-way that are designated on the Large Tree list may be granted when requested and depicted on the landscape plan in accordance with section 3.1.2.2 of this Code. To be eligible for credit, an existing street tree to be preserved shall have a minimum caliper of one and one-half inches (1½"), shall be situated in the street right-of-way, be in good condition, and be true to a species listed on the Large Tree list in habit and form. Credit for preserving existing street trees shall be granted based on one (1) street tree preserved for each street tree otherwise required to be planted in the same block-

face under this article, with no additional credit being allowed for preservation of a street tree that exceeds one and one-half inches (1½") in caliper. Preservation methods for the tree must be at a minimum those specified in section 3.1.2.9. of this Code.

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Provided, however, that:

- (5) The combined credit under items (1) and (2) above may not exceed fifty percent (50%) of the total tree planting requirement, and
 - (6) The total number of Large Trees, whether planted or preserved, shall never be less than fifty percent (50%) of the number required in section 3.1.2.6. of this Code as applied separately to each side of the property that abuts a street right-of-way and, if any side abuts two (2) or more block faces, then separately to each block face.
- (b) A credit may be claimed for up to the entire protected tree replacement requirement for preservation of existing trees in the same manner provided in subsection (a)(3), above, except that the credit shall be based upon one (1) caliper inch of tree preserved for one (1) caliper inch of tree removed. However, a tree or caliper inch portion of a tree preserved may only be used for credit against the total tree requirement or the protected tree replacement requirement, but not both.
- (c) Any owner who proposes to plant trees when no planting requirement exists under this division or desires to plant trees more than the requirements of this division may, at the time of filing of a landscape plan, request future credit against tree requirements upon the same building site. Upon completion of the work and verification of the unrequired planting or excess in planting by the Building Official or an assign, a certificate of credit shall be provided by the Building Official or an assign to the owner.

Section 3.1.2.4. Artificial Lot Delineation

(a) If the building site is over two acres in size, the applicant may request that the Building Official or an assign designate an artificial lot to satisfy the requirements of this division. If requested, the Building Official or an assign shall designate an artificial lot consistent with the purposes and policies of this division as determined from the criteria established below. No artificial lot may be delineated by the Building Official or an assign unless it:

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- (1) Wholly includes the area on which the construction work is to be done;
- (2) Has an area that does not exceed fifty percent (50%) of the area of the building site; and
- (3) Depicts and includes all proposed and existing buildings and structures, access drives, appurtenant parking required for the building expansion or new building construction, and other areas functionally appurtenant to the buildings or structures.

Section 3.1.2.5. Review of Documents

- (a) The Building Official or an assign shall review building permit applications for the construction or expansion of a building or parking lot, and construction drawings for city-funded construction or reconstruction projects that include the entire width of the pavement of a public street and are at least 30 feet in length, to determine if the proposed landscape plan complies with the provisions of this article.
- (b) When a certificate of occupancy is sought, the Building Official or an assign shall determine whether the applicant has complied with this article.
- (c) A building permit shall not be issued unless the application shows the plans, upon completion of construction, will comply with this article.
- (d) A certificate of occupancy shall not be issued or approved unless the applicant demonstrates compliance with the provisions of this article.

Section 3.1.2.6. Street Trees Required

- (a) Street trees shall be planted within the public street rights-of-way, or on private property within ten feet (10') parallel and adjacent to a local street right-of-way, or on private nonresidential property within 25 feet (25') parallel and adjacent to a major thoroughfare, or in the esplanade pursuant to the requirements of section 3.1.2.8 (b). When the building site abuts a designated state or federal highway or road or any designated county road and street trees are not otherwise required by law, street trees shall be planted on private property in accordance with this section. The number of street trees planted shall equal the total number of trees (T) required under the following formula:

$T = (X/30)$, where X shall represent the length in linear feet measured along each side of the property line on the public street(s).

This formula and all resulting planting requirements under this section shall be applied separately to each side of the property that abuts a street right-of-way, and if any side abuts two (2) or more block faces, then separately to each block face.

- (b) Street trees planted in accordance with this section shall be of a species listed on the Large Tree list. In the case of trees planted within the public rights-of-way, trees shall be planted in a location which conforms with the requirements of section 3.1.2.8. of this division. The trees shall be planted so as not to interfere with existing utilities, roadways, sidewalks, or streetlights.
- (c) The planting scheme for street trees shall be such that no street tree is planted closer than twenty feet (20') to any other street tree (whether an existing tree or a tree planted hereunder) with the trees being spaced without extreme variation in distance across each block face frontage considering existing site conditions and driveway locations. The Building Official or an assign may authorize a partial waiver under the credit terms of section 3.1.2.3 of this Code if he determines that planting all of the otherwise required street trees upon

any given side of the property that abuts a street right-of-way or block face would result in excessive tree canopy, based upon existing trees that are to be preserved during construction. Any request for a waiver shall be in writing and shall specify the preservation methods that will be used for the existing trees, which shall meet or exceed the requirements of section 3.1.2.9. of this Code. Additionally, the Building Official or an assign may authorize the spacing to be reduced from twenty feet (20') to no less than eighteen feet (18') if he determines that the conditions in the right-of-way make compliance at twenty (20) foot spacing impracticable.

Section 3.1.2.7. Parking Lot Planting of Trees and Shrubs Required

- (a) In addition to any street trees that may be required pursuant to section 3.1.2.6, the owner of a building site included under section 3.1.2.1 shall provide one (1) tree for every ten (10) parking spaces, rounding up or down in the case of a fraction to the nearest whole number, but in no case less than one (1) tree. There shall be at least one (1) parking lot or street tree within one hundred and twenty feet (120') of each parking space as measured from the center of the trunk of the tree to some point on the marked parking space. Not fewer than one-half (1/2) of the parking lot trees so required shall be large trees, and the remainder may be either large or small trees. In the case of a parking lot that is being expanded, the trees required pursuant to this subsection may be planted in the same manner as those required for a new parking lot.
- (b) In addition to the street tree and parking lot tree requirements established within section 3.1.2.6 and subsection (a), above, the owner of a building site included under section 3.1.2.1 shall plant or cause shrubs, as listed on the Shrub List, Appendix 3.1.3.14, to be planted along the perimeter of all parking surfaces so that the parking lot is screened from all adjacent public streets, exclusive of driveway entrances, pedestrian walkways and visibility triangles. Shrubs shall be maintained at a height of no more than thirty-six inches (36") nor less than eighteen inches (18") as measured from the surrounding soil line. The number of shrubs required under this subsection shall be equal to the total number of street trees required under this division multiplied by ten (10). No less than seventy-five percent (75%) of the shrubs required under this section shall be planted along the perimeter of the parking surface adjacent to the public street.

Section 3.1.2.8. General Planting Standards

- (a) Trees and shrubs planted in a parkway shall be planted in accordance with the applicable standards required by Appendix 3.1.3.11 and Appendix 3.1.3.13. The following additional limitations shall apply:

- (1) When located in the visibility triangle, trees shall be headed to a minimum height of seven feet (7'), and shrubs shall be maintained at a maximum height of thirty inches (30") as measured from the surrounding soil line.
 - (2) For streets with curbs or proposed curbs, trees shall be planted at least three feet (3') from the back of the existing curb or the city's final approved design line of the back of the curb of any public street as measured from the center line of the tree trunk. Provided, the city engineer may in writing authorize the planting distance to be reduced after review of the specific location, with the preference that at least two feet (2') of open space should be maintained between the street side of the tree and the back of the curb.
 - (3) For streets without curbs or proposed curbs, trees shall be planted at least four feet (4') behind the roadside drainage ditch as measured from the back (private property) side of the top of the roadside drainage ditch bank to the center line of the tree trunk. Provided, the city engineer may in writing authorize the planting distance to be reduced, after review of the specific location, with the preference that the roots do not interfere with ditch maintenance.
- (b) In addition to the tree and shrub planting standards contained within Appendix 3.1.3.11 and Appendix 3.1.3.13, trees and shrubs in esplanades shall be planted according to the following requirements:
- (1) Trees in any major arterial or major collector street esplanade shall not be planted closer to the end of the esplanade than seventy-five feet (75').
 - (2) Trees in any local street esplanade shall not be planted closer to the end of the esplanade than fifty feet (50').
 - (3) Trees planted in any esplanade shall be located not closer than fifty feet (50') from any mid-block opening in the esplanade.
 - (4) Shrubs planted in any esplanade shall not be planted closer to the end of the esplanade than twenty-five feet (25') or closer than three feet (3') from the back of the curb or the final approved design line for the curb of any public street. Use of ground covers or annuals and perennials conforming with the height restrictions of a visibility triangle shall not be restricted.
 - (5) Trees planted in the esplanade shall not be located closer than five feet (5') from the back of the curb or the final approved design line for the curb. Trees shall not be spaced at intervals of less than thirty feet (30').
- (c) Any tree located within a parking lot must be planted and maintained within a permeable area which has a radius of not less than three feet (3'). No tree shall be planted closer than three feet (3') from a curb or tire stop.

Section 3.1.2.9. Preservation of Existing Trees and Associated Understory

(a) The following procedure shall be required where credit for the preservation of existing trees and associated understory is being requested to be applied toward the total tree planting requirement pursuant to section 3.1.2.3 of this Code or the protected tree replacement requirement. Where such credit is being requested, the applicant shall also supply to the Building Official for review with the building plans a tree and associated understory preservation plan, which shall be integrated into the proposed landscape plan and shall include:

- (1) Delineation of proposed limit of clearance and establishment of tree protection zones which shall extend to just outside the dripline of the tree and understory to be protected, if any;
- (2) Proposed soil stabilization practices, i.e., silt fence, hay bales;
- (3) The species of each tree to be preserved and for which credit is being requested;
- (4) The proposed finished grade and elevation of land within six feet of or within the dripline of any tree to be preserved, whichever is greater, shall not be raised or lowered more than three inches (3") unless compensated for by welling or retaining methods;
- (5) Existing and proposed location of all trees and plant materials to be relocated at the drawing scale;
- (6) A landscaping tabulation, and itemized credit requests for existing trees to be preserved which have a minimum of four inches (4") in caliper and greater;
- (7) Tree and associated understory preservation details; and
- (8) Specification of ground plane treatment as either turf or sod. If a combination of both is utilized, the limit of each shall be indicated.

(b) The following tree relocation information shall be provided on the landscape plan or in a report for the transplantation of existing specimen trees when preservation credit is being requested for them. This information shall include an assessment of the cost of transplanting the trees as opposed to the potential mortality rate which may result from the attempted transplantation. If relocation is elected, the following information shall be provided:

- (1) Transplanting techniques;
- (2) Equipment to be utilized;
- (3) Locations of existing trees and proposed locations for transplanted trees;
- (4) Genus, species, caliper, height and general condition of the existing tree;
- (5) Pruning and maintenance schedule and methods to be followed; and
- (6) Which form of assurance of performance will be provided, i.e., executed contract, bond or assigned certificate of deposit.

- (c) If preservation credit is requested, the trees shall be protected and preserved as set forth in this Article and as promulgated by the Building Official or an assign and the City Engineer.
- (d) The Building Official or an assign shall make recommendations to minimize damage to existing vegetation during the site construction phase. The Building Official or an assign shall also suggest possible uses for those trees removed because of development such as the creation of wood chip mulch from removed hardwood trees.

Section 3.1.2.10. Duty; Affirmative Defenses

- (a) All owners of building sites included under section 3.1.2.1 shall plant or cause the planting of trees or shrubs required in sections 3.1.2.6 or secure the planting equivalency credits allowed in section 3.1.2.3, and if protected trees are being removed, shall further satisfy the protected tree replacement requirement in accordance with this division.
- (b) All owners and lessees of new or expanded parking lots on building sites included under section 3.1.2.1 shall additionally plant trees or shrubs in compliance with section 3.1.2.7, and if protected trees are being removed, shall further satisfy the protected tree replacement requirement in accordance with this article.
- (c) It shall be an affirmative defense to prosecution under this section that:
 - (1) The person caused the tree or shrub to be planted and maintained in accordance with this article, but the tree or shrub died more than two (2) years after the issuance of the certificate of occupancy;
 - (2) The person caused the tree or shrub to be planted and maintained on the public right-of-way in accordance with this article, but the tree or shrub died and was removed by the owner with the written permission of the Building Official or an assign or the City Engineer or the period allowed by this article for replacing the tree or shrub has not yet elapsed;
 - (3) The person caused the tree or shrub to be planted or maintained on private property in accordance with this article, but the tree or shrub died, and the period allowed by this article for replacing the tree or shrub has not yet elapsed;
 - (4) The building permit for the person's property is for single-family residential use;
 - (5) The person's property has an unexpired conditional certificate of occupancy, and the person has provided an executed contract or a bond or assigned certificate of deposit in accordance with this article; or
 - (6) A variance or waiver was secured for the building site in conformity with the requirements of this article.

Section 3.1.2.11. When Required Landscaping (Trees, Shrubs or Fences) Must be Installed, Documented Assurance

- (a) Except as otherwise provided in subsection (b) and section 3.1.2.12, all proposed landscaping must be installed in accordance with the approved landscape plan prior to issuance of a final certificate of occupancy on a building site.
- (b) The property owner may elect to provide the Building Official with documented assurances that the landscaping will be completed within a six (6) month period. If so, a conditional certificate of occupancy may be issued by the Building Official for six (6) months. For purposes of this section, 'documented assurance' shall mean a copy of an executed contract for the proper installation of the required landscaping in accordance with the approved landscape plan within a six (6) month period.
- (c) The property owner is responsible for notifying the Building Official when the landscape installation is complete. If the property owner fails to notify the Building Official within the prescribed six (6) month period, the Building Official shall revoke the conditional certificate of occupancy.

Section 3.1.2.12. Bond, Assigned Certificate of Deposit

- (a) Prior to the issuance of any conditional certificate of occupancy, any applicant who has not provided the documented assurance set forth in section 3.1.2.11 shall file with the Building Official a bond which bond shall be executed by the applicant as principal and by a good and sufficient corporate surety company licensed to do business in the State of Texas. The bond in the sum of one and one-quarter (1 ¼) times the proposed cost to install the required landscaping improvements and fences, based upon the reasonable adjusted costs established by the Building Official and of record from time to time, shall be payable to the City and conditioned that the principal and surety will pay all amounts required to install the landscaping and fences required by this division. The bond shall provide that it will remain in full force and effect until released by the Building Official pursuant to this division.
- (b) In lieu of such bond, an applicant for a conditional certificate of occupancy may, upon payment to the City of a nonrefundable fee of one hundred dollars (\$100.00), assign an account with a financial institution insured by the Federal Deposit Insurance Corporation to the city. Such account shall have a deposit of not less than the amount required under subsection (a). Under such an assignment, the financial institution must agree not to release, make payment from, or otherwise divert or dispose of the funds in such account, except it shall agree to disburse all or such portion of the funds in the account as may be directed by City Council resolution.

Upon installation and inspection of the required landscaping, the City shall release the assigned deposit to the property owner.

When requesting a conditional certificate of occupancy, the owner must grant the City permission to enter upon the owner's land for the purpose of installing the required landscaping if the owner does not fulfill the owner's obligation to install the required

landscaping within the specified six (6) month period. If permission is not granted, the owner's application for a conditional certificate of occupancy shall be denied.

- (c) In the event that any holder of a conditional certificate of occupancy who has previously furnished an account assignment under subsection (b) elects to furnish a bond under subsection (a) instead, then the holder shall be entitled to disbursement of the account proceeds in the same manner and under the same terms provided in subsection (b).

Section 3.1.2.13. Appeal of Denial of Building Permits

- (a) Appeals from the denial of a building permit for noncompliance with this division shall be reviewed and acted upon by the Building Code Board of Adjustment (BCB~~OA~~).

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Section 3.1.2.14. Variance Procedure

- (a) An applicant for a building permit may make written application to the Building Official for a variance from the requirements of this division other than those which may be made the basis of a request for a waiver under section 3.1.2.13. A completed application for a variance shall include:

- (1) Completed application on form supplied by the City; and
- (2) A nonrefundable fee of two hundred dollars (\$200.00) for uses other than single family residential uses.

This application package shall be reviewed by the Building Official or an assign.

- (b) Within seven (7) days of the date the application is accepted, the Building Official shall forward a copy of the application to the City Engineer who shall file the City Engineer's report and recommendations regarding the proposed variance with the BCB~~OA~~.
- (c) A staff report regarding the variance request shall be provided to the BCB~~OA~~ prior to the meeting at which the variance shall be considered.

Section 3.1.2.15. Standards for Variance

- (a) The BCB~~OA~~ is authorized to consider variances from the provisions of this division by majority vote of those members of the BCB~~OA~~ present and voting, when the BCB~~OA~~ determines that all four (4) of the following conditions exist:

- (1) The imposition of the terms, rules, conditions, policies, and standards of this division would deprive the owner or applicant of the property of reasonable use of the land or building;
- (2) The circumstances supporting the granting of the variance are not the result of a hardship imposed or created by the applicant, and the general purposes of this division are observed and maintained;
- (3) The intent of this article is preserved; and
- (4) The granting of such a variance will not be injurious to the public health, safety, or welfare.

Section 3.1.2.16. Applicability of Variance

- (a) Any variance granted under the provisions of this section will apply only to the specific property and use upon which the BCBOA was requested to review. All variances as granted shall be in writing, shall be signed by the City Secretary and maintained as a permanent record of the BCBOA.

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Section 3.1.2.17. Mitigation for Loss of Installed and Preserved Vegetation

- (a) All proposed, existing or relocated vegetation shall be maintained in accordance with this article and appear healthy for a minimum of two (2) years from the issuance of the final certificate of occupancy. Dying, damaged or removed trees shall be replaced at the owner's expense with another living plant that complies with the approved landscape plan. The tree replacement quantity shall be equal to or greater than the original or credited quantity for the tree in question.
- (b) The Building Official or an assign shall notify the owner of a building site in writing when a plant is discovered which does not meet the requirements of subsection (a), above. The owner shall then replace the plant within one year from receipt of the written notice or between November 1st and April 1st, whichever period is less.

Section 3.1.2.18. Interference with Existing Utilities, Curbs, Sidewalks, Drainage Facilities, Roadways, Street Lights, Appeal of Denial of Waiver.

- (a) The Building Official shall grant a waiver when requested in the application if the area in which the planting is required by this division is too small to accommodate the required planting without damage to existing utilities, curbs, sidewalks, roadways, streetlights or

drainage facilities, and the planting requirements of this division may not be otherwise satisfied pursuant to this division.

- (b) A waiver shall be granted where the Building Official finds the following:
- (1) That a literal application of this division will result in damage to existing utilities, roadways, streetlights, curbs, sidewalks or drainage facilities;
 - (2) The waiver, if granted, will not be contrary to the public interest;
 - (3) The waiver, if granted, will not be detrimental to the public health, safety, or welfare; and
 - (4) The waiver, if granted, will not result in a violation of any other applicable ordinance, regulation, or statute.
- (c) No later than the thirtieth (30th) calendar day following the filing of the required application for a waiver, the Building Official shall issue to applicant a written notice that the waiver has been granted or refused. Any notice of refusal of an application for a waiver must include a written report explaining in detail the reasons for such refusal. The issuance of a written notice to the applicant shall be complete upon deposit of such notice in the United States mail, first class postage paid, addressed to the applicant at address given on the application for the waiver.
- (d) The applicant may appeal the denial of a waiver to the Commission in the manner provided in section 3.1.2.13 of this Code.
- (e) Notwithstanding the provisions of this section, the Building Official and the City Engineer shall use their best efforts to resolve any disputes regarding the application of this division to city-funded projects that include the entire width of the pavement of a public street and are at least 30 feet in length. The City Engineer is authorized to promulgate guidelines for administration of this article, in consultation with the Building Official, that are consistent with this chapter.

Division 3 – Protection of Trees

Section 3.1.3.1. Removal of a Tree, Protected or Otherwise

- (a) Except as may otherwise be provided in this article, it shall be unlawful for any person to remove any tree or to cause, permit or suffer the removal of any tree that is situated in whole or in substantial part within a street or to perform any construction activity, including, without limitation, construction or repair of buildings or other structures, installation or repair of utilities, or installation or repair of streets or sidewalks within the dripline circle area of any tree that is situated in whole or in substantial part within a street. The determination of whether the tree is situated in whole or in substantial part in the street shall be based upon the location of the trunk of the tree at ground level. For purposes

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of the foregoing requirements, a tree shall be in substantial part within a street if one-half or more of the area of the trunk of the tree is situated in the street as determined at the point where the trunk intersects the ground.

Section 3.1.3.2. Affirmative Defenses

(a) It is an affirmative defense to prosecution under section 3.1.3.1 of this Code that:

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- (1) The person complied with the provisions of City of Iowa Colony Engineering Design Criteria Manual;
- (2) The person had the prior written permission of the Building Official for the action taken and that the action taken was consistent with the terms of the Building Official's written permission; or
- (3) The person reasonably removed the tree to conduct emergency repairs of utilities located on public or private property.

Section 3.1.3.3. Affirmative Defense; House Movers

~~It~~ (a) It is an affirmative defense to prosecution under section 3.1.3.1 of this Code that the person is an established commercial house mover and that the person removed a tree in order to move a house, provided that the house was being moved in accordance with all applicable requirements of the said article upon a route authorized in a permit issued by the Building Official thereunder, and further provided, with respect to any tree that is removed, that the person had the prior written permission of Building Official for the action taken and that the action taken was consistent with the terms of the Building Official's written permission. This defense shall extend to agents and employees of the house mover.

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Section 3.1.3.4. Procedure for Permission

(a) For purposes of sections 3.1.3.2 or 3.1.3.3 of this Code a person may obtain the Building Official's permission by making written application. The application shall be made in accordance with regulations promulgated for that purpose by the Building Official and in a form provided in the regulations. In considering whether to grant the approval, the Building Official shall consider the age and condition of the tree. The Building Official shall consult with the City Engineer and shall also consider whether the requested action is reasonably required, considering other alternatives that may exist, if the request is for the purpose of installing or maintaining public utilities and access lines thereto,

constructing or maintaining driveways, alleys, or streets, constructing or maintaining sidewalks or preventing visual obstruction of a street or driveway intersection. The Building Official, in consultation with the City Engineer, may also authorize the removal of a tree to facilitate development of the abutting property if the tree extends in part beyond the building set back line established by law or deed restriction and the Building Official and the City Engineer determine that the requested action is reasonably required to make beneficial use of the property. If the Building Official proposes to deny an application, then the Building Official shall ensure that the applicant is afforded the opportunity for an informal hearing to be conducted as provided in the Building Official's regulations before the decision to deny the application is made final.

Section 3.1.3.5 Educational Intent

- (a) The intent of this article is to result in compliance through public assistance and education. Upon request, the Building Official or an assign shall, without charge therefor, help in identifying tree species, training and/or instructional materials with respect to proper practices for tree pruning and other reasonable assistance for the purpose of ensuring compliance with this article.

Section 3.1.3.6. Provisions Cumulative

- (a) The provisions of this article are cumulative of state laws and are also expressly made cumulative of any other provisions of this chapter. To the extent that any tree governed by this section is also subject to other regulations, then both the provisions of this article and any other regulation shall be applicable. The Building Official and the City Engineer shall establish procedures under which removal notices and landscape plans that are required to be filed may be combined with or jointly filed with applications filed under section 3.1.3.4 of this Code, above.

Section 3.1.3.7. Fines and Penalties; Civil Remedies.

- (a) See Chapter 1.— (b) Additionally, each tree that is unlawfully removed shall constitute a separate offense. Criminal prosecution shall not preclude civil action by the City to recover for the damage to or loss of the tree, and the City Attorney is hereby authorized, without further authorization from City Council to institute and prosecute a lawsuit for an injunction against the imminent unlawful removal of a tree and/or a lawsuit against any person who removes a tree without permission or authorization as required under this section and to recover the reasonable value of the tree or damage thereto and all other remedies.

Section 3.1.3.8 Deferred Disposition

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(a) In keeping with the policy of education and street tree protection that is the purpose of this article, the municipal courts are urged to consider deferred dispositions under article 45.54 of the Texas Code of Criminal Procedure whenever the circumstances warrant deferred dispositions. Conditions of deferral may include the defendants' replacing or repairing damaged trees wherever practicable and participating in community service programs for the planting and care of trees.

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Section 3.1.3.9 Tree Replacement Requirement

(a) Notwithstanding anything to the contrary in this article, no person shall cause a tree that is situated in whole or in substantial part within a street to be removed without complying with a tree replacement requirement, which may be satisfied as follows:

- (1) By the planting in the area adjacent to the street of additional trees from the Large or Small Tree list on the basis of one caliper inch of tree planted for one caliper inch of tree removed;
- (2) By contributing to the fund created under section 3.1.2.3 (a) (2) of this Code an amount equal to \$225.00 per caliper inch of tree removed for a six-inch (6") caliper trees and smaller, \$375.00 per caliper inch of tree removed for over six inch (6") diameter and up to 12 inch (12") caliper trees, and \$500.00 per caliper inch of tree removed for over 12 inch (12") caliper trees; or
- (3) By a combination of the foregoing.

Installation of trees provided shall be subject to the planting standards established in Division 2 of this Article, and the trees shall be planted within thirty (30) days following the removal of the tree unless a documented assurance of planting is provided to the Building Official with the notice, in which case the trees shall be placed within six (6) months of the removal of the trees. A documented assurance may be provided in the same manner as under section 3.1.2.12 (b) of this Code. A variance may be requested in the same manner provided in sections 3.1.2.14 through 3.1.2.16 of this Code. Additionally, the mitigation provisions of section 3.1.2.17 of this Code shall be applicable to trees that are provided to satisfy a protected tree replacement requirement.

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(a**b**) No person shall cause a tree to be removed without first filing with Building Official, a written notice of removal of the tree, which must be filed at least twenty (20) days prior to the removal. The notice shall include a map depicting the tract or parcel of land upon which the tree or trees to be removed are situated and shall demonstrate the way the tree replacement requirement will be provided.

(b**c**) It is an affirmative defense to prosecution under this section that the tree sustained damage from fire, windstorm, accident, or other natural cause such that the tree became an immediate threat to persons or property, provided that the owner of the tree caused the

circumstances to be documented and filed written notice of the removal with the Building Official within ten days following the removal of the tree.

(ed) It is a defense to prosecution under this section that the tree was removed by or on behalf of a public utility or a governmental entity and that its removal without notice was reasonably required for the maintenance or installation of public facilities or utility systems.

(de) The City Engineer shall promulgate forms of notices and procedures under this section. A map need not be prepared in the form of a survey map, if it shall provide sufficient information to unmistakably identify the tree that is to be removed and the location of any tree that is to be planted to provide the tree replacement requirement, as well as the species and caliper of each tree. If the owner elects to contribute to the fund created under section 3.1.2.3.(a) (2) of this Code, then the contribution shall be tendered with the notice. No provision of this section shall be construed to require City personnel to review any notice filed under this section for accuracy or sufficiency or to perform any site inspection of trees for which notices are filed.

Section 3.1.3.10 Landscape Planting Appendix

Appendix 3.1.3.11. Tree Planting

(a) Tree Selection

Trees planted under section 3.1.1.7 must be selected from the Large Tree list. All plant stock shall meet the Standard for Nursery Stock Specifications, as established by the American Association of Nurserymen (1986 ed.)

The following factors shall be considered in the selection of trees from the tree and shrub lists indicated in this Division:

1. Hardiness of trees for the specific site, i.e., soil conditions, pH, drainage.
2. Mature plant size, form, and growth rates, i.e., proximity to overhead utility lines.
3. Drought tolerance.
4. Pest and insect resistance.

(b) Tree Planting:

1. Holes for the trees shall be excavated one and one-half to two (1½ to 2) feet greater in width than the diameter of the soil ball. The sides of the hole shall be vertical and the bottom horizontal. Trees shall be planted with the top of the root ball two inches above existing grade. No holes shall be left uncovered overnight.
2. Trees shall be set in an upright plumb position at depth two (2) inches higher than grown in the container. Care shall be taken so as not to injure the root system, trunk, or foliage. The trunk shall not be used as a level in positioning or moving the tree in the planting hole.

3. The backfill shall consist of topsoil excavated from the planting hole. If there is not enough topsoil, a supplement of similar topsoil shall be furnished. Each planting hole shall be backfilled and tamped lightly so as not to damage roots. A saucer shall be constructed six (6) to eight (8) inches above soil grade around the planting hole and shall be a minimum of six (6) feet in diameter, free of weeds and grass.
4. Any pruning shall be done according to the standards of the National Arborist Association (rev. 1988) (The Meeting Place Mall, Route 101, P.O. box 1094, Amherst, NH 03031), on file in the office of the city secretary. All damaged limbs shall be removed. The tree shall be maintained in a shape appropriate to its species. Street trees shall be pruned in accordance with the standards for hazard pruning contained in Class III.
5. Trees planted hereunder shall be staked with a minimum of two (2) stakes, eight (8) feet long, attached to the tree with plastic tree chain, one (1) inch in size, or equivalent, in a manner that is secure and will not injure the tree. Any 100-gallon trees shall be tri-staked (three stakes). Other types of securing ties or devices may be used if designed for that purpose.
6. Mulch shall be placed loosely around trees planted hereunder within twenty-four (24) hours after planting to a uniform depth of three (3) to four (4) inches and to a diameter of six (6) feet. No leaves, branches, roots or other foreign material may be used as a mulch. This area shall be maintained free of weeds and grass vegetation with a three (3) to four (4) inch mulch cover for a minimum period of one (1) year.

(c) Watering

1. The following watering schedule may be utilized and revised during prolonged periods of rain or drought.

Initial Watering After Planting	Root zones shall be slow-soaked every seven days for four weeks.
November December January February	In the absence of sufficient rainfall, root zones shall be slow-soaked on a twenty-one-day water schedule.
October March April	In the absence of sufficient rainfall, root zones shall be slow-soaked on a fourteen-day water schedule.
May June July August September	In the absence of sufficient rainfall, root zones shall be slow-soaked on a seven-day watering schedule.

Appendix 3.1.3.12 Large Tree Plant List

Large Tree List

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Botanical Name	Common Name*	Comments
Acer rubrum var drummondii	D Drummon Red Maple	Wet sites
Acer rubrum var tridens	D Trident Red Maple	Wet sites
Acer barbatum	D Southern or Texas Sugar Maple	
Betula nigra	D River Birch	Wet sites
Bumelia lanuginosa	D Chittamwood, Gum bumelia or Wooly Bucket	Drought-tolerant/Attracts birds
Carya cordiformis	D Bitternut Hickory	
Carya illinoenses	D Pecan	Nut
Carya texana	D Black Hickory	Drought-tolerant
Carya tomentosa	D Mockery Nut Hickory	Fruit
Diospyros virginiana	D Persimmon, eastern	Fruit
Ehretia anacua	D Anacua	Flowering/Fruit/Drought-tolerant
Fraxinus americana	D White Ash	
Fraxinus Pennsylvanica	D Green Ash	
Ginkgo biloba	D Ginkgo	Male only
Ilex opaca (and cultivars)	E American Holly	Female/Fruit
Juglans nigra	D Black Walnut	
Juniperus virginiana	Eastern Red Cedar	
Liquidambar styraciflua	D Sweetgum	Fall color
Liriodendron tulipifera	D Tulip tree or Yellow Poplar	Flowering/Wet sites
Magnolia grandiflora	E Southern Magnolia	Flowering
Magnolia virginiana	E Sweet Bay Magnolia	Flowering/Wet sites
Metasequoia glyptostroboides	D Dawn Redwood	
Nyssa aquatica	D Water tupelo	Wet sites
Nyssa sylvatica var biflora	D Swamp tupelo or Black Gum	Wet sites
Nyssa sylvatica var sylvatica	D Black Gum	Fruit/Fall color
Pinus palustris	E Longleaf Pine	
Pinus taeda	E Loblolly Pine	
Pinus glabra	E Spruce Pine	
Plantanus mexicana	D Mexican Sycamore	Wet sites
Plantanus occientalis	D Sycamore	
Prunus serotina	D Black Cherry	Flowering/Fruit
Quercus acutissima	D Sawtooth Oak	
Quercus alba	D Oaks, white	Fall color
Quercus canbii	D Canby Oak	
Quercus falcata	D Southern Red Oak	
Quercus laurifolia	D Laurel Oak	
Quercus lyrata	D Overcup Oak	Wet sites
Quercus macrocarpa	D Bur Oak	Wet sites/Drought-tolerant
Quercus michauxii	D Swamp Chestnut Oak	Fall color
Quercus muehlenbergii	D Chinkapin Oak	Drought-tolerant

Botanical Name	Common Name*	Comments
Quercus nutallii	D Nutall Oak	Fall color/Wet sites
Quercus palustris	D Pin Oak	Fall color
Quercus phellos	D Willow Oak	
Quercus polymorpha	D Monterrey Oak	
Quercus rizophyllia	D Loquat Leaf Oak	
Quercus shumardii	D Shumard Oak	Fall color
Quercus stellata	D Post Oak	
Quercus virginiana	D Live Oak	
Sassafras albidum	D Sassafras	Fall color/Attracts birds
Taxodium distichum var distichum	D Bald Cypress	Wet sites/Drought-tolerant
Taxodium distichum var nutans	D Pond Cypress	
Taxodium mucronatum	D Montezuma Bald Cypress	
Tilia caroliniana	D Carolina Basswood	
Ulmus americana	D American Elm	
Ulmus alata	D Winged Elm	
Ulmus crassifolia	D Cedar Elm	Drought-tolerant
Ulmus parvifolia var drakii	D Drake Elm	
Vitex agnus-castus	Vitex	
Zelkova serrata	D Japanese Zelkova	

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Appendix 3.1.3.13 Small Tree List

Small Tree List

Botanical Name	Common Name*	Comments
Acer leucoderme	D Chalk Maple	Fall color
Acacia wrightii	D Wright Acacia	Flowering/Drought-tolerant
Aesculus pavia var pavia	D Red Buckeye	Flowering
Aesculus pavia var flavescens	D Red Buckeye	Yellow flowers
Aesculus glabra var arguta	D White Buckeye	Flowering/Drought-tolerant
Asimina triloba	D Pawpaw	Flowering/Fruit
Bauhinia congesta	D Anacacho Orchid Tree	Flowering/Drought-tolerant
Carpinus caroliniana	D American Hornbeam, Ironwood or Blue Beech	Wet sites/Fall color
Cercis canadensis	D Eastern Redbud	Flowering
Cercis canadensis var texensis cultivars	D Texas Redbud	Flowering/Drought-tolerant
Cercis canadensis var mexicana	D Mexican Redbud	Flowering/Drought-tolerant
Chionanthus virginicus	D Fringe Tree	Flowering/Attracts birds
Chionanthus retusus	D Chinese Fringe Tree	Flowering/Drought-tolerant
Cornus florida	D Flowering Dogwood	Flowering/Attracts birds
Cotinus obovatus	D American Smoke Tree	Fall color/Drought-tolerant
Crataegus marshallii	D Parsley Leaf Hawthorn	Flowering/Attracts birds
Crataegus opaca	D May Haw	Flowering/Fruit/Attracts birds
Crataegus spatulata	D Little Hip Hawthorn	Flowering/Attracts birds
Crataegus viridis	D Green Hawthorn	Flowering/Attracts birds
Crataegus texana	D Texas Hawthorn	Flowering
Crataegus reverchonii	D Reverchon Hawthorn	Flowering
Cyrilla racemiflora	D Titi	Wet sites
Diospyros texana	D Texas Persimmon	Fruit/Drought-tolerant
Eysenhardtia texana	D Texas Kidneywood	Flowering/Drought-tolerant
Halesia diptera	D Two-winged Silverbell	Flowering
Ilex x attenuate 'Eagleton'	Eagleston Holly	
Ilex cassine	E Dahoon Holly	Female-Fruit/Attracts birds
Ilex decidua	D Possum Haw	Female-Fruit/Attracts birds
Ilex vomitoria	E Yaupon	Female-Fruit/Attracts birds
Magnolia x Soulangeana	Saucer Magnolia	Flowering
Malus angustifolia	D Southern Crabapple	Flowering/Fruit
Myrica cerifera	E Southern Wax Myrtle	Wet sites/Attracts birds
Ostrya virginiana	D Eastern Hop Hornbeam	
Parkinsonia aculeata	D Retama	Flowering/Drought-tolerant
Pistacia chinensis	D Chinese Pistachio	Fall color/Drought-tolerant
Pistacia texana	D Texas Pistache	Drought-tolerant
Prosopis glandulosa var glandulosa	D Mesquite	Drought-tolerant
Prunus mexicana	D Mexican Plum	Flowering/Fruit/Drought-tolerant

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Botanical Name	Common Name*	Comments
<i>Prunus umbellata</i>	D Flatwoods Plum	Flowering/Fruit
<i>Prunus augustifolia</i>	D Creek Plum	Flowering/Fruit
<i>Rhamnus caroliniana</i>	D Carolina Buckthorn	Fall color/Fruit/Attracts birds/Drought-tolerant
<i>Rhus copallina</i>	D Sumac	Fall color
<i>Sophora secundiflora</i>	E Texas Mountain Laurel	Flowering/Drought-tolerant
<i>Sophora affinis</i>	D Eve's Necklace	Flowering
<i>Ungnadia speciosa</i>	D Mexican Buckeye	Flowering/Drought-tolerant
<i>Viburnum rufidulum</i>	D Rusty Blackhaw Haw Viburnum	Flowering/Fall color/Drought-tolerant/Attracts birds

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Appendix 3.1.3.14. Shrub Planting

a) Shrub selection.

Shrubs planted in public rights-of-way shall be selected from the Shrub list (Appendix 3.1.3.15). Shrubs planted in other areas may also be selected from that list. The following factors shall be considered when selecting from the shrub list for planting:

1. Hardiness for the specific site selected.
2. Present and ultimate size, branching habits, and growth rate. The plant shall be at least eighteen (18) inches in height as measured from the surrounding soil line, shall have a minimum eighteen (18) inch width at the widest portion when planted and shall be capable of growth to not less than thirty (30) inches in height as measured from the surrounding soil line within three (3) annual growing seasons.
3. Resistance to pests.

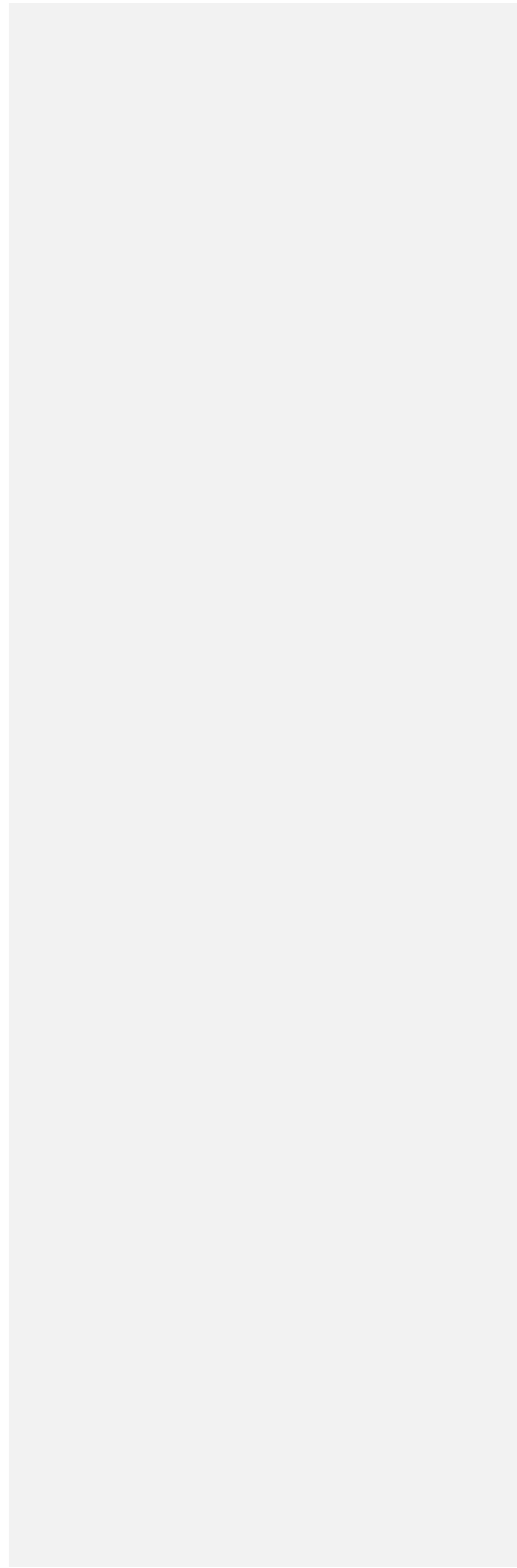
(b) Shrub planting.

1. Holes for shrubs shall be excavated six inches greater in width than the diameter of the soil ball. The sides of the hole shall be vertical and the bottom horizontal. Shrubs shall be planted with top of root ball slightly above existing grade. No holes shall be left uncovered overnight.
2. Shrubs shall be set in an upright plumb position at a depth slightly higher than grown in the container. Care shall be taken not to injure the root system, trunk, or foliage. The trunk shall not be used as a lever in positioning or moving the shrub in the planting hole.
3. Holes shall be backfilled with soil and tamped lightly and carefully so as not to damage roots. The shrub shall be watered to settle soil around the roots and remove air pockets.
4. All damaged branches shall be removed.
5. A minimum three-inch layer of mulch shall be placed loosely at the base to retard weed growth and conserve moisture.

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(c) Watering

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The following water schedule may be utilized and revised during prolonged periods of rain or drought.

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Initial Watering After Planting	Root zones shall be drenched every seven days for four weeks.
November December January February	In the absence of sufficient rainfall, root zones shall be drenched on a twenty-one-day watering schedule.
October March April	In the absence of sufficient rainfall, root zones shall be drenched on a fourteen-day watering schedule.
May June July August September	In the absence of sufficient rainfall, root zones shall be drenched on a seven-day watering schedule.

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Appendix 3.1.3.15 Shrub List

Expected Height After 3 Years (in feet)	Common Name	Botanical Name
	Evergreens	
1—3	Japanese Boxwood	Buxus microphylla japonica
1	Dwarf Euonymus	Euonymus japonica "Microphylla"
2—3	Silver King Euonymus	Euonymus japonica "Silver King"
1—2	Dwarf Gardenia	Gardenia jasminoides "Radicans"
2—3	Dwarf Burford Holly	Ilex cornuta "Burfordii Nana"
2—3	Dwarf Chinese Holly	Ilex cornuta "Rotunda"
1—2	Compact Japanese Holly	Ilex crenata "Compacta"
1—3	Dwarf Yaupon Holly	Ilex vomitoria "Nana"
1—2	Primrose Jasmine	Jasminum mesnyi
3—4	Texas Sage	Leucophyllum Frutescens
3—4	Dwarf Wax Myrtle	Myrica cerifera
1	Dwarf Purply Nandina	Nandina domestica nana "Purpurea"
2—3	Harbor Dwarf Nandina	Nandina domestica nana "Harbor Dwarf"
2—3	Dwarf Oleander	Nerium oleander
1—2	Turner's Dwarf Pittosporum	Pittosporum tobira "Turner's Dwarf"
1—2	Wheeler's Dwarf Pittosporum	Pittosporum tobira "Wheeler's Dwarf"
3—4	Fraser's Photinia	Photinia x fraseri
2—3	Red Elf Pyracantha	Pyracantha "Red Elf"
2—4	Indian Hawthorne	Raphiolepis indica
2—3	Red Spirea	Spiraea x bumalda "Anthony Waterer"
3—4	Spring Bouquet Vib	Viburnum tinus "Spring Bouquet"
6	Red Tip Photina	Photinia glabra
6	Chinese Photina	Photinia serrulata
6	Waxleaf Ligustrum	Ligustrum japonicum
6	Southern Wax Myrtle	Myrica cerifera

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Article 2 –Parkland

Division 1 – Parks and Private Parks

Section 3.2.1.1. Purpose

- (a) The purpose of this Article is to provide recreational areas in the form of neighborhood parks, regional parks, and trail systems linking public areas and subdivisions, as a function of subdivision development within the City and the City's extraterritorial jurisdiction. It is hereby declared that recreational areas in the form of neighborhood parks, regional parks, and trail systems are necessary and in the public welfare, and that the only adequate procedure to provide for same is by integrating such a requirement into the procedure for planning and development property or subdivisions within the City and the City's extraterritorial jurisdiction.
- (b) Neighborhood parks are those parks providing for a variety of outdoor recreational opportunities and within convenient distances from a majority of the residences to be served thereby. The City Council may adopt park zones, which shall be shown on a future official parks and recreation map for the City. If adopted, such park zones shall be prima facie proof that any park located therein is within such a convenient distance from any residence located therein. The primary cost of neighborhood 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.
- (c) Regional parks are those parks not primarily serving a specific neighborhood, but rather designed to serve the entire City and the City's extraterritorial jurisdiction, such as ballparks, soccer fields, and trail systems which connect various neighborhoods.
- (d) Parks dedicated to a municipal utility district or dedicated to the City shall be considered public parks.
- (e) The maintenance of a public park shall be the responsibility of the Municipal Utility District, if so dedicated, or the Homeowners Association of the development, unless the City expressly agrees to maintenance.

Section 3.2.1.2. Applicability

- (a) The regulations contained in this Article shall be applicable to all property within the city limits and the City's extraterritorial jurisdiction proposed to be developed in whole or in part for single-family or duplex residential or multi-family residential or any other residential or partial residential purposes for which a subdivision plat is required, unless otherwise noted herein.

- (b) These regulations do not apply to replats of land owned by the State of Texas or the United States of America.

Section 3.2.1.3. Land to be Used for Single-family, Duplex, or Multifamily Residential Purposes

- (a) Whenever a final plat is filed in the county real property records for development of a residential area in accordance with this Article, such plat shall contain a clear fee-simple dedication of an area of land, as a restricted reserve, to the City (or to a municipal utility district) for neighborhood park purposes, which area shall equal one (1) acre for each fifty-four (54) proposed dwelling units. Any proposed plat submitted to the City for approval shall show the area proposed to be dedicated under this Section, either within the platted residential area or within one-fourth (1/4) mile of the boundary of the platted residential area and directly connected by a permanent accessible route. The required dedication of this Section may be met by a payment of money in lieu of land as indicated in Section 3.2.1.4, the pledge of security guaranteeing a future dedication of park land before the subdivision plat is recorded, or the provision of private neighborhood park land when permitted or required by the other provisions of this Article.
- (b) In instances where an area of less than five (5) acres is required to be dedicated, the City shall accept or reject the dedication of such public park within sixty (60) days following approval of the preliminary plat after consideration by the Planning and Zoning Commission and the City Council. In the event the City determines that sufficient park area already is in the public domain in the proposed development, or if the recreation potential for that zone would be better served by expanding or improving existing parks, then the proposed dedication will be disallowed and the developer shall be required to make payment of cash in lieu of land, as provided by Section 3.2.1.4.
- (c) If the actual number of completed dwelling units exceeds, by less than 10% of the total original dedication, the figure upon which the original dedication was based, such additional dedication shall be required, and shall be made by payment of the cash in lieu of land amount provided by Section 3.2.1.4. If the actual number of completed dwelling units exceeds the total original dedication by more than 10% of the total original dedication, such additional dedication shall be required, and may be made, at the sole option of the City, either by land dedication or by the payment of cash in lieu of land as provided in Section 3.2.1.4.
- (d) For land dedicated for park purposes, evidence of recording in the appropriate real property records of a general warranty deed of the required park land as approved by the City Engineer and the City Attorney.
- (e) Identification of the required amount of parkland is to be indicated on an approved subdivision plat.
- (f) Parkland dedication does not qualify for, remove, or reduce the amount of any other required compensating open space that is provided for lot size reduction compensation.

- (g) Parkland dedication can be provided for a phased development, not within the subdivision section that requires the dedication, subject to location criteria indicated elsewhere in this Article or where funds have been paid for a phased development, and the original developer does not complete all phases of the development, credit for any prior dedication or payment shall be applied to subsequent subdivision plats for the same land on a pro-rata basis by dwelling unit. Increased density by the increase in the number of dwelling units shall require the dedication of additional parkland or payment of additional fees.
- (h) Unless provided elsewhere in rules promulgated by the City Engineer, the dedicated land shall be reasonably free of recognized environmental conditions. If land is proposed to be dedicated by subdivision plat, prior to the submission of an application for final subdivision plat approval, the applicant shall submit either a Phase 1 environmental assessment that shows no environmental conditions exist on the property or a Phase 2 environmental assessment that shows no remediation is required.
- (i) Land in a federally designated floodplain or floodway may not be dedicated as park land unless the dedicated land would be available for active recreational uses for a minimum annual timeframe as determined by the City Engineer.

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~~shall require the dedication of additional parkland or payment of additional fees.~~

~~(h) Unless provided elsewhere in rules promulgated by the City Engineer, the dedicated land shall be reasonably free of recognized environmental conditions. If land is proposed to be dedicated by subdivision plat, prior to the submission of an application for final subdivision plat approval, the applicant shall submit either a Phase 1 environmental assessment that shows no environmental conditions exist on the property or a Phase 2 environmental assessment that shows no remediation is required.~~

~~(i) Land in a federally designated floodplain or floodway may not be dedicated as park land unless the dedicated land would be available for active recreational uses for a minimum annual timeframe as determined by the City Engineer.~~

Section 3.2.1.4. Money in Lieu of Land Dedication for Neighborhood Parks

(a) Subject to approval of the City Council and the provisions of Section 3.1.2.3 above, a developer responsible for dedication of neighborhood parkland under this Section may elect to meet the requirements of Section 3.1.2.3, in whole or in part, by a cash payment in lieu of land, in the amount of three-hundred and fifty dollars (\$350.00) per dwelling unit. Such payment in lieu of land shall be made at or prior to the time of final plat recordation. The City shall not issue any permits for construction within the subdivision, except permits to construct public improvements, until such time as the payment of money in lieu of park land required by this Article is submitted to and accepted by the City. The City may annually review the fee per dwelling unit and may increase the fee, if approved by the City Council, up to a combination of the annual Consumer Price Index plus the percent of annual population increase within the City limit and the extra-territorial jurisdiction or a City Engineer report indicating the percentage increase of taxable value of property within the City limit and the City extra-territorial jurisdiction, whichever is greater. The fee amount will be the adjusted fee per dwelling unit at the time of plat recordation.

~~(b)~~ (b) The City may, from time to time, decide to purchase land for parks in or near the area of actual or potential development. If the City does purchase park land within a designated park zone, subsequent park land dedications for that zone shall be in cash only and calculated to reimburse the City's actual cost of acquisition and development of such land for parks. The cash amount shall be equal to the sum of (1) the average price per acre of such land, and (2) the actual cost of adjacent streets and on-site utilities, or an estimate of such actual cost provided by the City Engineer. Once the City has been reimbursed entirely for all such City-purchased park lands within a park zone, this paragraph shall cease to apply, and the other paragraphs of this Article shall again be applicable.

(c) To the extent that the required cash amount of Section 3.2.1.4 (b) cannot be determined, the dedication requirement shall be met by a payment in lieu of land computed based on four hundred fifty dollars (\$450.00) per dwelling unit.

Section 3.2.1.5. Private Neighborhood Park Land In lieu of Public Dedicated Park Land

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(a) A developer responsible for dedication under this Article may elect to meet up to fifty percent (50%) of the requirements of Section 3.2.1.3 by the provision of private neighborhood park land. Credit for private park land will be governed by the following criteria:

- ~~(1)~~ - The land offered as private neighborhood park land must be open and accessible to all residents of the platted subdivision. Land or facilities that are excluded to a portion of the subdivision residents will not be considered as private neighborhood park land.
- ~~(2)~~ Land which is unencumbered by easements, detention areas, lake and drainage channel borders, or other similar characteristics will qualify for private neighborhood park land at full credit. Land that has recreation facilities on it such as tennis courts, swimming pools, playing fields, recreation buildings, and any other similar facility also will qualify for full credit.
- ~~(3)~~ Land which is encumbered by easements, detention areas, lake and drainage channel borders, or other similar characteristics shall qualify at a 50% credit but only if it complies with criteria (A) (1), (2), and (3) below.

~~a. (A)~~ Pipeline or utility easements, or areas along lake borders and drainage ditches shall have:

- ~~{1}~~ Hike, bike, and all-weather paths, landscaping, and sodding installed according to the construction standards of the City. Paths must also be connected to recreational areas as part of an open space system;
- ~~{2}~~ An average minimum width of thirty feet (30') and a minimum width of twenty feet (20'); and
- ~~{3}~~ Side slopes for areas used in the credit not to exceed a five to one (5:1) ratio, unless otherwise approved by the city.

- (b) Maintenance responsibility for areas offered as private neighborhood park land must be identified with the submission of a preliminary plat.
- (c) Land offered for private neighborhood park land credit, which is less than three (3) acres in size is generally discouraged unless it is an integral part of the private park and open space provisions of the subdivision. A list of landscaping and other improvements of special uses planned for areas of land less than one-half (1/2) acre in size shall be submitted with the preliminary plat.
- (d) For land established as a private park, identification of the required amount of private park area as one or more restricted reserves with the following notation on each private reserve within the subdivision plat:

'RESERVE RESTRICTED TO PRIVATE PARK PURSUANT TO THE UNIFIED DEVELOPMENT CODE OF THE SODE OF ORDINANCES, CITY OF IOWA COLONY, TEXAS. THIS PRIVATE PARK DESIGNATION MAY NOT BE CHANGED WITHOUT APPROVAL OF THE CITY COUNCIL OF THE CITY OF IOWA COLONY, TEXAS'

Land that is established as a private park for the purposes of this Article may not be replatted to change this designation pursuant to section 212.0146 of Chapter 212 (Texas Local Government Code) without the recommendation of the Planning and Zoning Commission and the approval of the City Council. The Planning and Zoning Commission shall not recommend approval of a replat that would change the private park designation unless the Planning and Zoning Commission determines that alternative private park space that satisfies the requirements of this section is available within the original subdivision generating the dedication requirement.

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Section 3.2.1.6. Contribution for Regional Parks

- (a) In addition to the provisions for neighborhood parks by dedication of land (public or private) or the payment of fees in lieu thereof as described above, a developer shall contribute an additional four hundred fifty dollars (\$450.00) per dwelling unit for the development of regional parks.

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Section 3.2.1.7. Special Funds, Right to Refund

- (a) There is established a special fund within the City General Fund for the deposit of all sums paid in lieu of park land dedication, which funds shall be known as the "Park Land Dedication Fund" and the "Regional Park Fund." The City may establish additional sub-funds as it deems appropriate to track funds for different zones or different regional parks.
- (b) The City shall account for all sums paid in lieu of park land dedication under this Article with reference to the individual plats involved. Any funds paid for such purposes must be expended by the City for acquisition and development of parks. Such funds shall be spent on a first in, first out basis for each park zone.

Section 3.2.1.8. Additional Requirements

- (a) Any land dedicated to the City or provided as private neighborhood park land under this Article must be appropriate for park and recreation purposes. The City reserves the right to reject any land that it deems as unsuitable for such purposes.
- (b) Drainage areas may be accepted as part of a park if the channel is constructed in accordance with City standards, the land is appropriate for park use, and if no significant area of a park is cut off from access by such channel.
- (c) Each park area must have ready access to a public street.

Article 3 – Screening and Fencing

Division 1 – Screening

Section 3.3.1.1. Screening – New Construction Non-Residential and Multi-Family

(a) Non-residential and Multi-Family Screening Required.

(1) Requirement Criteria. This section shall apply to the following:

- a. Any new or re-developed non-residential or multi-family use that has a side or rear contiguous to any single-family residential use, existing or proposed on a general plan adopted by the City of Iowa Colony, or residential zoning district other than multi-family.

~~b. Any multi-family use that has a side or rear contiguous to any residential use or residential zoning district other than multi-family.~~

(2) The following shall apply ~~in either case outlined above:~~

- a. The nonresidential or multi-family use shall provide the following:
 1. An opaque masonry screening wall eight feet (8') in height. The screen wall shall be located no closer to the street than the street right-of-way line. Such screening fence shall be maintained in good condition by the non-residential or multi-family use. Any sections of this Code concerning sight obstructions of intersections shall be applicable to the screen where it is intersected by a street or throughway.
 2. In addition to an opaque masonry screening wall, there shall be a minimum 25-foot-wide landscape buffer between nonresidential or multi-family and all single-family uses. The buffer, located on the non-residential or multi-family property, shall also include Large Trees (from the Large Tree Plant list in UDC Section 3.1.3.31) with a minimum two-inch (2") caliper measured at twelve inches (12") above the root ball shall be provided, with the total caliper inches equal to at least one inch (1") for each ten feet (10') of landscape buffer length with a maximum spacing of twenty (20) feet between required trees. No paving or structures are allowed within the landscape buffer.
 3. In situations where a fence already exists along the property line between the non-residential or multiple-family use and the residential use, the screening required by this section shall be in

addition to the existing fence unless the nonresidential or multiple-family use obtains permission from the owner(s) of the existing fence to replace said fence with the opaque screening wall and twenty-five feet (25') buffer described above.

4. In situations where a utility easement for underground or above ground utilities exists or is proposed within the landscape buffer, the width of the utility easement, up to a maximum width of ten (10) feet, may be included within the minimum twenty-five (25) feet wide landscape buffer. When the proposed or existing utility easement is greater than ten (10) feet in width, the width of the utility easement shall be added to a minimum of fifteen (15) feet of un-incumbered landscape buffer width.
45. Prior to construction of buffers, complete plans showing type of material, depth of beam and structural support shall be submitted to the Building Official or an assign for analysis to determine whether:

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- i. The screen will withstand the pressures of time and nature; and
- ii. The screen adequately accomplishes the purpose for which it was intended.

56. The Building Official or an assign shall determine if the buffer meets the requirements of this section.

Section 3.3.1.2. Screening – Parking Area Screening Along Major and Minor Arterials

(a) Landscaping shall be required for the screening of parking areas along major or minor arterials when nonresidential parking areas are located on the nonresidential lot such that they are adjacent to such roadways (i.e., there is no building between the parking area and the lot line adjacent to the roadway). In such case, parking areas shall be screened by a continuous hedge of shrubs (from Section 3.1.3.34 Shrub List) that are maintained at a height of no more than thirty-six inches (36") nor less than twenty-four inches (24") as measured from the surrounding soil line and at a minimum thirty-six (36") plant spacing.

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Section 3.3.1.3. Screening – Residential Screening Along Major Thoroughfares and Collectors (Applies to the City & ETJ)

(a) Requirement Criteria:

1. Residential Screening Along Major Thoroughfares - Where residential subdivisions adjacent to a super arterial, major or minor arterial are platted so that the rear or side yards of single-family or two-family residential lots therein are within two-hundred feet (200') of a right-of-way line of said major thoroughfare, or are separated from such thoroughfare by an alley, landscape, or open space area/detention facility and utility easements, or back up to such thoroughfare, the developer shall provide, at its sole expense, a minimum six-foot (6') tall masonry screening wall (also see Subsection (b) below), or some other alternative form of screening, if approved by the Building Official or an assign, according to the following alternatives and standards. All screening shall be adjacent to the right-of-way or property line and fully located on the private lot(s) or reserves, including columns and decorative features. All forms of screening shall conform to the requirements of City ordinances and policies that govern sight distance for traffic safety.
2. Residential Screening Along Collectors – Where residential subdivisions adjacent to a collector are platted so that the rear or side yards of single-family or two-family

residential lots therein are within two-hundred feet (200') of a right-of-way line of said collector, or are separated from such collector by an alley, landscape, or open space area/detention facility and utility easements, or back up to such collector, the developer shall provide, at its sole expense, a minimum seven-foot (7') tall opaque wood screening wall, consisting of six-feet (6') long vertical boards with a horizontal wood cap and a horizontal treated wood base board, or some other alternative form of screening, if approved by the Building Official or assign, according to the following alternatives and standards. All screening shall be adjacent to the right-of-way or property line and fully located on the private lot(s) or reserves, including columns and decorative features. All forms of screening shall conform to the requirements of City ordinances and policies that govern sight distance for traffic safety.

- (b) Screening Alternatives: Screening shall be provided in accordance with, and shall be constructed to, standards and criteria as set forth in the City's Engineering Design Criteria Manual.

An alternative form of screening, in lieu of the masonry wall or opaque wood fence, may be approved by the Building Official or an assign and the City Engineer with the Preliminary Subdivision Plat application. Alternatives that may be considered include:

- (1) A living/landscaped screen in conjunction with decorative metal (e.g., wrought iron) fence sections with masonry columns;
 - (2) A combination of berms and living/landscaped screening;
 - (3) A combination of berms, decorative masonry walls and living/landscaped screening, either with or without a decorative metal or "WoodCrete" type of fence with masonry columns; or
 - (4) Some other creative screening alternative may be approved if it meets the spirit and intent of this Section, if it is demonstrated to be long-lasting and generally maintenance-free, and if the Building Official or an assign and City Engineer find it to be in the public interest to approve the alternative screening device.
- (c) Time Required for Opacity: Any required screening device shall be, or shall achieve, at least six feet (6') in height and at least ninety percent (90%) opacity within three (3) years of initial installation/planting. Any landscaping used to achieve the purpose of required screening shall be in conformance with other Divisions of this article and other Chapters of the Uniform Development Code.
- (d) Maintenance Easement: A wall/screening maintenance easement at least five feet (5') in width shall be dedicated to the City or to a property owners association on the private lot side and adjacent to the entire length of the screening wall or device.
- (e) Installation: The screening/wall/device shall be installed prior to final acceptance of the subdivision public improvements. All landscape materials, if utilized, shall be installed in accordance with other Divisions of this article and other Chapters of the Uniform

Development Code. Failure to properly install all components of a required screening wall or device within the prescribed timeframe, shall constitute a violation of this Unified Development Code, and shall authorize the City Engineer to refuse acceptance of the subdivision public improvements.

- (f) Design of Walls: All masonry, wrought iron, steel or aluminum screening wall plans and details must be designed and sealed by a licensed professional engineer, and must be approved by the City Engineer. Use of chain-link, chicken-wire, hog-wire fencing, barb-wire fencing, and any other material similar in appearance and quality is expressly prohibited. The use of wood is prohibited.
- (g) Height of Screening: The height of required screening devices, including spans between columns, shall be a minimum of six feet (6') and shall be no more than eight feet (8'). Decorative columns, pilasters, stone caps, sculptural elements, and other similar features may exceed the maximum eight-foot (8') height by up to two feet (2') for a total maximum height of ten feet (10') for these features, provided that such taller elements comprise no more than ten percent (10%) of the total wall length in elevation view.
- (h) Other Easements: Screening fences, walls and devices shall not be constructed within any portion of a utility or drainage easement unless specifically authorized by the City Engineer and by any other applicable utility provider(s).

Section 3.3.1.4. General Screening

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- (a) The following requirements shall be in addition to the foregoing landscaping and planting requirements:
- (1) All loading spaces and docks, outside storage areas including open storage, storage in containers and boxes not designed to be permanently affixed to real property, refuse containers/areas, mechanical and electrical equipment, and the rear of nonresidential uses/structures on double frontage lots, must be screened from view from the street or public rights-of-way and adjoining properties.
 - (2) Approved screening techniques include masonry, evergreen vegetative screens, landscape berms, existing vegetation, or any combination thereof. In any case in which a fence/wall is constructed to provide screening, landscaping elements shall be incorporated along most of the fence/wall. Screening for ground mounted mechanical, electrical equipment in non-residential areas shall consist of a decorative wall or architectural element of the building that is one hundred percent (100%) opaque and equal to or exceeds the height of the area being screened. Shrubbery shall be a minimum of three feet (3') in height at the time of planting, planted every three feet (3') or less on center, and have year-round foliage. Also, in the case of roof-mounted mechanical equipment, parapet roof structures are approved for screening such equipment.
 - (3) If a nonresidential use is adjacent to a residential use other than multi-family, such nonresidential use shall be screened in accordance with Section 3.3.1.1 (a) and shall include a vegetative buffer.
- (b) If screening is required, it shall be of sufficient height and opacity to completely obscure the activity, structure, or use.

Section 3.3.1.5. Screening for Utility Support Structures and Stations

- (a) Applicability. This section shall apply to all utility support structures or stations located on private property regardless of an easement or other form of agreement between the utility company or property owner.
- (b) Support Structures and Stations Defined. These shall include, but not be limited to, any switching equipment, lift stations, pipe valves connected to pipes above ground, boxes, or cabinets, cabling equipment or wiring above ground, transmitting equipment, control rooms, control cabinets, etc. Utility poles and transformers and like appurtenances attached to utility poles more than ten feet (10') above the ground are not considered a support structure or station.
- (c) Regulations. A utility support structure or station located on private property or outside a public street right of way must have proper screening. The construction or modification of an existing utility support structure or station equal to more than fifty percent (50%) of its

original or current economic value, whichever is higher, must provide screening meeting one of the following:

- (1) Eight foot (8') high masonry fence with up to a maximum of four-foot (4') long sections of wrought iron (ornamental iron) or similar style fencing material to allow for security. For walls or sides that have over fifty percent (50%) masonry as a component (not counting the gate) no landscaping would be required on that side. The gate would need to be wrought iron (ornamental iron) or solid metal finished in a neutral or natural color - not gray or steel color, unless otherwise approved by the City Engineer. All drives and work areas will be paved with concrete within the area under the utilities control.
 - (2) Wrought iron (ornamental iron) fencing or substantially similar style, eight feet (8') high, with gate similar in style to the fencing, unless otherwise approved by the City Engineer, in combination with landscaping shall be permitted, but shall require a concrete slab over the entire area under the utilities control including the drive or access to the support structure or station.
 - (3) Opaque or near-opaque live vegetative screening year-round from the ground to a height of at least eight feet (8') at installation along the boundary lines of the easement or area containing the utility facilities or apparatus. The screening shall provide a minimum of fifty percent (50%) screening during the growing season. The planting shall be a minimum of eight feet (8') in height at a spacing of at least four feet (4') on center.
 - (4) A self-contained masonry building that houses the equipment, provided the structure is constructed consistent with the appearance of surrounding businesses or homes in the area in which it is located. Factors affecting appearance shall include, but not be limited to, pitched shingle roofs, façade articulations, color scheme, and architecture trim.
- (d) Alternative. If the utility company does not wish to install the screening as outlined, it may, in its application for a Special Use Permit (SUP), submit an alternative plan for providing proper screening. If the alternate screening plan is approved as a part of an approved Planned Unit Development District plan or with a SUP, the utility company may install screening pursuant thereto in lieu of screening that conforms with the requirements of this section.
- (e) Exceptions. The following two conditions exempt certain equipment from the above requirements or to obtain a SUP:
- (1) Where no more than two support structures and/or stations as defined above are within fifty feet (50') of each other, are located within a common public utility easement, and each structure or station is located on a concrete pad with the dimensions of the structure being no larger than six feet (6') in height, four feet (4') deep, and seven feet (7') wide and is located at least fifty feet (50') from the ROW line of a public street.
 - (2) Pedestals, cabinets, or similar equipment structures when the structure is less than three feet (3') in height, covers less than six (6) square feet, and is in a common public utility easement, but is partially hidden from public view from a public street by landscaping, building, or fencing, as deemed appropriate by the Building Official or an assign.

Division 2 – Fencing

Section 3.3.2.1. Fencing Allowed

(a) Fences in Residential Areas/Districts, Except Multiple-Family.

- (1) **Materials Permitted** - Fences may be constructed of approved wood, decorative metal, chain link or woven wire mesh, and other materials traditionally used in private fence construction. New and innovative materials such as plastics, PVCs, metal panel or metal slat, “honeycomb”, cementitious fiber board (e.g., “WoodCrete”), and other similar materials may be approved for use by the City’s Building Official if the material is proven to be sturdy, durable, and relatively maintenance-free.

(b) Fences Permitted in Front Yard(s) Adjacent to a Public Street

- (1) Except as provided by Subsection 2 (Decorative Fences) below, no fence or wall shall be permitted within the required front yard of any single-family or duplex residential lot which is adjacent to a public street. No residential fence shall be closer than fifteen (15) feet to a public street; however, in cases where the side or rear building line of the yards on continuous corner lots adjoin (i.e., the side yard lot is not a key corner lot), the fence may be constructed out to the property line of the side yard, such that the street side yard may be included as part of the lot’s rear yard area.
- (2) **Decorative Fences** - Decorative fences with openings not less than fifty percent (50%) of the fence area and not exceeding four (4) feet in height are permitted in front yards. Chain link, woven wire mesh metal panel, or similar materials are not considered decorative fencing, and are therefore not allowed in front yards.

Section 3.3.2.2. Fencing Not Allowed or Allowed with Conditions

(a) Perimeter Fencing in Residential Zoning Districts or Residential Use

- (1) Above-ground electrical fencing (does not include underground “virtual fencing”, which is allowed), wire mesh (such as hog wire, chicken wire) and barbed wire are prohibited as perimeter fencing except on parcels or lots of two (2) acres or greater in size in the Residential Single-Family Units/Agriculture zoning district.

(b) Fences Within Public Easements

(1) Fences are allowed within public easements with the approval of the Building Official or an assign and the City Engineer, but any allowed fence must have a gate or removable panel to allow for maintenance access to such easement.

(c) Fences Within Drainage Easements

(1) No fences or structures of any kind that restrict the flow of drainage water will be allowed within drainage easements. Non-restrictive fences or structures within drainage easements must be specifically approved by the City Engineer.

(d) Fences within Side/Rear Yards

(1) Fences located within side or rear yards shall not exceed eight (8) feet in height.

Section 3.3.2.3. Fencing Required

(a) Around Single-Family Residential Developments

(1) Single-family residential use existing at the effective date of this Article is exempt from any requirement to provide any perimeter fencing.

(2) Single-family residential use, if only a single tract or lot greater than two (2) acres in size or part of a multi-lot residential subdivision which has all lots greater than two (2) acres in size, if constructed or permitted after the effective date of this Article is exempt from any requirements to provide any perimeter fencing.

(3) Single-family residential use, if a part of a multi-lot (more than 1 lot) residential subdivision with any lot less than two (2) acres in size, and not a part of an approved Planned Unit Development District, shall provide an eight (8) feet high approved opaque wood or masonry or combination masonry/wood materials fence ~~per details established by the Engineering Design Criteria Manual of the City (called "DCM" in this ordinance), as revised from time to time,~~ around the outside single-family residential perimeter boundary of the subdivision section unless a portion of the outside perimeter boundary of the section is a part of an approved general plan. In which case, that part of the outside single-family residential perimeter boundary of the subdivision adjacent to future sections of the development shall not be required to provide a perimeter fence.

(4) Gates used for access control within private street single-family residential developments must be set back a minimum of twenty-four (24) feet from the intersecting public street right-of-way to allow for vehicular stacking to occur outside the public street right-of-way.

(5) Any fence provided within a single-family residential development that exceeds eight (8) feet in height will require construction plans approved by a civil engineer registered to practice in the State of Texas and will require a building permit.

(6) If a owner of land proposed for a single-family use with lots less than two (2) acres in size obtains a notarized agreement from all existing land owners of adjacent land to the

rear and side of the proposed single-family use indicating agreement to not require the fence around the perimeter boundary of the subdivision, the proposed land having lots less than two (2) acres in size will be exempt from providing a fence around the perimeter boundary of the subdivision.

(b) Around Non-Single-Family Residential Developments

- (1) Single tract/lot or multi-tract/lot non-single-family developments are not required to provide boundary perimeter fencing when the new development is adjacent to other existing non-single-family development.
- (2) The owner of a building site included under section 3.1.2.1 and which is to be developed or expanded for a non-single-family residential or a multi-family residential use adjacent to any existing single-family residential property shall provide a landscape buffer adhering to at least one of the following buffer type:
 - a. A wood, concrete or masonry opaque screening fence with a height of eight feet (8') along the entire property line or entire artificial lot line, if any, adjacent to the single-family residential property
- (3) A building permit must be obtained to construct any type of new fence where the market value of the work (materials and labor) exceeds three hundred (300) dollars. A

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building permit is not required for the repair or replacement of existing fences if the repair or replacement does not exceed the original fence criteria.

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Article 4 - Exterior Environmental Lighting

Division 1 — General

Section 3.4.1.1. Purpose and Applicability

- (a) The purpose of this division is to establish standards for outdoor lighting in order to:
- (1) Minimize adverse off-site effects from glare and light trespass or obtrusive light;
 - (2) Maintain adequate, appropriate lighting fixtures and practices that do not exceed the IES recommended practices for night-time safety, utility, productivity, enjoyment, and commerce while curtailing light pollution, skyglow, and the adverse effects of night lighting from gas or electric sources;
 - (3) Promote efficient lighting design and operation by conserving energy and resources to the greatest extent possible; and
 - (4) Protect residential uses from light sources from non-residential uses that are improperly selected, placed, aimed, maintained, or shielded.
- (b) See Section 0.1.1.2 concerning the geographical scope of this ordinance. Except as described below, all outdoor lighting shall comply with these requirements. This includes, but is not limited to, existing lighting that has been amortized per amortization regulations contained in this Article, new lighting, replacement lighting, or any other lighting whether attached to structures, poles, the earth, or any other location, including lighting installed by any third party. Submission and approval of a Site Plan shall be required for all nonresidential (including churches, schools, etc. within residential areas), mixed-use, townhouse, single-family attached, and multi-family residential projects. The Building Official or an assign shall be the responsible official for processing of a Site Plan.
- (1) Building Permit Issuance: Site plans shall be submitted prior to or in conjunction with a building permit application. No building permit shall be issued until a Site Plan, if required, and all other required engineering/construction plans are first approved by the City. No certificate of occupancy shall be issued until all construction and development conforms to the Site Plan and engineering/construction plans, as approved by the City. A Lighting Plan shall be included for review and approval with submittal of a Site Plan.
- (2) Exemptions: The following are not regulated by this Ordinance
- a. Lighting within the public right-of-way or easement for the principal purpose of illuminating roads and highways. No exemption shall apply to any street lighting

and to any lighting within the public right-of-way or easement when the purpose of the luminaire is to illuminate areas outside of the public right-of-way or easement.

- b. Lighting for public monuments and statuary
- c. Lighting solely for signs if regulated by another Ordinance
- d. Repairs to existing luminaires not exceeding 25% of total installed luminaires
- e. Temporary lighting for theatrical, television, performance areas and construction sites
- f. Underwater lighting in swimming pools and other water features
- g. Temporary lighting and seasonal lighting provided that individual lamps are less than 10 watts and 70 lumens
- h. Lighting that is used under emergency conditions
- i. In Ambient Lighting Level areas 1 and 2, low voltage landscape lighting controlled by an automatic device that is set to turn the lights off at one hour after the site is closed to the public or at a time established by City Council.
- j. Temporary use of security lighting for no longer than necessary to prevent imminent or occurring harm to any person or property, due to a sudden emergency.

Section 3.4.1.2. Review and Approval Authority

- (a) An exterior light plan shall be required for all proposed or modified lighting that includes:
 - 1. Description of light fixtures including component specifications such as associated with a non-residential or multifamily site plan. Lighting plans shall include the following: lamps, reflectors, optics, angle of cutoff, supports, poles, and include manufacturer's catalog cuts.
 - 2. Location and description of every outdoor light fixture and hours of operation.
 - 3. Maintained horizontal illumination levels shown as foot candles and lumens.

Section 3.4.1.3. General Standards

- (a) Shielding shall be required in all installations except as specified herein. The lower edge of the shield shall be at or below the lowest point of the light source the light source or lamp to minimize the light transmission above the horizontal plane, or at least ninety (90) percent of the emitted light projects below the horizontal plane as evidenced by the manufacturer's photometric data. Shielding requirements may be reduced for architecturally decorative light fixtures in consideration of aesthetics and theme style lighting.
- (b) Any use is prohibited from operating in a manner so that the intensity of its glare or direct illumination projecting across the property boundary and onto another public or private property is a nuisance or detracts from the use or enjoyment of adjacent property.
- (c) Exterior lights shall be located to not produce direct illumination across the bounding property line. All outside lights shall be comprised of a light source and reflector selected so that acting together, the spillover is controlled and not directed across any bounding property line above a height of three (3) feet.
- (d) Outdoor advertising displays and signs not exclusively illuminated internally, may only utilize illuminating devices mounted on the top of the advertising display

structure. All such fixtures shall comply with all other provisions of this section.

- (e) Outdoor advertising signs constructed of translucent materials and wholly illuminated from within do not require shielding-

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- (f) Light fixtures mounted on canopies or fueling station service islands shall be recessed so that the lens cover is recessed or flush with the bottom surface (ceiling) of the canopy.
- (g) IN ALL CASES, THE MAXIMUM CORRELATED COLOR TEMPERATURE FOR ALL NON-RESIDENTIAL LIGHTING AND ALL NON-RESIDENTIAL USES WITHIN RESIDENTIAL USE AREAS OR RESIDENTIAL ZONES IN THE CITY LIMIT SHALL NOT BE MORE THAN 3,000 DEGREES KELVIN AND A S/P (SCOTOPIC – NIGHTTIME LIGHT LEVEL, PHOTOPIC – DAYTIME LIGHT LEVEL) RATIO OF LESS THAN 1.2 TO MINIMIZE BLUE LIGHT EMISSION
- (h) The allowable ambient light source intensity and the requirements for shielding light emissions for outdoor lighting fixtures shall be as set forth in the following table:

Ambient Light Level	Zoning/Use	Recommended Uses or Areas
ALL-0	Wilderness areas, parks and preserves, and undeveloped rural areas	No Ambient Lighting – Areas where the natural environment will be seriously and adversely affected by lighting. Impacts include disturbing the biological cycles of flora and fauna and/or detracting from human enjoyment and appreciation of the natural environment. Human activity is subordinate in importance to nature. The vision of human residents and users is adapted to the darkness, and they expect to see little or no lighting. When not needed, lighting should be extinguished.
ALL-1	Rural and low-density residential areas	Low Ambient Lighting – Areas where lighting might adversely affect flora and fauna or disturb the character of the area. The vision of human residents and users is adapted to low light levels. Lighting may be used for safety and convenience, but it is not necessarily uniform or continuous. After midnight, most lighting should be extinguished or reduced as activity levels decline.
ALL-2	Light commercial business and high density or mixed-use residential areas	Moderate Ambient Lighting - Areas of human activity where the vision of human residents and users is adapted to moderate light levels. Lighting may be typically used for safety and convenience, but it is not necessarily uniform or continuous. After midnight, lighting may be extinguished or reduced as activity levels decline.

(i) Lighting Control Requirements

1. Automatic Switching Requirements:

Controls shall be provided that automatically extinguish all outdoor lighting when sufficient daylight is available using a control device or system such as a photoelectric switch, astronomic time switch or equivalent functions from a programmable lighting controller, building automation system or lighting energy management system, all with battery or similar backup power or device. Exceptions include automatic lighting controls are not required for the following:

- a. Lighting under canopies
- b. Lighting for tunnels, parking garages, garage entrances and similar conditions

2. Automatic Lighting Reduction Requirements:

After the midnight hour (12:00 AM), total outdoor lighting lumens shall be reduced by at least 30% or extinguished, except under any of the following:

- a. Lighting for single family residential properties including multi-family residential properties not having common area.
- b. When the outdoor lighting consists of only one luminaire.
- c. Code required lighting for steps, stairs walkways, and building entrances.
- d. When in the opinion of the City Engineer or Building Official, lighting levels must be maintained.
- e. Motion activated lighting.
- f. Lighting governed by special use permit in which times of operation are specifically identified.
- g. Businesses that operate on a 24-hour basis and have obtained a special use permit (SUP).

Section 3.4.1.4 Non-residential Lighting

For all non-residential properties, and for multiple residential properties of two or more domiciles having common outdoor areas, all outdoor lighting shall comply either with Part A or Part B of this section.

(a) Part A – Prescriptive Method

(1) Total Site Lumen Limit

The total installed initial luminaire lumens of all outdoor lighting shall not exceed the total site lumen limit. The total site lumen limit shall be determined using either the Parking Space Method (Table A) or the Hardscape Area Method (Table B). Only one method shall be used per permit application, and for site with existing lighting, existing lighting shall be included in the calculation of total installed lumens.

The total installed initial luminaire lumens is calculated as the sum of the initial luminaire lumens for all luminaires.

(2) Limits to Off Site Impacts

All luminaires shall be rated and installed according to Table C

(3) Light Shielding for Parking Lot Illumination

All parking lot lighting shall have no light emitting above 90 degrees.

Exception:

- a. _Ornamental parking lighting shall be permitted by special permit only and shall meet the requirements of Table C-1 for Backlight, Table C-2 for Up-light, and Table C-3 for Glare, without the need for external field-added modifications.

(b) Part B – Performance Method

(1) Total Site Lumen Limit

The total installed initial luminaire lumens of all lighting systems on the site shall not exceed the allowed total initial site lumens. The allowed total initial site lumens shall be determined using Tables D and E. For sites with existing lighting, existing lighting shall be included in the calculation of total installed lumens.

The total installed initial luminaire lumens of all is calculated as the sum of the initial luminaire lumens for all luminaires.

(2) Limits to Off Site Impacts

All luminaires shall be rated and installed using either Option A or Option B. Only one option may be used per permit application.

Option A: All luminaires shall be rated and installed according to Table C.

Option B: The entire outdoor lighting design shall be analyzed using industry standard lighting software including inter-reflections in the following manner:

1. Input data shall describe the lighting system including luminaire locations, mounting heights, aiming directions, and employing photometric data tested in accordance with IES guidelines. Buildings or other physical objects on the site within three object heights of the property line must be included in the calculations.
2. Analysis shall utilize an enclosure comprised of calculation planes with zero reflectance values around the perimeter of the site. The top of the enclosure shall be no less than thirty-three (33) feet (10 meters) above the tallest luminaire. Calculations shall include total lumens upon the inside surfaces of the box to and vertical sides and maximum vertical illuminance (foot-candles and/or lux) on the sided of the enclosure.

The design complies if:

- a. The total lumens on the inside surfaces of the vertical enclosure are less than 15% of the total site lumen limit; and
- b. The maximum vertical illuminance on any vertical surface is less than the allowed maximum illuminance per Table F.

Section 3.4.1.5 Residential Lighting

(a) General Requirements

For residential properties including multiple residential properties not having common areas, all outdoor luminaires shall be fully shielded and shall not exceed the allowed lumen output in Table G, column 2.

Exceptions:

- (1) One partly shielded or unshielded luminaire at the main entry not exceeding the allowed lumen output in Table G, column 1.
- (2) Any other partly shielded or unshielded luminaires not exceeding the allowed lumen output in Table G, column 3.
- (3) Low voltage landscape lighting aimed away from adjacent properties and not exceeding the allowed lumen output in Table G, column 6.
- (4) Shielded directional flood lighting aimed so that direct glare is not visible from adjacent properties and not exceeding the allowed lumen output in Table G, column 5.
- (5) Open flame gas lamps.
- (6) Lighting installed with a vacancy sensor, where the sensor extinguishes the lights no more than 15 minutes after the area is vacated.
- (7) Lighting exempt per section 3.4.1.1. (b) 2

(b) Requirements for Residential Landscape Lighting

- (1) Shall comply with Table G.
- (2) Shall not be aimed onto adjacent properties.

Section 3.4.1.6. Lighting By Special Permit Only

(a) High intensity and Special Purpose Lighting -

The following lighting systems are prohibited from being installed or used except by Special Use Permit:

- (1) Temporary lighting in which any single luminaire exceeds 20,000 initial luminaire lumens or the total lighting load exceeds 160,000 lumens.
- (2) Aerial Lasers
- (3) Searchlights
- (4) Other very intense lighting defined as having a light source exceeding 200,000 initial luminaire lumens or an intensity in any direction of more than 2,000,000 candelas.

(b) Complex and Non-Conforming Uses

Upon Special Use Permit issued by the City of Iowa Colony, lighting not complying with the technical requirements of this ordinance but consistent with its intent may be installed for complex sites or uses or special uses including, but not limited to, the following applications:

- (1) Sports facilities, including but not limited to unconditioned rinks, open courts, fields, and stadiums.
- (2) Construction lighting.
- (3) Lighting for industrial sites having special requirements, such as petrochemical manufacturing or storage, shipping piers, etc.
- (4) Parking structures.
- (5) Urban parks.

- (6) Ornamental and architectural lighting of bridges, public monuments, statuary, and public buildings.
- (7) Theme and amusement parks.
- (8) Correctional facilities.

To obtain a Special Use Permit, applicants shall demonstrate that the proposed lighting installation:

- a. Has sustained every reasonable effort to mitigate the effects of light on the environment and surrounding properties, supported by a signed statement describing the mitigation measures. Such statements shall be accompanied by the calculations required for the Performance Method,
- b. Employs lighting controls to reduce lighting at a Project Specific Curfew "Curfew") time to be established in the Special Use Permit, and
- c. Complies with the Performance Method after Curfew.

The City of Iowa Colony Building Official or an assign and the City Engineer shall review each such application and make a recommendation to the City Council. The City Council will review the application and the recommendation of the Building Official and the City Engineer and may agree to grant a Special Use Permit if the City Council believes that the proposed lighting will not create unwarranted glare, sky glow, or light trespass.

Section 3.4.1.7. Existing Lighting

All lighting installed prior to the effective date of this ordinance shall comply with the following:

- (a) Amortization – All existing single family residential structures and developed tracts or lots shall be allowed to continue using existing exterior lighting but must comply with the requirements of this Article after a reasonable amortization period, which is presumed to end ten (10) years after the effective date of the adoption of this Article, including repair and comparable replacement.
- (b) New Uses or Structures, or Change of Use, after the effective date of this article – Whenever there is a new use of a property (zoning or variance change) or the use of the property is changed, all outdoor lighting on the property shall be brought into compliance with this Ordinance before the new or changed use commences.
- (c) Additions or Alterations
 - (1) Major Additions – If a major addition occurs on a property, lighting for the entire property shall comply with the requirements of this Article. The following are considered major additions:
 - a. Additions of twenty-five (25) percent or more in terms of additional dwelling units, gross floor area, seating capacity, or parking spaces, either with a single addition or with cumulative additions after the effective date of this Article.

- b. Single or cumulative additions, modifications, or replacement of twenty-five (25) percent or more of installed outdoor lighting luminaires existing as of the effective date of this Ordinance.

(2) Minor Modifications, Additions, or New Lighting Fixtures for Non-Residential and Multiple Dwellings – For non-residential and multiple dwellings, all additions, modifications, or replacement of more than twenty-five (25) percent of outdoor lighting fixtures existing as of the effective date of this Article shall require the submission of a complete inventory and site plan detailing all existing and any proposed new outdoor lighting. Any new lighting shall meet the requirements of this Article.

(3) Resumption of Use after Abandonment – If a property with non-conforming lighting is abandoned for a period of six (6) months or more, then all outdoor lighting shall be brought into compliance with this Article before any further use of the property occurs.

Section 3.4.1.8. Tables

Table A – Allowed Total Initial Luminaire Lumens per Site for Non-Residential Outdoor Lighting, Per Parking Space Method.

May only be applied to properties up to 10 parking spaces (including handicapped accessible spaces).

Light Zone	Use/Zone	Allowed Luminaire Lumens per Parking Space (Lumens/Space)
ALL-0	Wilderness areas, parks and preserves, and undeveloped rural areas	350
ALL-1	Rural and low-density residential areas	490
ALL-2	Light commercial business and high density or mixed-use residential areas	630

Table B – Allowed Total Initial Lumens per Site for Non-Residential Outdoor Lighting, Hardscape Area Method.

May be used for any project. When lighting intersections of site drives and public streets or roads, a total of six hundred (600) square feet for each intersection may be added to the actual site hardscape area to provide for intersection lighting.

Base Allowance

Light Zone	Use/Zone	Base Allowance of Lumens per Square Foot of Hardscape
ALL-0	Wilderness areas, parks and preserves, and undeveloped rural areas	0.5
ALL-1	Rural and low-density residential areas	1.25
ALL-2	Light commercial business and high density or mixed-use residential areas	2.5

Lumen Allowances, in Addition to Base Allowance

Additional allowances for sales and service facilities. No more than two additional allowances per site. Use it or lose it.

Light Zone	Outdoor Sales Lots (1)	Outdoor Sales Frontage (2)	Drive Up Windows (3)	Vehicle Service Station (4)
ALL-0	0	0	0	0
ALL-1	4 Lumens/SF	0	2,000 Lumens/Drive Up Window	4,000 Lumens/Pump (based on 5 Foot-Candles horizontal)
ALL-2	8 Lumens /SF	1,000 Lumens/LF	4,000 Lumens/Drive Up Window	8,000 Lumens/Pump) (based on 10 Foot-Candles horizontal)

- (1) This allowance is lumens per square foot of un-covered sales lots used exclusively for the display of vehicles or merchandise for sale, and may not include driveways, parking, or other non-sales areas. To use this allowance, luminaires must be within two (2) mounting heights of sales lot area.
- (2) This allowance is for lineal feet of sales frontage immediately adjacent to the principal viewing location(s) and unobstructed for its viewing length. A corner sales lot may include two adjacent sides provided that a different principal viewing location exists for each side. To use this allowance, luminaires must be located between the principal viewing location and the frontage outdoor sales area.
- (3) In order to use this allowance, luminaires must be within twenty (20) feet horizontal distance of the center of the window.
- (4) This allowance is lumens per installed fuel pump.

Table C – Maximum Allowable Backlight, Uplight, and Glare (BUG) Ratings.

May be used for any project. A luminaire may be used if it is rated for the lighting zone of the site or lower in number for all ratings, B, U, and G. Luminaires equipped with adjustable mounting devices permitting alteration of luminaire aiming in the field shall not be permitted.

Table C-1 – Allowed Backlight Rating (1)

Light Zone	Greater Than 2 Mounting Heights from Property Line	1 to Less Than 2 Mounting Heights from Property Line and Ideally Oriented (2)	0.5 to 1 Mounting Heights from Property Line and Ideally Oriented (2)	Less Than 0.5 Mounting Height to Property Line and Properly Oriented (2)
ALL-0	B1	B1	B0	B0
ALL-1	B3	B2	B1	B0
ALL-2	B4	B3	B2	B0

- (1) For property lines that abut public walkways, bikeways, plazas, and parking lots, the property line may be five (5) feet beyond the actual property line for purposes of determining compliance with this section. For property lines that abut public roadways, the property line may be the centerline of the public roadway for the purpose of determining compliance with this section. NOTE: This adjustment is relative to Table C-1 and C-3 only and shall not be used to increase the lighting area of the site.

- (2) To be considered “ideally oriented”, the luminaire must be mounted with the backlight portion of the light output oriented perpendicular and towards the property line of concern.

Table C-2 – Maximum Allowable Uplight (BUG) Ratings – Continued

Light Zone	Allowable Uplight Rating	Allowed % Light Emission Above 90 Degrees for Street or Area Lighting
ALL-0	U0	0%
ALL-1	U1	0%
ALL-2	U2	0%

Table C-3 – Maximum Allowed Glare (BUG) Ratings – Continued

Light Zone	Allowed Glare Rating	Any Luminaire Not Ideally Oriented (3) With 1 to Less Than 2 Mounting Heights to Any Property Line of Concern	Any Luminaire Not Ideally Oriented (3) With 0.5 to 1 Mounting Heights to Any Property Line of Concern	Any Luminaire Not Ideally Oriented (3) With Less Than 0.5 Mounting Heights to Any Property Line of Concern
ALL-0	G0	G0	G0	G0
ALL-1	G1	G0	G0	G0
ALL-2	G2	G1	G0	G0

- (3) Any luminaire that cannot be mounted with its backlight perpendicular to any property line within 2X the mounting heights of the luminaire location shall meet the reduced Allowed Glare Rating in Table C-3

Table D – Performance Method Allowed Total Initial Site Lumens

May be used on any project.

Light Zone	Allowed Lumens Per SF	Allowed Base Lumens Per Site
ALL-0	0.5	0
ALL-1	1.25	3,500
ALL-2	2.5	7,000

Table E – Performance Method Additional Initial Luminaire Lumen Allowances

All of the following are “use it or lose it” allowances. All area and distance measurements in plan view unless otherwise noted.

Additional Lumens Allowances for All Buildings except service stations and outdoor sales facilities. A MAXIMUM OF THREE (3) ALLOWANCES ARE PERMITTED. THESE ALLOWANCES ARE “USE IT OR LOSE IT”

Light Zone	Principle Building Entrances or Exits (1)	Building Facades (2)	Sales or Non-Sales Canopies (3)	Guard Stations (4)	Outdoor Dining (5)	Drive Up Windows (6)
ALL-0	400	0	0	0	0	0
ALL-1	1,000	0	3/SF	6/SF	1/SF	2,000 Lumens/Drive Up Window
ALL-2	2,000	8/SF	6/SF	12/SF	5/SF	4,000 Lumens/Drive Up Window

- (1) This allowance is per door with a maximum of two (2) doors per building. To qualify for this allowance, luminaires must be within twenty (20) feet of the door.
- (2) This allowance is lumens per unit area of the building façade that are illuminated. To use this allowance, luminaires must be aimed at the façade and capable of illuminating it without obstruction.
- (3) This allowance is lumens per unit area for the total area within the drip line of the canopy. To qualify for this allowance, luminaires must be located under the canopy.
- (4) This allowance is lumens per unit of area of guardhouse plus 2000 SF per vehicle lane. To use this allowance, luminaires must be within two (2) mounting heights of a vehicle lane or the guardhouse.
- (5) This allowance is lumens per unit area for the total illuminated hardscape of outdoor dining. To use this allowance, luminaires must be within two (2) mounting heights of the hardscape area of outdoor dining.
- (6) This allowance is lumens per window with a maximum allowance of two (2) drive-up windows per building. To use this allowance, luminaires must be within twenty (20) feet of the center of the window.

Additional Lumens Allowances for Service Stations or Gas Dispensing Facilities in Combination with Other Non-gas Dispensing Uses Only. Service Stations or Gas Dispensing Facilities in Combination with Other Non-gas Dispensing Uses May Not Use Any Other Additional Allowances

Light Zone	Additional Allowance for Service Stations – Vehicle Service Station Hardscape (7)	Additional Allowance for Service Stations – Vehicle Service Station Canopies (8)
ALL-0	0	0
ALL-1	4/SF	8/SF
ALL-2	8/SF	16/SF

(7) This allowance is lumens per unit area for the total illuminated hardscape area less area of buildings, area under canopies, area off property, or areas obstructed by signs or structures. To use this allowance, luminaires must be illuminating the hardscape area and must not be within a building below a canopy, beyond property lines, or obstructed by a sign or other structure.

(8) This allowance is lumens per unit area for the total area within the drip line of the canopy. To use this allowance, luminaires must be located under the canopy.

Additional Lumens Allowances for Outdoor Sales Facilities Only. Outdoor Sales Facilities May Not Use Any Other Allowances. NOTICE: Lighting Permitted by These Allowances Shall Employ Controls Extinguishing This Lighting After a Curfew Time to be Determined by the City of Iowa Colony.

Light Zone	Outdoor Sales Lots (9)	Outdoor Sales Frontage (10)
ALL-0	0	0
ALL-1	4/SF	
ALL-2	8/SF	1,000/LF

(9) This allowance is lumens per square foot of uncovered sales lots used exclusively for the display of vehicles or other merchandise for sale, and may not include driveways, parking or other non-sales areas and shall not exceed twenty-five (25) percent of the total hardscape area. To use this allowance, luminaires must be within two (2) mounting heights of the sales lot area.

(10) This allowance is for lineal feet of sales frontage immediately adjacent to the principal viewing location(s) and unobstructed for its viewing length. A corner sales lot may include two (2) adjacent sides, provided a different principal viewing location exists for

each side. To use this allowance, luminaires must be located between the principal viewing location and the frontage outdoor sales area.

Table F – Maximum Vertical Illuminance at Any Point In the Plane of the Property Line

Light Zone	Maximum Vertical Illuminance
ALL-0	0.05 FC or 0.5 LUX
ALL-1	0.1 FC or 1.0 LUX
ALL-2	0.3 FC or 3.0 LUX

Table G – Residential Lighting Limits

Light Zone	Column 1 (1)	Column 2 (2)	Column 3 (3)	Column 4 (4)	Column 5 (5)	Column 6 (6)
ALL-0	Not Allowed	630 Lumens	Not Allowed	Not Allowed	Not Allowed	Not Allowed
ALL-1	420 Lumens	1,260 Lumens	315 Lumens	Not Allowed	Not Allowed	SFR Exempt Others Not Allowed
ALL-2	630 Lumens	1,260 Lumens	315 Lumens	1,050 Lumens	1,260 Lumens	525 Lumens

- (1) Maximum allowed luminaire lumens* for unshielded luminaires at one entry only.
- (2) Maximum allowed luminaire lumens* for each fully shielded luminaire
- (3) Maximum allowed luminaire lumens* for each unshielded luminaire excluding main entry.
- (4) Maximum allowed luminaire lumens* for each landscape lighting.
- (5) Maximum allowed luminaire lumens* for each shielded directional flood lighting.
- (6) Maximum allowed luminaire lumens* for each low voltage landscape lighting.

Article 5 – Commercial Buildings

Division 1 General

Section 3.5.1.1. Purpose

The purpose of this Article is to establish minimum standards for exterior building improvements for non-residential structures to protect and advance the general welfare of the community by:

- (a) Promoting economic development to ensure the community is a desirable place to shop and work;

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- (b) Provide for the structural integrity, safety, durability, and improved maintenance of the façade of buildings;
- (c) Enhance and protect the aesthetic interests of the community; and
- (d) Protect property values and lessen the impact that commercial properties have on surrounding residential development.

Section 3.5.1.2. Applicability

- (a) This Article applies to all sides of all buildings that are:
 - (1) Non-residential;
 - (2) And either;
 - a. Constructed after the date of adoption of this Article, or
 - b. Repaired, added to, or altered as to more than fifty (50) percent of the exterior walls, after the date of adoption of this Article; and
 - (3) Located within one thousand (1,000) feet of a public street or highway.
- (b) However, this Article shall not apply to agricultural buildings, such as barns. This exception shall not apply to commercial businesses that are open to the public, even if they are agricultural.

Division 2 Types of Improvements

Section 3.5.2.1. Existing Buildings - Maintenance, Repair, Replacements

- (a) Maintenance. The exposed walls and roofs of buildings shall be maintained in a clean, orderly, and attractive condition, free of cracks, dents, punctures, breakage ~~and other and other~~ forms of visible marring. Materials that become excessively faded, chalked or otherwise deteriorated shall be refinished or repainted. "Excessively faded" shall be defined as a color change exceeding 7 Delta E (Hunter) units under ASTM D2244. "Excessively chalked" shall be defined as chalk more than ASTM D759 number 6 rating.
- (b) The maintenance, repair, or replacement of existing building elements shall be performed in the following order of priority:

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- (1) Maintaining the original materials, elements, and systems is the preferred and typically best method of preserving the character of existing buildings and shall be done except as otherwise authorized in (2) or (3) below.
- (2) If maintaining the original as provided above is not economically or technically feasible, repairs shall be done so that the original materials and elements remain intact by replacing the deteriorated portion in-kind using the same material as the original for replacement.
- (3) If, for technical or economic reasons, replacement in-kind as provided above also proves not to be feasible, the deteriorated material or element shall be replaced with a compatible substitute material which has the same appearance, size, shape, texture, color, and other defining characteristics as the original. The substitute material shall also be physically and chemically compatible with adjacent materials so that it does not cause future maintenance problems.

Section 3.5.2.2. Alterations

- (a) Exterior alterations to an existing building or to its site that affect appearance or landscape shall be done in a manner that does not detract from the character-defining features of the building, site, or the neighborhood.

Section 3.5.2.3. Additions

- (a) Additions to existing commercial buildings are sometimes necessary to extend their functional or economic life. Consideration shall be given to the effect the location, size, and exterior appearance of the addition will have on an existing building and its neighbors. Visibility from a public right-of-way and the character of the existing elevation to which the addition is to be attached shall be evaluated including height, width, proportion, rhythm of windows and doors, roof shape, ornamentation, projections, and materials.

Section 3.5.2.4. New Construction

- (a) New construction shall follow the same general design principles as existing construction including particular attention to its setback from the street and its alignment with the front facades of neighboring buildings and landscape features. Achieving compatibility does not mean duplicating neighboring buildings or environment. A new building or addition shall be seen as a product of its own time. However, by effectively relating to the neighborhood, a new building shows the neighborhood's evolution just as the existing buildings show its past. By providing features or elements in the new building that support significant existing

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elements in the neighborhood, the new building will be a good neighbor, enhancing the character of the neighborhood.

Division 3 Character Defining Elements

Observing and understanding specific details of design is critical to preserving the character of a neighborhood. Character-defining features include setback, orientation, scale, proportion, rhythm, massing, height, materials, color, roof shape and details, ornamentation, landscape features, such as plants, trees, fences, sidewalks, and driveways, and the design and location of secondary buildings, such as garages.

Section 3.5.3.1. Setback, Driveways, Sidewalks, and Parking for Commercial/Retail/Office/Industrial Use Buildings

(a) The City of Iowa Colony Unified Development Code is a part of the Iowa Colony Zoning Ordinance, Subdivision Ordinance, and Building Codes. Other parts of those ordinances currently indicate minimum building setbacks. Over time, those other regulations will be incorporated into the Unified Development Code. Until the incorporation is complete, there may be conflicts between regulations for the same condition in the Unified Development Code and in those other sources. In the case of conflict between a regulation in the Unified Development Code and a regulation for the same condition in other parts of the Zoning Ordinance, Subdivision Ordinance, or Building Codes, the regulation expressed in the Unified Development Code shall prevail and supersede all other regulations, but only to the extent necessary to resolve the conflict. Regulations for building setbacks for non-residential zoning districts and non-residential uses are as follows:

(a1) Front Building Setback for Commercial/Retail/Office Use Buildings— to encourage both pedestrian and vehicular building access and interior visibility, depending on the type of street frontage, at least fifty (50) percent of the total length of the front wall of a building facing a designated super arterial, major arterial, or ~~collector~~ ~~non-designated public street~~ shall be located at one of only three locations relative to the distance from the front property line, that property line that provides both legal and physical vehicular access to the property.

~~(1a.)~~ — If the property frontage is not on a designated super arterial or major arterial, the front wall of the building shall be located on a build-to building setback line located ten (10) feet from the ultimate right-of-way line of the street along the front of the property.

~~b. (2)~~ — If property frontage is on a designated super arterial, the front wall of the building shall be located on a build-to building setback line of seventy-one (71) feet from the ultimate right-of-way line of the street along the front of the property.

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c. (3) — If both (i) property frontage is on a designated major arterial; and (ii) either (a) the tract size is less than two (2) acres, or (b) the proposed building size is limited to a maximum of twenty-five thousand (25,000) square feet of Gross Leasable Area (GLA); then the front wall of the building shall be located on a build-to building setback line of fifty-three (53) feet from the ultimate right-of-way line of the street along the front of the property.

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d. (4) — If both (i) property frontage is on a designated major arterial; and (ii) either (a) the tract size is two (2) acres or larger or (b) the proposed building size is greater than twenty-five thousand (25,000) square feet of Gross Leasable Area (GLA); then the front wall of the building shall be located on a build-to building setback line of seventy-one (71) feet from the ultimate right-of-way line of the street along the front of the property.

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e. (5) — In the condition indicated in (4a) above, the required street sidewalk may be replaced with a sidewalk between the building and the front property line within the ten (10) foot space between the building and the street right-of-way line if the relocated sidewalk is located adjacent to the building wall and if the sidewalk is at least six (6) feet wide and contains a minimum of a three (3) foot wide pedestrian clear zone and if a public access easement document is recorded for use of the sidewalk on private property. No fences, trees, shrubs taller than three (3) feet, or freestanding permanent signs shall be placed between the front of the building and the street curb, and no parking or driveway is allowed within the space between the building and the front property line.

f. (6) — In the condition indicated in (4c) above, the space between the building and the front property line may be used for a private driveway with single-loaded (only on one side of the driveway) head-in, ninety (90) degree parking. A minimum six (6) feet wide sidewalk shall be located between the end of the parking spaces and the building wall, and the sidewalk shall be adjacent to the front wall of the building. A public sidewalk six (6) feet wide for arterials is also required within the street right-of-way along the front of the property. A front parking setback of twenty-nine (29) feet is required between the front of the building and the front property line and no driveway access to the front public street is allowed between the front of the building and the front property line. No fences, ~~trees~~, or shrubs taller than three (3) feet, or freestanding permanent signs shall be placed between the front of the building and the street curb. Driveway access to the public street shall occur beyond the building end.

g. (7) — In the condition indicated in (4d) above, the space between the building and the front property line may be used for a private driveway with double-loaded (both sides of the driveway) head-in, ninety (90) degree parking. A minimum six (6) feet wide sidewalk shall be located between the end of the parking spaces and the building wall, and the sidewalk shall be adjacent to the front wall of the building. A public sidewalk six (6) feet wide for arterials is also required within the street right-of-way along the front of the property. A front parking setback of five (5) is required between the front of the building and the front property line. No fences, ~~trees~~, or

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shrubs taller than three (3) feet, or freestanding permanent signs shall be placed between the front of the building and the street curb.

h.(8)— In the condition indicated in ~~(1a)~~, ~~(2b)~~, ~~(3c)~~, or ~~(4d)~~ above, if a utility easement or pipeline easement is located adjacent to the public street right-of-way, the width of the distance required for the build-to line shall be increased equal to the width of the easement.

- (b)— Front Building Setback for Industrial Use Buildings – All industrial use buildings, regardless of the type of street frontage, shall be set back to a build-to setback line of twenty-five (25) feet from the front property line but may be more than twenty-five (25) feet if the owner can provide evidence satisfactory to the City that a deeper setback is required for public safety.

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Section 3.5.3.2. Orientation For Commercial/Retail/Office Use Buildings

- (a)— Buildings shall squarely face the front street, with their principal façade and entrance in full view. Buildings shall also have rear building entrances to access the building from the on-site parking located behind the building unless a minimum five (5) feet wide sidewalk is provided from the parking area to the front entrance. This is not an exception to any entrance, exit, or access requirements of the Fire Code or any other ordinance or law.
- (b)— Where on-site parking, not located in front of a building, is provided along street frontage, a minimum twenty (20) feet parking setback from the street right-of-way is required. Only perpendicular driveways accessing the public street, directional signs (i.e. enter, exit, additional parking, with or without arrows), in conformance with the Iowa Colony Sign Ordinance, and shrubs no taller than three (3) feet, will be allowed within this parking setback. Only a maximum of sixty-five (65) feet of parking lot width will be allowed per parking lot bay (a row of head-in parking on each side of a driveway) and a minimum of twenty (20) feet between parking lot bays allowed along street frontage not located in front of a building.

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Section 3.5.3.3. Scale For Commercial/Retail/Office Use Buildings

- (a)— The overall scale of a building is its size relative to its neighbors and people. Other aspects of the scale of a building involve elements such as windows, doors, cornices, roofs, and architectural details. All non-governmental or non-religious buildings shall be scaled and designed to relate to the size of an average human being (typically a person of six (6) feet in height). Governmental and religious buildings may be designed to be monumental to give the building prominence or symbolic importance.
- (b)— Scale can be achieved in a variety of ways. For example, the size of an element contributes to the scale of a building. Also, facades can be heavily rusticated, contributing

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to a sense of monumentality, or of plain materials and treatments, making the building appear to be more human in scale. The scale of a new building or addition shall respect and be compatible with the scale of its neighbors unless the building's use or symbolic importance, such as a church in a residential area, differs from that of its neighbors.

Section 3.5.3.4. Proportion For Commercial/Retail/Office Use Buildings

- (a) — Proportion is the relationship of the size of building elements, such as windows and doors, to each other and to the building elevations. The design of an addition or a new building shall respect and be compatible with the existing proportions of neighboring buildings. Building proportions shall relate to the human form (i.e., vertical in stature, three main parts – base, trunk, head, etc.) and its proportional relationship.

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Section 3.5.3.5. Rhythm For Commercial/Retail/Office Use Buildings

- (a) — The spacing of repetitive façade elements, such as projecting bays, storefronts, windows, doors, masonry belt courses and the like, gives an elevation its rhythm. The space between these façade elements can also provide a rhythmic relationship. Also, the space between freestanding buildings, the repetition of the same building type, and the height of roofs, cornices, towers, and other roof projections establish the rhythm along a street. Any addition or new building shall be compatible with the rhythm established by its neighbors and on the street on which it is located.

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Section 3.5.3.6. Massing For Commercial/Retail/Office Use Buildings

- (a) — Massing typically involves the articulation of a façade using dormers, towers, and other roof projections, as well as façade projections such as bays, porches, and steps. This overall level of articulation visually emphasizes or de-emphasizes volumetric relationships which gives a building its perceived visual mass. The same volume building can appear larger in mass with less articulation and smaller in mass with more articulation as the articulation visually divides the façade into smaller visual parts. Any addition or new building shall be compatible with the massing established by its neighbors and on the street on which it is located.

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Section 3.5.3.7. Height For All Buildings

(a) — Building height in Iowa Colony is restricted to a maximum of two (2) stories, but in no case more than thirty-five (35) feet from the natural ground elevation, as fire protection above that height is not now possible. This regulation may be changed after fire-fighting equipment is secured to allow taller construction.

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(b) — Even in consideration of (a) above, should that height restriction be removed, a building still shall be designed to respect and be compatible with existing building heights. To be compatible, it does not necessarily have to be the same height as its neighbors but two similar elements at a different height shall not be directly adjacent to each other but have some gap space between to allow for the visual disparity. Visual height is determined by not only the height of walls, but also of cornices and roofs, as well as chimneys and towers, which contributes to the character of existing buildings, neighborhoods, and commercial areas. New in-fill construction must not be more or less than one (1) story different in height than the prevalent height of existing buildings on the same street that are all generally the same height.

Section 3.5.3.8. Materials

(a) — Exterior Materials for Office, Commercial/Retail, and Industrial Uses or as allowed by State of Texas law

(1) — Office and Commercial/Retail Use Buildings.

Only the following building materials shall be used for all office and commercial/retail buildings located within the City of Iowa Colony jurisdiction:

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a. — Masonry — brick, stone, concrete masonry units (CMU's) with split-face, fluted, scored or other rough texture finish. (Specifically excluding smooth finish CMU or concrete brick with the color and texture of clay brick.)

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b. — Concrete — precast, cast in place, or tilt up panels provided a rough texture is present or to be added before the construction is substantially complete, and if the building is unoccupied, before it is occupied. Smooth finish concrete on vertical panels is not allowed.

c. — Stucco — true stucco consisting of multiple layers placed on an expanded metal lath base. Color shall be included in the final top layer integral with the mix. Painted stucco will not be allowed.

d. — Structural clay tile - excluding glazed surface finish.

e. — Glass — glass curtain walls or glass block, but mirror glass which reflects more than 40 percent of incident visible light shall not be used on more than twenty (20) percent of the exterior walls of any building.

f. — Metal – used only in incidental trim purposes except as allowed for roofing materials as indicated below. Metal, including coated metal, that is used for purposes other than incidental trim purposes is not allowed. All exterior metal must be coated with an opaque colored coating that is not clear.

g. — Roofing materials-standing seam metal, natural metal, uncolored, for projection canopies on walls over windows or other openings. No other roofing materials shall be visible from a public street at standing eye level.

(2) — Industrial Use Buildings

Industrial buildings fronting on arterial streets or collector streets may utilize the following approved materials.

a. — Fronts of all industrial buildings located on streets classified as arterials or collectors, i.e., four (4) lanes or greater, shall utilize one hundred percent (100%) approved materials specified in (1) above.

b. — Sides of all industrial buildings facing or fronting on arterial streets or collector streets shall incorporate a minimum of fifty (50%) percent of the approved materials listed in (1) above. The other fifty (50%) of the sides shall use only the approved materials listed in (1) above or pre-engineered and pre-finished rough textured metal siding panels and/or pre-engineered and pre-finished rough textured metal siding panel systems, meeting adopted building codes.

(3) — Industrial buildings fronting on other than arterial streets shall utilize only the following materials:

a. — Fronts of all industrial buildings facing a non-arterial or non-collector street shall incorporate a minimum of fifty (50%) percent of the approved materials listed in (1) above.

b. — Sides of all industrial buildings facing or fronting on other than arterial streets or collector streets shall utilize only the same materials allowed in (1) or (2) above.

(4) — Industrial buildings located in areas behind industrial or other buildings that directly front on a public street shall utilize only the following materials:

a. — Fronts of all industrial buildings so located shall incorporate a minimum of fifty (50%) percent of either the approved materials listed in (1) or (2) above.

b. — The other 50% of the front and all the remaining sides of all industrial buildings so located shall utilize only the approved materials listed in (1) or (2) above.

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(5) Conditional materials. However, the following materials may be used if a variance is granted.

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a. Wood - Only when used to provide compatibility to surrounding buildings or residential districts;

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b. Vinyl - Only when used to provide compatibility to surrounding buildings; or

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c. New materials not listed as approved, prohibited, or conditional, may be approved if a variance is granted. In addition to the other requirements for a variance, the variance shall not be granted unless the alternative finish is substantially equal to or better than an allowed or specified exterior finish in quality, durability, and unless the use of the material will not violate any other provision of this UDC.

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(6) Temporary materials. Materials for temporary use may only be allowed for a specific period of time as determined by the City Council on a case-by-case basis. Approval of temporary materials shall be noted on the building permit or development site plan and the specific period of time the temporary material is allowed.

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(7) Prohibited materials. Exterior building materials are intended to be long lasting and low maintenance. Exterior building materials not listed either as approved, conditional, or temporary materials as defined herein are prohibited. New materials may be considered as conditional materials and may be considered for approval or disapproved as in (5) above, otherwise, the following materials are prohibited on the exterior of a building:

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a. Vinyl siding, wood fiber hardboard siding, oriented strand board siding, plastic or fiberglass panels, corrugated or ribbed panels, of any thickness, or any flat metal panel less than 26 gauge thick;

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b. Galvanized, aluminum coated, zinc-aluminum coated or unpainted exterior metal finishes, except for trim purposes around door, window, and other openings, which cannot exceed five (5) percent of the total façade area per wall;

c. Unfired or underfired clay, sand or shale brick, or concrete masonry units (CMUs) when used as more than trim or ornamentation, or smooth or untextured concrete finishes including cement panels without a top-coat material of true stucco;

d. Concrete finish or precast concrete panel (tilt wall) without a profiled finish of exposed aggregate, hammered, sandblasted, sculptured, fluted, or other architectural concrete finish;

e. Mirrored glass with a reflectance greater than forty (40) percent shall not be permitted on more than twenty (20) percent of the exterior walls of any building;

f. -Exterior Insulation Finishing System (EFIS);

g. -Painted materials including brick, thin brick, naturally occurring stone, concrete masonry units or cementitious stucco.

Section 3.5.3.9. Colors

- (a) The only permitted colors are those colors that are derived from the materials used in construction, for example, brick, stone, terra cotta, slate, asphalt shingle, copper, lead, and other materials that are typically left unpainted and would give color to a building. Color may be applied to wood as a stain that also helps protect the building material. Color that is an inherent internal part of the final product may also be an admixture to stucco and concrete during the initial placement or forming. No more than three (3) distinct colors shall be used on a building.

Section 3.5.3.10. Roofs

- (a) —Roof Shape – The shape of a roof and its details are character defining elements. An addition or new building shall have a roof shape that is compatible with the existing roof shapes along the street. In a street with flat roofs, an addition or new building shall also have a flat roof (not truly flat as a slight grade is required for drainage) or a sloped roof may be provided behind a visually flat parapet wall. Conversely, if an existing street has buildings with sloped roofs, then an addition or new building shall have a roof shape that is compatible with the existing roof shapes along the street. Introducing a different roof shape, such as a flat roof within an area that has sloped roofs, would not be in keeping with the existing character of the street.
- (b) —Roof Elements and Details - Roof elements and details allowed include only: cornices, parapets, eaves, dormers, towers, finials, cresting, gutters, and down-spouts. Parapets must have a cap or coping made of metal, tile, stone, or precast concrete.
- (c) —Gutters and Down Spouts – If exterior gutters and down spouts are used, they must be made of galvanized steel or copper. If not the natural metal or galvanized, the color of the gutters and down spouts must match the building trim color. Down spouts shall be connected directly to the underground storm sewer system or connected to a rain-water retention system or a natural green space bio-swale for ground absorption of the storm water.
- (d) —Sloped Roofs – If slope roofs are used, they shall be covered with metal, either panels (standing seam) or shingles, slate, or clay tile. Asphalt shingles, wood shingles or wood shakes are not allowed.
- (e) —Roof Appurtenances – Satellite dishes, communication towers, solar panels or other roof additions shall be located so that they are not visible from a public street.

- (f) ~~Vertical~~ HVAC Equipment – Heating, ventilating and air conditioning (HVAC) equipment shall be located to not be visible from a public street or shall be screened from view. Screens shall be designed to be compatible with the proportion, scale, materials, color and other character defining elements of the building. Mechanical penthouses, if required, shall be compatible with the building design if they can be seen from a street.

Section 3.5.3.11. Offsets

- (a) Vertical ~~a) Horizontal~~ breaks shall be provided on all sides of buildings to provide architectural relief and may include bands of accent color, brick course variances in color or placement, i.e., soldier course bricks for bands of different texture, windows, cornices, wall protrusions, horizontal belt courses, etc. The maximum horizontal distance without a vertical break shall be twenty-five (25) feet.
- (b) ~~Vertical~~ Horizontal breaks, for buildings greater than one (1) story, that delineate each story shall be provided on all sides of buildings to provide architectural relief as in (a) above. The maximum vertical distance without a horizontal break, including one (1) story buildings greater than twenty (20) feet in height shall be twenty (20) ~~ten (10)~~ feet.
- (c) ~~Vertical~~ Articulation - Not less than fifteen percent (15%) of the area of each front exterior façade, and of each street sidewall where a building is located on a corner lot, excluding windows, doors, or overhead doors, shall be recessed, projected or alternately staggered from the primary plane of the wall. For purposes of this Section, fascia or mansards shall not be counted as a projection from the primary plane. Recess shall mean a minimum of four (4) inches from the primary wall plane and projection shall mean a minimum of six (6) inches from the primary wall plane.

Section 3.5.3.12. Storefronts

The primary purpose of a storefront is to display merchandise or market services to the public, both pedestrian and vehicular. Modern storefronts often consist of simple metal tubing and glass. Storefronts shall either align with the building wall or be slightly inset behind the building wall but not project from the building wall into the pedestrian space.

- (a) ~~Vertical~~ Primary Entrance Treatment – Each building shall have at least one visually identifiable building entrance on the facing street side that will be the primary building entrance. The primary building entrance is generally near provided handi-capped parking spaces and may be the building entrance for an anchor tenant. Up to two (2) building entrances may be designated as primary building entrances if they are located on opposite ends of the building. Additional building entrances are possible but all other building entrances shall be visually secondary to the primary building entrance(s). The primary building entrance shall have unique ornamentation and/or be larger in area than any other building entrance visible from a public street. Multiple tenants in the same building that are located adjacent to the

exterior street facing wall may have individual tenant entrances, but these tenant entrances will not be considered as a primary building entrance. ~~However, unless all building tenants have exterior entrances, the primary building entrance shall be visually identifiable.~~

- (b) Transparency – To allow visibility of building interior activity, each ~~Each~~ exterior wall of a commercial/retail/office building facing a public street must contain at least sixty-five (65) percent transparent material to allow visual penetration of at least three (3) feet into the building. For one (1) story buildings, t~~t~~his sixty-five (65) percent can be measured in either of two (2) ways: Either sixty-five (65) percent of the total wall area, regardless of the minimum dimension of the transparent area or sixty-five (65) percent of the total length of the wall frontage when the transparent area is a minimum of eight (8) feet high measured from the floor. Transparency includes stationary glass, windows, and the glass area of doors.
- (c) Canopies/Overhang – All glass display areas and entrances shall have an overhead canopy or permanent overhang at least four (4) feet projecting from the building wall and extending at least the entire length of the display area or entrance. Building entrances inset at least four (4) feet into the building from the exterior wall plane do not require a canopy or overhang.

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- (d) Street Furniture – All new buildings and all new additions with a new primary building entrance shall provide at least one (1) two-person metal bench, at least one (1) metal litter container, and at least one (1) two-bike, two-point-of-contact metal bicycle rack, all located within twenty-five (25) feet of the primary building entrance. ~~These items must comply with any details in the Engineering Design Criteria Manual.~~

Section 3.5.3.13. Details and Ornamentation

- (a) The general degree of detail and ornamentation provided in new buildings and additions to existing buildings shall be compatible with that found on the existing building(s) adjacent on the street. A contemporary interpretation of details found on older, existing buildings can be an effective way to differentiate a new building, or addition to an older building, from an existing building.

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Section 3.5.3.14. Landscape Features

- (a) Plants, trees, fences, retaining walls, sidewalks, driveways, decorative retaining walls and fences are important character-defining elements. When possible, existing plant material shall be maintained, especially mature trees and shrubs. However, new landscaping with flowers and shrubs can complement the entire area, enhance the structure itself, and improve the appearance of the neighborhood. New fencing and/or new or repaired retaining walls shall match or complement the existing styles of neighborhoods. All natural site areas or vegetated area shall be irrigated by automatic irrigation systems. Non-spray heads are to be used on all trees, shrubs, and flowerbed areas.

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Section 3.5.3.15. Secondary Buildings

- (a) Secondary buildings include structures such as garages, sheds, and other outbuildings. They often impact the scale and texture of the property and present a contrast to the primary structure. The design of new secondary buildings shall be compatible with the location, size, materials, and other defining characteristics of the main building. Prefabricated sheds and structures shall be used with reservation and if used, should complement the primary structure in color and design. Metal shipping containers and other metal storage containers are not allowed on commercial/retail/office sites for a continuous period beyond three (3) days except during periods of initial construction or renovation.

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Section 3.5.3.16. Lighting

Exterior site lighting is regulated by Article 4 – Exterior Environmental Lighting in this UDC. Additionally, exterior lighting fixtures shall be in harmony with the character of the buildings. Visible lighting fixtures shall be mounted in entrance ways and on the front façade of the building. Concealed flood lighting may be used to light facades. Lighting fixtures shall be inconspicuous. Electrical elements such as wires, conduits, junction boxes, transformers, ballasts, switched, and panel boxes shall be concealed. Lighting shall comply with any criteria in the Engineering Design Criteria Manual.

(a) Allowed lighting methods:

- (1) Fully recessed downlights or wall washers
- (2) Shielded lamps with diffusers
- (3) Gooseneck or bent tube arm to prevent glare at pedestrian level

(b) Prohibited lighting methods:

- (1) Exposed lamp lighting
- (2) Exposed high power lamps that cause “over lighting” and excessive glare on the street
- (3) Exposed bulbs
- (4) Lights that blink, black out, flash, or have mechanical motion

~~Division 4 — Signage~~

~~Site and building signage is regulated by the City of Iowa Colony Sign Ordinance (currently 2016-19). Site monument sign regulations are in Section 24 B. Building wall sign regulations are in Section 25. Additional building signage regulations are contained herein in addition to those located in the Sign Ordinance. In general, the design of signs shall neither obscure nor detract from architectural details of a building and shall help to emphasize any unique shapes or details of the façade, to draw attention to the building entrance, or to emphasize a display window. Once installed, signs must be maintained with respect to graphic characters, paint, fading, and other types of deterioration. Damaged and obsolete signs, as well as related posts, wiring and structures, are required to be repaired or removed.~~

Chapter 4: Subdivision Design and Improvements

Article 1 – Subdivision Platting - Reserved

Chapter 5: Definitions

Article 1 – Generally Applicable Definitions

Division 1 – General Definitions

Section 5.1.1.1. General Definitions

- (a) The following definitions are intended to provide descriptions for words and terms used within this UDC. Absent any conflict, words and terms used in this UDC shall have the meanings ascribed thereto in this Chapter 5. When words and terms are defined herein and are also defined in other ordinance(s) of the City, shall be read in harmony unless there exists an irreconcilable conflict, in which case the definition contained in this Chapter 5 shall control. For any definition not listed in this Chapter 5 of this UDC, the definition found within the latest edition of Webster's Dictionary shall be used.

ABANDONMENT: As related to nonconforming uses and structures, having been abandoned as described in this UDC.

ABSOLUTE PHOTOMETRY: Photometric measurements (usually of a solid-state luminaire) that directly measures the footprint of the luminaire. Reference Standard IES LM-79

ABUTTING: Having property or district lines in common, or two objects in immediate contact.

ACCESS: Means of approaching or entering a property. Includes a right of passage to and from an adjacent street, alley, or property.

ACCESSORY: Being secondary or subordinate to something else.

ACCESSORY DWELLING: A subordinate building that is detached from the primary on-site structure, is used as a residence, is incidental to the main structure (i.e., the building area must be significantly less than that of the main structure) and is not involved in the conduct of a business.

ACCESSORY STRUCTURE (BUSINESS OR INDUSTRY): A subordinate building to a building used for nonresidential purposes that does not exceed the height of the main building and does not exceed thirty percent (30%) of the floor area of the main building, and that is used for purposes accessory and incidental to the main nonresidential use (also see *Accessory Use*).

ACCESSORY STRUCTURE (RESIDENTIAL): A subordinate building that is either detached from or attached by only a breezeway to the primary on-site structure, and that is clearly incidental and secondary to the permitted on-site use, and which does not change the character thereof, including, but not limited to, garages, bathhouses, greenhouses, barns, tool sheds, or swimming pools.

ACCESSORY USE: A use that is clearly and customarily incidental and secondary to the permitted and/or principal use of land or building(s), and that is located upon the same lot therewith, and which does not change the character thereof, including garages, living quarters for servants, greenhouses, or tool sheds. The land/building area that is used for the accessory use is significantly less than that used for the primary use.

ADDITION: An extension or increase in floor area or height of an existing building or structure.

ADULT DAY CARE CENTER: Community-based group program which is licensed by the State of Texas and designed to meet the needs of functionally and/or cognitively impaired adults through an individual plan of care. These structured, comprehensive programs provide a variety of health, social, and other related support services in a protective setting during any part of a day, but less than 24-hour care. Adult day care services are dedicated to keeping adults needing assistance healthy, independent, and non-institutionalized. Adult day centers generally operate programs during normal business hours five days a week. Some programs offer services in the evenings and on weekends.

AGRICULTURAL ANIMAL HUSBANDRY: The breeding, judging, care and/or production of farm animals.

AIRPORT: An area reserved or improved for the landing or take-off of aircraft other than rotary wing aircraft.

ALLEY: A public way which is used primarily for vehicular access to the back or side of properties.

ALTERED or ALTERATION: Any change, modification, or transformation.

AMBULANCE SERVICE: Provision of private (not operated by the City of Pearland) emergency transportation which may include mobile medical care, and the storage and maintenance of vehicles.

AMENITIZED DETENTION/RETENTION POND: An area that is designed to capture, store and release stormwater and that is designed as a site amenity by being aesthetically pleasing, by meeting the definition of "open space" herein, and be being constructed to seem natural (i.e., without visible concrete). Such areas have a natural edge and are constructed to resemble a naturally created lake or pond. Also refer to the definition of "amenity" below.

AMENITY: Aesthetic or other characteristics of a development that increase its desirability visually, desirability to the City of Iowa Colony, and/or its marketability to the public. Amenities may vary according to the type and nature of development, but examples include a naturalized retention/detention pond (refer to definition herein), a recreational facility, landscaping, or large trees.

ANIMAL HOSPITAL: An institution where the sick or injured animals are given medical or surgical care.

ANNUAL BEDS: Any landscape where the majority of plants are intended to be replaced yearly or more frequently.

ANTENNA: An antenna or antenna support structure used for the purpose of transmission, retransmission, and/or reception of radio, television, electromagnetic, or microwave signals primarily for the purpose of operating a business and/or for financial gain (e.g., commercial broadcasting, cellular/wireless telecommunications, etc.). A receive-only television antenna or satellite dish antenna that exceeds four feet (4') in diameter shall also be within this definition.

ANTIQUÉ SHOP: A business which sells items whose value is greater than original purchase price because of age or extrinsic value.

APARTMENT: See *Dwelling - Multi-Family*.

APPEAL: A request for review of and relief from any decision applying a provision of this Code and which is authorized.

APPLIANCE REPAIR: The maintenance and rehabilitation of appliances that are customarily used in the home including, but not limited to, washing and drying machines, refrigerators, dishwashers, trash compactors, ovens and ranges, countertop kitchen appliances, vacuum cleaners, etc., but not including appliances/equipment which have internal combustion engines.

ARCADE: A series of piers topped by arches that support a permanent roof over a sidewalk.

ARCHITECTURAL LIGHTING: Lighting designed to reveal architectural beauty, shape and/or form for which lighting for any other purpose is incidental.

ARCHITECTURAL METAL: Metal products used for window and door trim, fascia, or soffit.

ART STUDIO AND/OR GALLERY: Where objects of art are created or displayed for the public enrichment or where said objects of art are displayed for sale (including the teaching of both painting and sculpting).

ARTICULATION: An interruption/differentiation of the building wall plane with either a recess (concavity) or an offset (convexity) that projects away from the building wall plane by a measurable distance.

ARTIFICIAL LOT: An area within the contiguous tract(s) or parcel(s) held under common ownership and designated on the building permit application that is delineated by the Building Official for the sole purpose of satisfying the requirements of this article.

AS-BUILT/RECORD DRAWINGS: A group of drawings that depicts the final configuration of the installed or constructed improvements of a development, improvements which have been verified by the contractor as their installation or construction occurs during development. The as-built or record drawings should reflect the construction plans (or working drawings) used, corrected, and/or clarified in the field. For the purposes of this UDC, the terms "as-built drawing" and "record drawing" shall be interchangeable.

ASPHALT BATCHING PLANT: A permanent manufacturing facility engaged in the production of asphalt.

ASSISTED LIVING FACILITY: A congregate residence facility for four (4) or more elderly (over 55 years of age) persons, regardless of legal relationship, who need limited assistance with daily living activities. A limited number of support services such as meals, laundry, housekeeping, transportation, social/recreational activities, hairdressing, etc. may be provided or associated with the assisted living facility. Units may be attached or detached, single- or double-occupancy, and may include limited or full kitchen facilities. Full-time medical or nursing care is not typically provided by the facility but may be privately arranged for by individual residents on a part-time or temporary basis (e.g., visiting nurses, etc.).

ASSOCIATION: When related to plants, a natural unit of vegetation characterized by a relatively uniform species composition and often dominated by a particular species.

ASTRONOMIC TIME SWITCH: An automatic lighting control device that switches outdoor lighting relative to time of solar day with time of year correction.

AUTO ACCESSORIES AND/OR PARTS (RETAIL SALES ONLY): The use of any building or other premises for the primary inside display and sale of new or used accessories and/or parts for automobiles, panel trucks or vans, trailers, or recreation vehicles. This definition expressly does not include a "Wrecking or Salvage Yard"; this is separately defined herein.

AUTO RENTAL: A business establishment that provides for the renting of automobiles and light trucks on a short-term basis (differentiated from leasing, which is on a long-term basis). This may also involve the incidental storage of the automobiles and light trucks being rented.

AUTO REPAIR (MAJOR): General repair or reconditioning of engines, air-conditioning systems and transmissions for motor vehicles; wrecker service; collision repair services including body, frame or fender straightening or repair; customizing; painting; vehicle steam cleaning; undercoating and rustproofing; those uses listed under *Auto Repair (Minor)*; and other similar uses.

AUTO REPAIR (MINOR): Minor repair or replacement of parts, tires, tubes and batteries; diagnostic services; minor maintenance services such as grease, oil, spark plug and filter changing; tune-ups; emergency road service; replacement of starters, mufflers, alternators, hoses and brake parts; automobile washing and polishing; performing state inspections and making minor repairs necessary to pass said inspection; normal servicing of air-conditioning systems; and other similar minor services for motor vehicles except heavy load vehicles, but not including any operation named under *Auto Repair (Major)* or any other similar use.

AUTO SALES/DEALER or LOT: A paved area for the display for sale of motorized and non-motorized vehicles accompanied by an on-site office with staffing during normal business hours.

AUTO WASH (FULL-SERVICE/DETAIL SHOP): Washing, waxing, or cleaning of automobiles or light duty trucks where the owner of the vehicle does not actually wash the vehicle. The owner either leaves the vehicle and comes back to retrieve it later, or the owner waits in a designated area while employees of the car wash facility vacuum, wash, dry, wax and/or detail the vehicle for a fee.

AUTO WASH (SELF-SERVICE): Washing, waxing, or cleaning of automobiles or light duty trucks where the owner of the vehicle causes the vehicle to become washed. One type of unattended car wash facility utilizes automated self-service (drive-through/rollover) wash bays and apparatus in which the vehicle owner inserts money or tokens into a machine, drives the vehicle into

the wash bay, and waits in the vehicle while it is being washed. The other type of unattended facility is comprised of wand-type self-service (open) wash bays in which the vehicle owner drives the vehicle into the wash bay, gets out of the vehicle, and hand washes the vehicle with a wand-type apparatus by depositing coins or tokens into a machine.

AUTOMATIC IRRIGATION CONTROLLER: A timer capable of operating solenoid valves to set days and lengths of time for proper application of water, in each irrigation zone.

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AWNING: A flexible roof-like cover that extends out from an exterior wall and shields a window, doorway, sidewalk, or other space below from the elements.

BACKLIGHT: For an exterior luminaire, lumens emitted in the quarter sphere below horizontal and in the opposite direction of the intended orientation of the luminaire. For luminaries with symmetric distribution, backlight will be the same as front light.

BALCONY: An open portion of an upper floor extending beyond a building's exterior wall that is not supported from below by vertical columns or piers.

BAKERY OR CONFECTIONARY SHOP (RETAIL SALES): A retail facility that is used for the production and/or sale of baked goods and confectionaries to the general public.

BAKERY (WHOLESALE): A manufacturing facility that is used for the production and distribution of baked goods and confectioneries to retail outlets.

BARBER /COSMETOLOGY SCHOOL/COLLEGE: A for-profit business school that offers instruction and training in the barber, beauty, and/or cosmetology, but not including any other type of trade or commercial school.

BAY WINDOW: Generally, a U-shaped enclosure, extending the interior space of the building outward of the exterior building wall.

BED AND BREAKFAST INN: A dwelling occupied as a permanent residence by an owner or renter. Within the dwelling, sleeping accommodations in not more than five (5) rooms for transient guests are provided and breakfast is provided, both for compensation. The period during which accommodations and breakfast are provided generally does not exceed seven (7) days.

BEST MANAGEMENT PRACTICES (BMP'S): Irrigation, lawn, and landscape practices designed to reduce negative impacts on the environment and to promote water conservation.

BLOCK: An area bordered or enclosed by a street or streets.

BLOCK FACE: That portion of a block that abuts a street between two intersecting streets.

BLOCK LENGTH: The distance, as measured along the street centerline, from one end of a row or group of lots to the other end. A block is determined by the streets along its boundary which surround one or more lots. Such streets shall be through streets, not cul-de-sac streets. A block adjacent to a cul-de-sac shall not be counted as a block.

BOARD OF ADJUSTMENT: The Zoning Board of Adjustment of the City of Iowa Colony. Also, may be referred to with the acronym "ZBA".

BOARDING OR ROOMING HOUSE: Also referred to as *Boarding House*. A building built and/or used for residential purposes, where meals are served for compensation to a person or persons residing in the building, and where no cooking facilities are provided in individual living units.

BRACKETS: A simple rigid structure in the shape of an L, one arm of which is fixed to a vertical surface, the other projecting.

BREEZEWAY: A small corridor with a roof, with no structure above it, and that is a maximum of five feet (5') in width (but may be of any length and height). The corridor provides a walking path between a main building and an accessory building, usually a garage or carport, and is commonly unenclosed (i.e., is open to the outside).

BRICK: Kiln fired clay or shale material which meets the latest version of ASTM Standard C216, Standard Specification for Facing Brick (Solid Masonry Unit Made of Clay or Shale), is Severe Weather (SW) grade, that is made of or covered with masonry, flat panel concealed fastener metal system.

BUFFER: An area of land that is intended to mitigate negative impacts between land uses and/or along roadways. A buffer may be landscaped and may also include berms, walls, and/or fences.

BUG: A luminaire classification system that classifies backlight (B), uplight (U) and glare (G).

BUILD-TO-LINE: A build-to line identifies the precise horizontal distance from a street right-of-way that the building must be built to, to create a uniform line of buildings along the street.

BUILDING: A "building" is any structure built for the support, shelter, or enclosure of persons, chattels, or movable property of any kind and which is affixed to the land. This does not include any fence unless it is structurally a part of the building.

BUILDING - MAIN, PRIMARY, OR PRINCIPAL: A building in which the permitted and/or principal use of the lot on which such use is situated is conducted. In a residential district, any dwelling shall be deemed to be the main building on the lot on which it is situated.

BUILDING AREA: Area of the building site left to be built upon after the required setbacks and easements have been provided.

BUILDING ARTICULATION: See "Articulation".

BUILDING CODE: All building construction regulations adopted as a uniform code by the City of Iowa Colony Ordinances.

BUILDING DEPTH: The distance from the front edge of the building to the rear measuring along the secondary face of the building.

BUILDING HEIGHT: The vertical distance measured from grade at the front of the building to the highest point of a flat roof, to the deck line of a mansard roof, or to the mean height level between eaves and ridge for a gable, hip, or gambrel roof.

BUILDING LINE: See "Setback Line" definition herein.

BUILDING OFFICIAL: That individual designated by the City Council to ensure compliance with the Building Code of the City of Pearland, Texas, or the Building Official's designee.

BUILDING PERMIT: An instrument in writing signed by the Building Official or other designated responsible official authorizing described construction on a particular lot.

BUILDING SETBACK AREA: The area of building line restrictions along a street or alley as established by or pursuant to subdivision or zoning regulations adopted by the City of Iowa Colony.

BUILDING SETBACK LINE: A line defining an area on the lot between the property line and the building line within which no building shall be constructed, encroach or project, except as specifically authorized in an adopted City of Iowa Colony ordinance.

(a) **Front Building Setback Line:** A line parallel to the street right-of-way line which the building faces and takes its primary access from.

(b) **Side Building Setback Line:** A line parallel to an adjacent lot, property line, or street right-of-way on a corner lot, which the building sides up to.

(c) **Rear Building Setback Line:** A line parallel to an adjacent lot, alley, or street, for double frontage lots, which the building backs up to and has its rear or secondary access.

BUILDING SITE:

(1) The tract or parcel of land which is designated on the building permit application, together with all contiguous tracts or parcels of land held under common ownership and any existing buildings and appurtenant parking;

(2) If designated, an artificial lot contained therein and delineated by the Building Official; or

(3) A city-funded construction or reconstruction project that includes the entire width of the pavement of a public street and is at least 30 feet in length.

BUILDING, TEMPORARY: Any building or structure that is designed to be transportable in one or more sections on a temporary chassis. This definition does not include temporary construction trailers permitted as a *Contractor's Temporary On-Site Construction Office*, as defined in zoning regulations of the City of Iowa Colony unless associated with a Special Event permit and or permitted outdoor activity or use in applicable zoning district.

BUILDING WIDTH: The distance from one edge of the primary building face to the other.

CAFÉ OR CAFETERIA: An informal restaurant, not exceeding fifty (50) seats, outdoor and indoor, offering a range of food, snacks, meals, coffee, and/or other beverages. This definition is intended to exclude establishments with delivery offered to automobiles away from the main building. This definition does not prohibit take-out or drive-through windows.

CALIPER: The American Association of Nurserymen standard for trunk measurement of nursery stock, as measured six inches (6") above the ground or ambient grade for trees up to and including four inches (4") in diameter, and as measured at twelve inches (12") above the ground or ambient grade for trees having a diameter exceeding four inches (4") but not exceeding eight inches (8"), and fifty-four inches (54") above the ground or ambient grade for trees having a diameter greater than eight inches (8"). If the tree has been severed at less than twelve inches (12") above the soil line, then the caliper shall be measured across the stump.

CANOPY (NATURE): The outermost branchy layer of a tree or a stand of trees,

CANOPY (MAN-MADE): A covered, unconditioned structure (open to the elements and has no heat or air conditioning) with at least one side open for pedestrian and/or vehicular access or an

awning-like projection from a wall that is made of rigid materials and is permanently attached to a building's facade.

CERTIFICATE OF OCCUPANCY: A written instrument executed by the Building Official authorizing a described use of a lot or building as set forth in the Building Code, in this UDC, and other subdivision or zoning regulations of the City of Iowa Colony.

CHILD DAY CARE CENTER (BUSINESS): A licensed operation providing care for seven (7) or more children under fourteen (14) years of age for less than 24 hours a day at a location other than the permit holder's home. This definition is in conformance with Texas State law, Chapter 745, Licensing, Subchapter B, Child Day-Care Operations Chart.

CHILD DAY NURSERY: Also commonly referred to as a *Registered Family Home* or *Child Care in a Place of Residence*. A facility that regularly provides care in the caretaker's own residence for not more than six (6) children under thirteen (13) years of age, excluding the caretaker's own children. Child day care can be provided for six (6) additional children before and/or after the customary school day. However, the total number of children, including the caretaker's own, provided care at such facility does not exceed twelve (12) at any given time. This definition is in conformance with Texas State law, Chapter 745, Licensing, Subchapter B, Residential Child-Care Operations Chart.

CHURCH/TEMPLE/PLACE OF WORSHIP: A building for regular assembly for religious public worship which is used primarily for and designed for such purpose, along with accessory activities which are customarily associated therewith, such as a place of residence for ministers, priests, nuns or rabbis on the premises, and that is tax exempt as defined by State law. For the purposes of this ordinance, Bible study and other similar activities which occur in a person's primary residence shall not apply to this definition. Also see *Institution of Religious, Educational or Philanthropic Nature*.

CITY: The City of Iowa Colony, Texas, or any authorized or responsible person acting on the City's behalf.

CITY CODE: All ordinances of the City, as they may be amended from time to time.

CITY ENGINEER: The Iowa Colony City Engineer or an authorized representative.

CITY MANAGER: That person holding the office of Iowa Colony City Manager or an authorized representative.

CITY SECRETARY: That person holding the office of City Secretary or an authorized representative.

CITY STANDARDS: All the City's standards and specifications that apply to development, together with all tables, drawings, and other attachments. All City standards described or referred to in this Unified Development Code are adopted by referenced and are a part of this Unified Development Code in the same way as if they were set out at length herein.

CIVIC BUILDING: A building that is allowed greater design flexibility due the prominence of its public functions and often its location. Civic buildings include municipal buildings, faith-based institutions, churches, synagogues, libraries, schools, educational facilities, auditoriums, and public recreation facilities. Civic buildings do not include retail buildings, residential buildings, or privately owned office buildings.

CIVIC CENTER (MUNICIPAL): A building or complex of buildings that house municipal offices and services, and which may include cultural, recreational, athletic, food service, convention or entertainment facilities owned or operated by a municipality.

“CLASS A” OFFICE: An office building that is ten (10) years of age or less and that has amenities such as full-time administrative staff support, high-speed internet access, telecommunications access, conference rooms or suites, break rooms, copier services, etc. Such a facility generally serves as office space for professionals such as lawyers, financial planners, engineers, etc.

CLEANING, DYEING OR LAUNDRY PLANT, COMMERCIAL: An industrial facility where fabrics are cleaned with substantially non-aqueous organic solvents on a commercial or wholesale basis.

CLINIC, MEDICAL OR DENTAL: An institution, public or private, or a station for the examination and treatment of out-patients by an individual or group of doctors, dentists, or other licensed members of a human health care profession.

COLONNADE: Like an arcade except that it is supported by vertical columns without arches.

COLUMN FACE: The front edge of the supporting pillar or cylindrical shaft.

COMMENCE(ING) CONSTRUCTION: The initial disturbance of soils associated with clearing, grading, or excavating activities or other construction or development.

COMMERCIAL AMUSEMENT, INDOOR: An amusement enterprise offering entertainment or games of skill to the general public for a fee or charge, wherein all portions of the activity taking place indoors, including, but not limited to, a bowling alley, ice skating rink, racquetball/handball club, indoor tennis courts/club, indoor swimming pool or scuba diving facility, and billiard parlor.

COMMERCIAL AMUSEMENT, OUTDOOR: An amusement enterprise offering entertainment or games of skill to the general public for a fee or charge, wherein any portion of the activity takes place outdoors, including, but not limited to, a golf driving range, archery range, miniature golf course, batting cages, go-cart tracks, and amusement park.

COMMERCIAL AMUSEMENT, TEMPORARY: An amusement enterprise that is in operation on a temporary basis (i.e., one month or less) offering entertainment or games of skill to the general public for a fee or charge. Activity may take place in or out of doors. Examples include a carnival or haunted house.

COMMERCIAL or BUSINESS MESSAGE: A message contains or conveys commercial context or information or advertising for any business, commodity, service, entertainment, product or other attraction or event.

COMMERCIAL USE: A type of nonresidential land use that has one or more of the following characteristics: 1) the use is service-oriented; 2) the use does not primarily sell retail items; 3) the use sells goods or products on a wholesale basis; or 4) the use has or has the need for open storage areas or warehouses its products. Such uses include motels, auto dealerships, welding shops, manufactured home sales, mini-warehouses, funeral homes, auto body repair shops, and air conditioning and/or heating services.

COMMERCIAL VEHICLE/TRUCK: See Heavy Load Vehicle definition herein.

COMMISSION: The City of Iowa Colony Planning and Zoning Commission.

COMMON AREA (OUTDOORS): Land, not individually owned or dedicated for public use, within a development that is designed and intended for the common use and enjoyment of the residents of the development. May include complementary structures and improvements and is one or more of the following: a parking lot; a parking structure or covered vehicular entrance; a common entrance or public space shared by all occupants of the domiciles.

COMMON PROPERTY: A parcel or parcels of land, together with the improvements thereon, the use and enjoyment of which are shared by the owners and occupants of the individual building sites in a development.

COMMON WALL: An approved fire-rated wall separating two (2) dwelling units or businesses.

COMMUNITY HOME: A place where not more than six (6) physically or mentally impaired or handicapped persons are provided room and board, as well as supervised care and rehabilitation by not more than two (2) persons as licensed by the Texas Department of Mental Health and Mental Retardation (also see Chapter 123 of the Texas Local Government Code). The limitation on the number of persons with disabilities applies regardless of the legal relationship of those persons to one another.

COMMUNITY OR SOCIAL BUILDINGS: A building or complex of buildings that house cultural, recreational, athletic, food service or entertainment facilities owned or operated by a governmental agency or private nonprofit agency.

COMPATIBILITY: The characteristic of different land uses or activities that permit them to be located near each other in harmony and without conflict.

COMPLETE APPLICATION: An application that meets the standards of this UDC and has been deemed complete by the City in accordance with the Texas Local Government Code, Chapter 245, or successor statute.

COMPREHENSIVE PLAN: The Comprehensive Plan of the City of Iowa Colony, including any portion thereof that is separately adopted and any amendment to the Comprehensive Plan or portion thereof.

CONCEPT PLAN: A component of the regulations for a Planned Development District that complies with the requirements of this Unified Development Code that illustrates elements of the proposed Planned Development District, such as the proposed location and arrangement of uses, the relationship of such uses to base zoning districts, development phasing, planned public improvements, open space, proposed amenities and the overall design of the development.

CONCRETE BATCHING PLANT: A permanent manufacturing facility engaged in the production of concrete.

CONCRETE MASONRY UNIT: Plain, indented, hammered, or split face concrete blocks usually in eight (8) inch by eight (8) inch by sixteen (16) inch dimensions.

CONDITIONAL USE PERMIT (CUP): Also called a Special Use Permit, a permit authorizing the establishment of a use that may be suitable only in certain locations in a zoning district, or that is allowed only when subject to standards and conditions that assure compatibility with adjoining uses.

CONDOMINIUM: Two or more dwelling units on a lot with individual ownership of a unit rather than of a specific parcel of real property, together with common elements. See Article 1301a, Tex. Rev. Civ. Stat.

CONSTRUCTION: With respect to a building, construction is the assembly of materials into a structure, or the rehabilitation or replacement of a structure which has been damaged, altered or removed or which is proposed to be altered or removed to an extent exceeding fifty percent (50%) of the area of the structure at the time of the damage, alteration, or removal. For the purposes of this definition, *construction* includes the installation of a parking lot.

CONSTRUCTION PLANS: The drawings and technical specifications that conform to provisions of this UDC. Construction plans, including bid documents and contract conditions, where applicable, provide a graphic and written description of the character and scope of the work to be performed in construction of a development.

CONSUMER PRICE INDEX: The "Consumer Price Index for all Urban Consumers" as established by the Bureau of Labor Statistics for the Department of Labor.

CONTIGUOUS: Adjacent property whose property lines are shared (i.e., abutting property lines) or are separated by only a street, alley, easement, or right-of-way.

CONVENIENCE STORE WITH (OR WITHOUT) GASOLINE SALES: Retail establishment selling food for off-premises consumption and a limited selection of groceries and sundries, including possibly gasoline, if pumps are provided. Does not include or offer any automobile repair services.

CONVENT OR MONASTERY: A place of dwelling and/or study for persons under religious vows.

COPY/PRINTING SHOP: An establishment which primarily reproduces, in printed form, individual orders from a business, profession, service, industry or government organization. Off-set, letter press, and duplicating equipment are used, but no rotary presses or linotype equipment are used. Related services might include faxing, digitizing, graphic reproducing, and report assembling.

CORNER LOT: A lot abutting upon two (2) or more streets at their intersection(s).

CORNICE: A decorative horizontal feature that projects outward near the top of an exterior wall.

CORRIDOR TREE: A tree of a species listed on the Large Tree list or the Small Tree list that has a caliper of 20 inches (20") or more and is situated in the building setback area along a local street or along a major thoroughfare, other than a portion of a major thoroughfare that has been designated as a green corridor.

COST ADJUSTMENT: shall be the increase in any cost specified in this article as subject thereto and calculated by the percentage change in the Consumer Price Index for a base year period to a

recent year period. The cost is payable where the sum of money is computed to the nearest cent according to the following formula:

$(A/B-1) \times \text{Cost subject to adjustment}$

In the foregoing formula:

'A' is the index value of the 'Consumer Price Index for All Urban Consumers, U.S. city average, All Items for base year period =100),' as published in the Monthly Labor Review by the Bureau of Labor Statistics of the Department of Labor of the United States of America ('index') applicable to the third month immediately preceding the month during which the computation is required to be performed.

'B' is the index value of such Index applicable the desired updated cost.

COUNCIL: The City of Iowa Colony City Council.

COUNTRY CLUB: An area of twenty (20) acres or more containing a golf course and/or a clubhouse and available to a private specific membership, which club may also contain adjunct facilities such as a dining room, swimming pool, tennis courts or other recreational or service facilities.

COURTYARD: A roofed, or unroofed private open space surrounded by building walls on at least three sides.

CUL-DE-SAC: A local street having one (1) inlet/outlet to another street and terminated on the opposite end by a vehicular turnaround.

CURB: The edge of the vehicular pavement as a raised curb or a swale. The curb usually incorporates the drainage system.

DANCEHALL/NIGHTCLUB: An establishment offering to the general public facilities for dancing and/or entertainment.

DAY CAMP (FOR CHILDREN): A facility utilized for the organized recreation and instruction of children, including outdoor activities in the vicinity of the facility, on a daytime basis (i.e., no overnight stays).

DAY NURSERY: An establishment where children, separated from their parents or guardian, are housed for care or training during the day (no overnight stay) or a portion thereof on a regular schedule more often than once a week; does not include a public school, private school, kindergarten, or registered family home.

DECIDUOUS PLANTS: Those which shed their leaves at one time each year, usually in the autumn.

DENSITY, GROSS: The number of dwelling units per gross acre. All density calculations shall be made using gross acreage, inclusive of easements, thoroughfare rights-of-way, and streets dedicated and accepted prior to platting of the property.

DENSITY, GROSS RESIDENTIAL: The number of dwelling units per gross acre used for residential use. All density calculations shall be made using gross acreage dedicated for residential use, exclusive of easements and thoroughfare rights-of-way, and inclusive of retention/detention areas, public or private streets that are platted or will be platted as part of the development

of the property, open space, recreational areas, and parks provided within the development.

DENSITY, NET: The number of dwelling units per net acre. Net density calculations are made using net acreage, exclusive of thoroughfare rights-of-way and retention/detention areas, and public or private streets that are platted or are to be platted as part of the development of the property, but inclusive of open space, recreational areas, or parks.

DEPARTMENT STORE: A store selling a wide variety of goods, which are arranged into departments.

DESIGNATED TREE: a specific tree designated by the City Council as having historical or arboricultural significance.

DETENTION/RETENTION POND: As defined within the City's Engineering Design Criteria Manual (EDCM).

DEVELOPED AREA: That portion of a plot or parcel upon which a building, structure, pavement, or other improvements have been placed.

DEVELOPER: An individual, partnership, corporation, or governmental entity undertaking the division or improvement of land and other activities covered by this Unified Development Code, including the preparation of a subdivision or development plat showing the layout of the land and the public improvements involved therein. The term "developer" is intended to include the term "subdivider," even though personnel in successive stages of a development project may vary.

DEVELOPMENT: Initiation of any activities related to the platting of land or construction of buildings or structures, the construction of impervious surfaces, the installation of utilities, roadways, drainage facilities or other infrastructure; or any disturbance of the surface or subsurface of the land in preparation for such construction activities, including without limitation removal of vegetation, grading, clearing, filling, or removal of soil.

DEVELOPMENT PERMIT: A decision by the Commission, Board or responsible official designated by this Unified Development Code, acting in an administrative or quasi-judicial capacity, that authorizes the holder of the permit to undertake one or more development activities or to file further applications needed to initiate or continue development activities authorized under the Unified Development Code. The filing of a complete application for a development permit may or may not stay the City from adopting new standards applicable to the permit or any subordinate permit, depending on the nature of the standards.

DEVELOPMENT STANDARDS: All regulations, design standards, requirements and restrictions that apply to a development.

DISTRICT: A zoning district under this Unified Development Code.

DORMERS: Small, roofed ancillary structures with windows providing light and air to habitable space within the roof. Dormers are permitted and do not constitute a story so long as they do not break the primary eave line.

DORMITORY: Any structure specifically designed to house student tenants associated with a university, college, or school, public or private.

DRIPLINE: An imaginary circle drawn around a tree, extending to the tree's branching limit.

DRAG STRIP/RACETRACK: An establishment where a pre-established racecourse of at least ¼-mile in length is located.

DRIVE-IN/REFRESHMENT STAND: Any place or premises used for sale, dispensing or serving of food and/or beverages to consumers in automobiles or on foot, or at an outdoor patio or table, and where indoor tables are not provided.

DRIVE-IN THEATER: An open lot with its appurtenant facilities devoted primarily to the showing of motion pictures or theatrical productions on a paid admission basis to patrons seated in automobiles.

DRIVEWAY: A minor private entranceway off the common access route into an off-street parking area.

DROUGHT TOLERANT PLANTS: Plants that, once established, survive on natural rainfall with occasional irrigation during dry periods

DUPLEX: See *Dwelling - Two-Family*.

(DUMPSTER: A large, metal refuse receptacle specifically designed to be emptied by heavy machinery and which is otherwise stationary.

DWELLING/DWELLING UNIT: Any building or portion thereof which is designed or used exclusively for residential purposes. The term "Dwelling Unit" shall not include rooms in hotels, motels, or institutional facilities.

DWELLING - INDUSTRIALIZED HOME: (Also called *Modular Prefabricated Structure* or *Modular Home*.) A structure or building module as defined under the jurisdiction and control of the Texas Department of Labor and Standards, that is transportable in one or more sections on a temporary chassis or other conveyance device, and that is designed to be installed and used by a consumer as a fixed residence on a permanent foundation system. The term includes the plumbing, heating, air-conditioning, and electrical systems contained in the structure. The term does not include mobile homes or HUD-Code manufactured homes as defined in the Texas Manufactured Housing Standards Act (Article 5221f, V.A.C.S.)

DWELLING - HUD-CODE MANUFACTURED HOME: A structure constructed on or after June 15, 1976, according to the rules of the United States Department of Housing and Urban Development, transportable in one or more sections, which, in the traveling mode, is eight (8) body feet or more in width or forty (40) body feet or more in length, or when erected on site, is three hundred and twenty (320) or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems.

DWELLING - MOBILE HOME: A structure that was constructed before June 15, 1976, transportable in one or more sections, which, in the traveling mode, is eight (8) body feet or more in width or forty (40) body feet or more in length, or when erected on site is three hundred and twenty (320) or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the

required utilities and includes the plumbing, heating, air conditioning, and electrical systems.

DWELLING - MULTIPLE-FAMILY: A residential building designed for occupancy by three or more families, with the number of families not to exceed the number of dwelling units. The residential building contains dwelling units that are designed to be occupied by families living independently of one another, exclusive of hotels or motels. This definition includes three-family units (triplexes) and four-family units (quadraplexes), as well as traditional apartments.

DWELLING - PATIO HOME: A single-family dwelling on a separately platted lot which is designed such that one side yard is reduced to zero feet to maximize the width and usability of the other side yard, and which permits the construction of a detached single-family dwelling with one side (i.e., wall) of such dwelling placed on the side property line.

DWELLING - QUADRIplex: Four (4) dwelling units joined by common sidewalls.

DWELLING - SINGLE-FAMILY: A residential building, other than a mobile home, designed for occupancy by one family or individual.

DWELLING - SINGLE-FAMILY DETACHED: A single-family dwelling unit with no attached wall(s) or dwelling unit(s).

DWELLING - TOWN HOUSE: One of a group of no less than three (3) nor more than twelve (12) attached dwelling units, separated by a fire rated wall, each dwelling unit located on a separate lot.

DWELLING - TWO-FAMILY: A residential building containing two attached dwelling units, each designed to be occupied by one family (i.e., the building is occupied by not more than two families).

EASEMENT: An interest in land granted to the City, to the public generally and/or to a private entity.

EDCM: The acronym for the City's Engineering Design Criteria Manual.

EFFICIENCY APARTMENT: An apartment without a bedroom separate from other living quarters.

ELEVATION: The exterior walls of a building not along a frontage.

EMERGENCY CONDITIONS: Generally, lighting that is only energized during an emergency; lighting fed from a backup power source; or lighting for illuminating the path of egress solely during a fire or other emergency situation; or lighting for security purposes used solely during an alarm.

EMERGENCY VEHICLE: Any vehicle meeting the requirements for emergency vehicles under State Law or City Ordinance.

EMITTER: A device that applies irrigation water. This term is primarily used to refer to the low flow rate devices used in micro-irrigation systems.

ENFORCING OFFICER: The designated Enforcing Officer of the City of Iowa Colony or a designated representative.

ENGINEER: A person duly licensed under the Texas Engineering Practice Act to practice the profession of engineering.

ENTRANCE, PRIMARY: The principal place of pedestrian entry to a building. In the support of pedestrian activity, the primary entrance should give to the frontage rather than to the parking.

ENVIRONMENTAL PROTECTION AGENCY (EPA): The U.S. Environmental Protection Agency, or, where appropriate, the administrator or other duly authorized official of that agency.

ERECT: To construct, reconstruct, install, or build.

ESPLANADE: An unpaved area between two paved roadway sections.

ETJ: Extraterritorial jurisdiction. See the definition of *Extraterritorial Jurisdiction* herein.

EVERGREEN PLANTS: Those plants that do not lose all their leaves at one time, though they shed their old leaves intermittently, as new leaves come out.

EXCAVATION: Any digging, trenching, scraping or other activity that disturbs natural soil or rock to a depth of two feet or more, other than soil disturbance incidental to the removal of trees or vegetation.

EXISTING VEGETATION TO BE PRESERVED: Any viable grouping of or single existing evergreen or deciduous trees and associated understory for which tree or buffer preservation credit is being requested.

EXPRESSION LINE: A decorative horizontal feature that projects outward from an exterior wall to delineate the top of the first story of a multi-story building.

EXTENDED STAY HOTEL/MOTEL: A multi-unit, extended stay lodging facility consisting of efficiency units or suites with complete kitchen facilities and which is suitable for long-term occupancy. Customary hotel services such as linens and housekeeping, telephones, and upkeep of furniture shall be provided. Meeting rooms, club house, and recreational facilities intended for the use of residents and their guests are permitted. This definition shall not include other dwelling units as defined by this UDC.

EXTERIOR WALL: The exterior wall of a building that is visible from or used as the exterior surface of an exterior wall.

EXTRATERRITORIAL JURISDICTION: The unincorporated area, not a part of any other municipality, which is contiguous to the corporate limits of the City of Iowa Colony, the outer limits of which are measured from the extremities of the corporate limits of the City outward for the distances as may be stipulated in the Texas Local Government Code in accordance with the population of the City of Iowa Colony, or by valid petition from the land owner and in which area the City may enjoin violation of certain provisions of this Unified Development Code.

FAÇADE: The entire area of a side (the elevation) of a building or structure that extends from ground level to the top of a parapet, wall, or eave(s) and from one corner to another. The area of a facade is defined by the outer limits of all its visible exterior elements. Separate faces of a building oriented in the same direction or within 45 degrees of each other are considered part of the same façade.

FAÇADE TRANSPARENCY: The quality of being able to see through the primary face of a building.

FAMILY: A “family” is an individual or any number of persons related by blood or marriage or not more than four (4) unrelated persons living as a single housekeeping unit.

FARM (RANCH, LIVESTOCK): An area used for the raising thereon of the usual farm animals such as horses, cattle, and sheep and including the necessary accessory uses for raising, treating, and storing animals on the premises, but not including the commercial feeding of offal or garbage to swine or other animals and not including any type of husbandry specifically prohibited by ordinance or law.

FEED AND GRAIN STORE/FARM SUPPLY STORE: An establishment for the selling of corn, grain and other food stuffs for animals and livestock, and including implements and goods related to agricultural processes, but not including farm machinery.

FENCE: A tangible barrier constructed of any allowable materials (excluding natural vegetation) erected for the purpose of providing a boundary or as a means of protection, or to prevent uncontrolled access, or for decorative purposes, or to screen from viewers in or on adjoining properties and streets, materials stored, and operations conducted behind such barrier. A “Gateway” as defined herein shall not be considered a fence.

FENCE, LIVING: A hedge of vegetation used as a screening device or a fence with vegetation growing to it or on it which at the time of maturity prevents a visually “open” effect, providing a visual barrier by blocking the normal line of sight.

FENCE, PRIVACY: A solid barrier erected or constructed to prevent views across the fence line.

FENCE, SUBDIVISION: A uniform fence, built at the time a residential subdivision is initially developed, that partially or completely surrounds the subdivision. Other characteristics can include construction by the subdivision developer, maintenance by a homeowners association, and design requirements contained in recorded deed restrictions for that subdivision.

FENCE, WOOD RAIL: A fence constructed of narrow, or split wood timbers, placed between upright supporting posts and with a maximum opacity of 25%.

FINAL SUBDIVISION PLAT: The plat of a subdivision for which platting is required which, when approved, will be recorded in the official public records.

FINANCIAL INSTITUTION (WITH OR WITHOUT MOTOR BANK SERVICES): An establishment for the custody, loan, exchange and/or issue of money, the extension of credit, and/or facilitating the transmission of funds, examples of which include banks, saving and loans, and credit unions. The establishment may or may not have the ability to provide services via a drive-up window, also known as motor bank services.

FIRE STATION: Any public service building of the municipal government, or quasi-public entity, that is used in the provision of fire protection services, including the housing of fire-fighting personnel and/or apparatus.

FIRST FLOOR: For determining facade requirements, first floor is defined as the vertical distance of a structure/building measured from the average established floor

elevation (slab) to the space above it between the floor and the next floor or ceiling or roof, the height of said space being no more than twelve feet (12').

FOOTCANDLE: The unit of measure expressing the quantity of light received on a surface. One foot-candle is the illuminance produced by a candle on a surface one-foot square from one foot.

FLOOD or FLOODING: A general or temporary condition of partial or complete inundation of normally dry land areas from:

- a. The overflow of inland or tidal waters.
- b. The unusual and rapid accumulation of runoff of surface waters from any source.

FLOOD FRINGE: That portion of the floodplain, outside the floodway, that is subject to inundation by the 100-year recurrence interval flood.

FLOOD HAZARD AREA: Land in the floodplain within the City, or its jurisdiction, subject to a one percent (1%) or greater chance of flooding in any given year. This area is shown as zones A, AE, AH, AO, A1--99, VO, V1--30, VE or V on the Flood Insurance Rate Map (FIRM).

FLOOD INSURANCE RATE MAP (FIRM): An official map of a community, on which the Federal Emergency Management Agency has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

FLOODPLAIN (or Flood-Prone Area): Any area of land that is subject to being inundated by water from any source.

FLOODWAY (Regulatory Floodway): The channel of a river or other watercourse and the adjacent land areas that must be reserved to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

FLOOR AREA: The total area of all climate-controlled floors as calculated from measurements to outside walls.

FOOD STORE/SUPERMARKET: A retail market primarily selling consumable goods that are not to be eaten on the premises. Prepared food and other items and/or services may be sold only in limited quantities as a secondary or accessory use.

FORWARD LIGHT: For an exterior luminaire, lumens emitted in the quarter sphere below horizontal and in the direction of the intended orientation of the luminaire.

FRANCHISED PRIVATE UTILITY: A utility such as one distributing heat, electricity, telephone, cable television or similar service and requiring a franchise to operate in the City of Iowa Colony.

FRATERNAL ORGANIZATION: An organized group having a restricted membership and specific purpose related to the welfare of the members. Examples include common organizations such as the Elks, Masons, Knights of Columbus, or a labor union.

FRATERNITY OR SORORITY HOUSE: A building other than a hotel that is occupied only by individuals enrolled in a college or university located within the city and persons to attend the house and supervise activities of the fraternity or sorority. Except for the attendants, each resident is a member of a fraternity or sorority that is recognized by the college or university and chartered by a state or national organization.

FRONTAGE: The linear distance of the property line abutting the street right-of-way upon which the property is addressed.

FRONT PORCH: see porch.

FULLY SHIELDED (LUMINAIRE): Outdoor light fixtures shielded or constructed so that all light rays emitted by the fixture, either directly from the lamp or a diffusing element, or indirectly by reflection or refraction from any part of the luminaire are projected below the horizontal plane passing through the lowest point on the fixture from which light is emitted, nearly 100 percent cut-off type, as evidenced by the manufacturer's photometric data.

FUNERAL HOME: A place for the storage of human bodies prior to their burial or cremation, which may also be used for the preparation of the deceased for burial and the display of the deceased and ceremonies connected therewith before burial or cremation.

GAMING ESTABLISHMENT: A video arcade, game room, or other establishment that has more than four (4) eight-liners or other amusement machines on which are played games of chance for use by the general public for a fee or charge.

GARDEN SHOP & OUTSIDE PLANT SALES: (Also referred to as *Plant Nursery*.) An establishment, including a building, part of a building or open space, for the growth, display and/or sale of plants, shrubs, trees, and other materials used in indoor or outdoor planting.

GARDEN WALL: A masonry wall defining a property line or delineating a private area.

GASOLINE SERVICE STATION: An establishment where gasoline is sold and dispensed into motor vehicle tanks.

GATEWAY: A marker for a point of arrival or entrance.

GLARE: Excessive brightness of light entering the eye directly or indirectly from reflective surfaces in the field of view that is sufficiently greater than that to which the eyes are adapted, causing annoyance or visual discomfort or reduced visibility to jeopardize health, safety, or welfare.

GLASS CURTAIN WALL: An exterior building wall consisting of no less than sixty (60) percent glass, which carries no structural loads, and is made of a combination of metal, glass or other surfacing material supported in a metal framework.

GOLF COURSE (PRIVATE): An area of twenty (20) acres or more improved with trees, greens, fairways, hazards, and which may include clubhouses, and which is owned and operated by a private business entity.

GOLF COURSE (PUBLIC): An area of twenty (20) acres or more improved with trees, greens, fairways, hazards, and which may include clubhouses, and which is owned and operated by the City of Pearland.

GRADE (Adjacent Ground Elevation): The lowest point of elevation of the finished surface of the ground between the exterior wall of a building and a point five feet (5') in distance from said wall, or the lowest point of elevation of the finished surface of the ground between the exterior wall of a building and the property line if it is less than five feet (5') in distance from said wall. In case walls are parallel to and within five feet (5') of a public sidewalk, alley or public way, the grade shall be the elevation of the sidewalk, alley or public way

GREEN CORRIDOR: Any portion of a major thoroughfare that has been designated as a green corridor by City Council.

GREEN CORRIDOR TREE: A tree of a species listed on the Large Tree list that has a caliper of 15 inches or more and is situated in the building setback area of a green corridor.

GREEN SPACE: The entire parcel less the building footprint, driveways, vehicular use areas, hardscapes such as decks, swimming pools, decorative fountains, patios, and other non-porous areas. Stormwater management systems, and wetland conservation areas, lakes, rivers, and creeks are excluded in the calculation of green space area.

GROSS LEASABLE AREA: The total floor area of a building which is designed for tenant occupancy and use, including basements and mezzanines, and measured to center lines of joint partitions and to outside of exterior walls, excluding mechanical equipment, storage, restrooms, stairwells, elevator shafts and other common areas.

HABITABLE: A space in a structure available for living, sleeping, eating, cooking, or any commercial purposes. However, storage space is not considered to be habitable space.

HARDSCAPE: Permanent hardscape improvements to the site including parking lots, drives, entrances, curbs, ramps, stairs, steps, medians, walkways, and non-vegetated landscaping that is 10 feet or less in width. Materials may include concrete, asphalt, stone, gravel, etc.

HARDSCAPE AREA: The area measured in square feet of all hardscape. It is used to calculate the Total Site Lumens Limit in both the Prescriptive Method and Performance Methods. Refer to Hardscape definition.

HARDSCAPE PERIMETER: The perimeter measured in linear feet that is used to calculate the Total Site Lumen Limit in the Performance Method. Refer to hardscape definition.

HARDWARE STORE: A store in which the primary items offered for sale are wares such as fittings, tools, machinery, utensils, and other similar objects.

HEAVY LOAD VEHICLE: A self-propelled vehicle having a manufacturer's recommended Gross Vehicle Weight (GVW) of greater than 16,000 pounds (including trailers), such as large recreational vehicles (originally manufactured as RVs, not converted), tractor-trailers, buses, vans, and other similar vehicles. The term "truck" shall be construed to mean "Heavy Load Vehicle" unless specifically stated otherwise.

HEAVY MACHINERY SALES, STORAGE & REPAIR: The sale, trade, transfer, storage, and/or repair of any motor propelled machinery used for excavation and/or construction purposes.

HELIPORT/HELIPAD: A landing facility for rotary wing aircraft subject to regular use and which may include fueling or servicing facilities for such craft.

HOBBY SHOP: See Specialty Shop.

HOLIDAY: A day on which custom dictates commemoration of a particular event. For the purposes of this UDC, holiday shall be deemed to include any day(s) of religious celebration, such as Christmas, Hanukah, and Easter, as well as the 4th of July, Labor Day, Memorial Day, Presidents' Day, Martin Luther King Day, Halloween, Valentine's Day.

HOME FOR ALCOHOLIC, NARCOTIC OR PSYCHIATRIC PATIENTS: An institution offering in- or out-patient treatment to alcoholic, narcotic, or psychiatric patients.

HOME IMPROVEMENT CENTER: Materials, tools, and/or hardware customarily used in the construction of buildings and other structures, including facilities for storage of materials for retail sales.

HOME OCCUPATION: An occupation carried on in a dwelling unit, or in an accessory building to a dwelling unit, by a resident of the premises, and which is clearly incidental and secondary to the use of the premises for residential purposes.

HOMEOWNERS ASSOCIATION/PROPERTY OWNERS ASSOCIATION: An incorporated, nonprofit organization operating under recorded land agreements through which (a) each lot and/or homeowner in a planned unit or other described land area is automatically a member, (b) each lot is automatically subject to charge for a proportionate share of the expenses for the organization's activities, such as maintaining a common property, and (c) the charge, if unpaid, becomes a lien against the property.

HOSPITAL (FOR PROFIT): A building or portion thereof, used or designed for the housing or treatment of sick or injured patients where they are given medical or surgical treatment intended to restore them to health and an active life, and which is licensed by the State of Texas. This definition does not include rooms in any residential dwelling, hotel, or apartment hotel not ordinarily intended to be occupied by said persons. Said building houses a business operation intended to make a profit for the financial gain of the shareholders/owners of the operation.

HOSPITAL (NON-PROFIT): A building or portion thereof, used or designed for the housing or treatment of sick or injured patients where they are given medical or surgical treatment intended to restore them to health and an active life, and which is licensed by the State of Texas. This definition does not include rooms in any residential dwelling, hotel, or apartment hotel not ordinarily intended to be occupied by said persons. Said building houses a business operation that is not intended to make a profit for financial gain of any shareholder/owner of the operation.

HOTEL/MOTEL: A facility offering temporary lodging accommodations or guest rooms on a daily rate to the general public and possibly providing additional services, such as restaurants, meeting rooms, housekeeping service and recreational facilities, on an accessory use basis. For the purposes of this definition, a guest room shall be defined as a room designed for the overnight lodging of hotel guests for an established rate or fee.

HOUSEHOLD CARE FACILITY: (Also referred to as *Hospice*.) A dwelling unit which provides residence and care to persons, regardless of legal relationship, who are elderly; disabled; orphaned, abandoned, abused, or neglected children; victims of domestic violence; or rendered temporarily homeless due to fire, natural disaster or financial setbacks, living together with not more than two supervisory personnel as a single housekeeping unit. This definition shall be consistent with that of "assisted living facility" in Texas Health and Safety Code Section 247.002 as it presently exists or may be amended in the future.

IDA: The International Dark-Sky Association is the authoritative voice on light pollution. IDA educates lighting designers, manufacturers, technical committees, and the public about controlling light pollution.

IESNA: The Illuminating Engineering Society of North America, a non-profit learned society whose members are regarded as professionals in their industry and are globally respected for their knowledge to improve the lighted environment by bringing together those with lighting knowledge and by translating that knowledge into actions that benefit the public..

IMPERVIOUS COVER: The total amount of impermeable surfaces, including buildings, pavement, and rooftops, which prevent the infiltration of water into the soil.

- a. Any outside area that is covered with a roof structure, whether fully enclosed or not, shall be considered as part of the total amount of impermeable surfaces.
- b. Wooden decking – planks of wood with gaps (approximately 1/4-inch) in between – is not considered as part of the total amount of impermeable surfaces.
- c. However, other typical outdoor surfaces that do not allow for water infiltration, such as exposed aggregate surfacing or concrete porches, shall be considered as part of the total amount of impermeable surfaces.
- d. The portion of swimming pools designed to contain water shall not be considered as part of the total amount of impermeable surfaces.

IMPERVIOUS MATERIAL: Any material sealed to restrict water entry and movement.

IMPROVED LOT OR TRACT: A lot or tract that has a structure or other improvement on it that causes an impervious coverage of the soil under the structure or improvement.

INDUSTRIAL, MANUFACTURING: Establishments engaged in the manufacturing or transformation of materials into new products. These establishments are usually described as plants and factories, and characteristically use power driven machines and materials handling equipment. Manufacturing production is usually carried on for the wholesale market, rather than for direct sale to the domestic consumer.

INDUSTRY STANDARAD LIGHTING SOFTWARE: Lighting software that calculates point-by-point illuminance that includes reflected light using either raytracing or radiosity methods.

INSTITUTION OF RELIGIOUS, EDUCATIONAL OR PHILANTHROPIC NATURE: A nonprofit, religious, or educational semi-public or public use, such as the Salvation Army, Habitat for Humanity, or an outreach religious facility.

INTEGRATED BUSINESS DEVELOPMENT: A subdivision of land into separate lots that are utilized for nonresidential uses, where:

1. The subdivision is achieved by a single plat that is filed by an owner who owns the entire property being platted;
2. The plat, or an amending plat or replat thereof, contains a note that individual on-premises ground signs shall not be allowed on any lot in said subdivision if the use on said lot is advertised on a multi-user sign is erected on any lot in the subdivision; and
3. Each lot in the subdivision is contiguous to at least one other lot in the subdivision.

INTERESTED PERSON: A person who is impacted by a final decision of the City to the extent that such impact exceeds the impact of the decision on a member of the public. An interested person may include any officer or agency of the City.

IRRIGATION SYSTEM: Permanent watering systems designed to transport and distribute water to plants as a supplement to natural rainfall.

IRRIGATION ZONE: A control valve circuit containing emitters and/or sprinklers with consistent application rates.

ISO: Insurance services office, an independent statistical, rating, and advisory organization that serves the property/casualty insurance industry. ISO collects information on a community's building-code adoption and enforcement services, analyzes the data, and then assigns a building code effectiveness classification (BCEGS) from 1- 10.

KEY BOX: A secure, tamperproof device with a lock operable only by a fire department master key and containing building entry keys and other keys that may be required for access in an emergency.

KINDERGARTEN: Any school, private or parochial, whether operated for profit or not, attended by children during any part of a day, which provides a program of instruction for children below the first-grade level in which constructive endeavors, object lessons and helpful games are prominent features of the curriculum.

LABORATORY, MEDICAL OR DENTAL: An indoor establishment that includes laboratories and/or experimental equipment for medical or dental testing, prototype design and development, and product testing.

LABORATORY, SCIENTIFIC OR RESEARCH: An indoor establishment equipped for experimental study in a science or for testing and analysis.

LAMP: A generic term for a source of optical radiation (i.e., "light"), often called a "bulb" or "tube". Examples include incandescent, fluorescent, high-intensity discharge (HID) lamps, and low-pressure sodium (LPS) lamps, more commonly known as a bulb, as well as light-emitting diode (LED) modules and arrays.

LANDSCAPE BUFFER: The shielding or obscuring of one land use from another by the planting of evergreen trees or shrubs, or both, or the erection of a screening fence designed to minimize the transmission or propagation of noise, light, vibration, or dust, from traffic or other activity on one property to adjoining public or private properties.

LANDSCAPE LIGHTING: Lighting of trees, shrubs, or other plant material as well as ponds and other landscape features.

LANDSCAPE PLANT ZONE: A grouping of plants with similar water and cultural needs.

LANDSCAPED: Adorned or improved by contouring land and placing thereon live flowers, shrubs, trees, grass, other vegetation, water features, and/or pervious rock material.

LANDSCAPED AREA: The area of a developed site/lot that is required by this UDC to consist of landscaping materials, trees and/or groundcover.

LAUNDROMAT (SELF-SERVICE LAUNDRY): A facility where patrons wash, dry or dry clean clothing and other fabrics in machines that are operated by the patron.

LAUNDRY/DRY CLEANING (RETAIL ONLY - DROP OFF/PICK UP): A facility used for the purpose of receiving articles or goods of fabric to be subjected to the process of laundering, dry

cleaning, or cleaning elsewhere, and for the pressing and distribution of any such articles or goods that have been subjected to any such process.

LED: Light Emitting Diode

LIGHT INDUSTRIAL USE: A use engaged in the processing, manufacturing, compounding, assembling, packaging, treatment, or fabrication of materials and products, from previously manufactured materials. Such use is capable operating in such a manner as to control the external effects of the manufacturing process, such as smoke, noise, odor, etc.

LIGHT LOAD VEHICLE: A self-propelled vehicle having a manufacturer's recommended gross vehicle weight (GVW) not greater than 16,000 pounds and having no more than two axles, such as pick-up trucks, sport utility vehicles, vans and mini-vans, recreational vehicles (less than 32 feet in length), campers and other similar vehicles but not including automobiles and motorcycles.

LIGHT MANUFACTURING: Process(es) which does not emit detectable dust, odor, smoke, gas or fumes beyond the bounding property lines of the lot or tract upon which the use is located, and which does not generate noise or vibration at the boundary of the district which is generally perceptible in frequency or pressure above the ambient level of noise in the adjacent areas.

LIGHT POLLUTION: Any adverse effect of artificial light including, but not limited to, glare, light trespass, sky-glow, energy waste, compromised safety and security, and impacts on the nocturnal environment.

LIGHT TRESPASS(Spillover): Light emitted by a luminaire or lighting installation, which is cast beyond the boundaries of the property on which the lighting installation is sited. The maximum intensity measured at the property line adjacent to all single-family and town home residential uses is 0.2 foot-candle.

LIGHTING: "Electric" or "man-made" or "artificial" lighting. See "lighting equipment".

LIGHTING EQUIPMENT: Equipment specifically intended to provide gas or electric illumination, including but not limited to, lamp(s), luminaire(s), ballast(s), poles, posts, lens(s), and other related structures, electrical wiring, and other necessary or auxiliary components.

LOCAL STREET: A public street that is not specifically designated on the adopted City of Iowa Colony Major Thoroughfare Plan as a Super Arterial, a Major Arterial, a Minor Arterial, a Major Collector, or a Minor Collector.

LOCAL UTILITY LINE (Above-Ground or Below-Ground): The facilities provided by a municipality or a franchised utility company for distribution or collection of gas, water, surface drainage water, sewage, electric power, or telephone service, including pad- and pole-mounted transformers.

LODGING: Premises available for daily and weekly renting of bedrooms.

LOT: An undivided tract or parcel of land shown and designated with a tract or lot number on a duly recorded subdivision or development plat. A lot is or may be offered for sale, conveyance, transfer, or improvement, which is designated as a distinct and separate tract, and which is identified by a tract, or lot number or symbol in a duly approved subdivision plat that has been properly filed of record.

LOT COVERAGE: The amount of impervious cover (see definition) on a lot.

LOT MEASUREMENT:

a. **Lot Area** - The net area of the lot, expressed in square feet or acreage and shall not include portions of any public street or alley, but may include easements. For flag lots, the area of the lot that does not meet the applicable minimum lot width shall be excluded.

b. **Lot Depth** - The distance between the midpoints of straight lines connecting the foremost points of the side lot lines in front and the rearmost points of the side lot lines in the rear (the mean horizontal distance between the front and rear lot line). For flag lots, the distance between the midpoints of straight lines connecting the foremost points of the side lot lines where the lot satisfies the applicable minimum lot width, and the rearmost points of the side lot lines in the rear.

c. **Lot Width** - The shortest distance in a straight line between the side lot lines, measured at any point on the lot from the required front setback line to the required lot depth.

d. **Lot, Double Frontage** - Any lot, not a corner lot, with frontage on two streets that are parallel to each other or within 45 degrees of being parallel to each other.

e. **Lot, Flag** - a lot which has frontage and width at the building line that is less than the minimum required width, but which satisfies the required lot width at a point further away from the front property line than is the building line. The portion of the lot that has frontage but does not satisfy the minimum width is hereby designated the "pole" and the portion that meets the minimum lot width but at a point further away from the front property line than is the building line is designated as the "flag." No flag lot shall have more than one (1) pole portion and said pole shall have a minimum length equal to the minimum lot depth for the zoning district in which the lot is located and a maximum length no greater than five hundred feet (500'). The entire flag portion of a flag lot shall meet the minimum lot width for that zoning district.

f. **Lot, Irregular** - Any lot not having equal front and rear lot lines or equal side lot lines; a lot, the opposite lot lines of which vary in dimension and the corners of which have an angle of either more or less than 90 degrees.

g. **Lot Line**: the boundary that legally and geometrically demarcates a lot.

h. **Lot, Thumbnail (or Eyebrow)** - A partial cul-de-sac bulb, usually with a central angle of 180 degrees or less.

LOW VOLTAGE LANDSCAPE LIGHTING: Landscape lighting powered at less than 15 volts and limited to luminaires having a rated initial luminaire lumen output of 525 lumens or less.

LUMEN: The unit of measure used to quantify the amount of light produced by a lamp or emitted from a luminaire (as distinct from "watt", a measure of power consumption).

LUMINAIRE: The complete lighting unit (fixture), consisting of a lamp, or lamps and a ballast(s) (when applicable), together with the parts designed to distribute the light (reflector, lens, diffuser), to position and protect the lamps, and to connect the lamps to the power supply.

LUMINAIRE LUMENS: For luminaires with relative photometry per IES, it is calculated as the sum of the initial lamp lumens for all lamps within an individual luminaire, multiplied by the luminaire efficiency. If the efficiency is not known for a residential luminaire, assume 70%. For luminaires with absolute photometry per IES LM-79, it is the total luminaire lumens. The lumen rating of a luminaire assumes the lamp or luminaire is new and has not depreciated in light output.

LUX: The SI unit of illuminance. One lux is one lumen per square meter. 1 lux is a unit of incident illuminance approximately equal to 1/10 foot-candle.

MAIN BUILDING: The building on a lot which are occupied by the primary (main) use.

MANUFACTURED HOME: See *Dwelling – HUD-Code Manufactured Home*.

MANUFACTURED HOME DISPLAY, SALES AND/OR RENTAL (NEW OR USED): The offering for sale, rental, storage, or display of new or previously owned (i.e., used) manufactured housing units (e.g., mobile homes/trailers, HUD-Code homes, industrialized homes) on a parcel of land, but excluding the use of such facilities as dwellings either on a temporary or permanent basis.

MANUFACTURED HOME/MOBILE HOME SPACE: A division of a parcel of land into a single lot for use by a single manufactured home or mobile home, as applicable.

MANUFACTURING, PROCESSING and FABRICATION: Activities or facilities including, but not limited to, beverage plant, fabrication, metal finishing, foundry, ice plant, machine shop, planing mill, printing plant, publishing and bindery plant, masonry products manufacturing, refinery for nonagricultural products, food products, processing and packaging plant, precision instruments manufacturing, and research laboratory.

MARQUEE: A roof-like structure projecting over the entrance to a building. It may also project over a sidewalk adjacent and parallel to the front wall of a building.

MASONRY: Brick, stone brick veneer, custom treated tilt wall, decorative or textured concrete block, split face block and stucco.

MASTER PLAT: The initial plat for a subdivision to be developed in phases that delineates the sequence and timing of development within the proposed subdivision, and that is reviewed and decided under this Unified Development Code.

METAL: 24-gauge or heavier architectural panels (wall systems) with concealed fasteners and no exposed seams. Corrugated metal, exposed fasteners, and exposed seams are not included in this definition. Other materials (i.e., from technological advances) may be considered metal by the City when such materials are deemed to be the same or better in quality and appearance.

MICRO-IRRIGATION: An irrigation system with a maximum flow rate per emitter of 30 gallons per hour. Not appropriate for turf-grass applications.

MINI-WAREHOUSE/SELF-STORAGE: Small individual storage units for rent or lease, restricted solely to the storage of items, such as motor vehicles, trailers, boats, bulky household goods, and

sundry personal property. There is no conduct of sales, business, or any other activity within the individual storage units.

MINOR SUBDIVISION PLAT: A plat dividing land into no more than four (4) lots that may be administratively approved under certain circumstances under this Unified Development Code.

MOBILE HOME: See *Dwelling – Mobile Home*.

MOLDINGS: An embellishment in strip form, made of wood or other structural material, which is used to decorate or finish a surface.

MOTION PICTURE THEATER (INDOORS): An indoor establishment charging admission to the general public for the privilege of observing a live, televised, or motion picture performance.

MOUNTING HEIGHT: The height of the photometric center of a luminaire above grade level.

MULCH: Any material except fresh grass clippings applied to the soil surface to retain soil moisture control erosion, inhibit weeds, and/or regulate soil temperatures.

MULLIONS: A vertical member, as of stone or wood, dividing a window or other opening.

MULTI-FAMILY RESIDENTIAL: Any building, or portion thereof, which is designed, built, rented, leased, let out or hired out to be occupied, or which is occupied as the home or residence of three or more families living independently of each other, and shall include flats, apartments and a condominium created under chapter 82 of the Texas Property Code.

MULTIPLE BUILDING COMPLEX: More than one (1) principal structure on a building lot.

MULTIPLE-OCCUPANCY or MULTI-TENANT: One or more adjacent premises containing two or more occupancies, each having main entrances directly from the exterior of a common building or complex of buildings and utilizing common facilities for vehicular access, parking, landscaping, etc.

NATURAL PLANTS: Plants that once established can survive on natural rainfall without irrigation.

NEW LIGHTING: Lighting for areas not previously illuminated; newly installed lighting or any type except for replacement lighting or lighting repairs.

NONCONFORMING LOT: A lot that does not conform to the regulations of this Code.

NONCONFORMING STRUCTURE: A structure that does not conform to the regulations of this Code.

NONCONFORMING USE: A use of property that does not conform to the regulations of this Code.

NONRESIDENTIAL USE: All uses other than single-family residential use.

NURSING/CONVALESCENT HOME: (Also referred to as *Long-Term Care Facility* or *Skilled Nursing Facility*.) A facility providing primarily in-patient health care, personal care, or rehabilitative services over a long period of time to persons who are chronically ill, aged or disabled and who need ongoing health supervision but not hospitalization.

OASIS PLANTS: Plants requiring frequent irrigation.

OBJECT: A permanent structure located on a site. Objects may include statues or artwork, garages or canopies, outbuildings, etc.

OBJECT HEIGHT: The highest point of an entity but shall not include antennas or similar structures.

OCCUPANCY: Any utilization of real property.

OFF-STREET PARKING INCIDENTAL TO NONRESIDENTIAL MAIN USE: Off-street parking spaces provided in accordance with the requirements of this Ordinance, located on the lot or tract occupied by the main nonresidential use or within the vicinity of such lot or tract, and located within the same zoning district as the main nonresidential use or in an adjacent parking district.

OFFICE/CLINIC, VETERINARIAN: A place where a veterinarian maintains treatment facilities for diseased or injured animals, including boarding facilities (no outside pens or kennels).

OFFICE, MEDICAL/DENTAL: An office or group of offices for one or more physicians for the examination and treatment of ill and afflicted human outpatients.

OFFICE, PROFESSIONAL AND GENERAL BUSINESS: An office or group of offices used for the provision of executive, management, administrative services, or any other vocation involving predominately mental or intellectual skills. Specifically excludes any activity involving sales of personal property and veterinary clinics.

OFFICE WAREHOUSE STORAGE OR SALES: An establishment where not more than 75% of the total floor area is devoted to warehousing, and may include the sales of office products, but sales are not generally accessible to the public.

OFFICIAL FILING DATE: The date that a complete application (see definition) has been accepted by the City for filing.

OPEN SPACE: Property designated for recreational use, including a private park, play lot, plaza or ornamental area intended for use or enjoyment by people. Open space does not include streets, alleys, utility easements, public parks or required setbacks.

ORCHARD: An area of two (2) acres or more which is used for the growing of farm products, vegetables, fruits, trees and/or grain and including incidental and/or necessary accessory uses for raising, treating, and storing products raised on the premises, but not including the commercial feeding of offal and garbage to swine or other animals and not including any type of agricultural animal husbandry as specifically defined.

ORNAMENTAL LIGHTING: Lighting that does not impact the function and safety of an area but is purely decorative, or used to illuminate architecture and/or landscaping, and installed for aesthetic effect.

ORNAMENTAL STREET LIGHTING: A luminaire intended for illuminating streets that serves a decorative function in addition to providing optics that effectively deliver street lighting. It has a historical period appearance or decorative appearance, and has the following design characteristics:

- (1) Designed to mount on a pole using an arm, pendant or vertical tenon;
- (2) Opaque or translucent top and/or sides;
- (3) An optical aperture that is either open or enclosed with a flat, sag or drop lens;

- (4) Mounted in a fixed position; and
- (5) With the photometric output measured using Type C photometry per IESNA LM-75-01.

OVERSPRAY: Water delivered beyond the landscape area and wets pavement, walks, structures, or other non-landscaped areas.

OUTDOOR LIGHT FIXTURE: Outdoor artificial illuminating devices, installed or portable, used for floodlighting, general illumination, or advertisement. Such devices shall include but are not limited to search, spot, flood, and area lighting for:

- (1) Buildings and structures;
- (2) Recreational facilities;
- (3) Parking areas;
- (4) Landscape lighting;
- (5) Outdoor advertising;
- (6) Public and private street lighting; and
- (7) Walkway lighting.

OUTDOOR LIGHTING: Lighting equipment installed within the property line and outside the building envelopes, whether attached to poles, building structures, the earth, or any other location; and any associated lighting control equipment.

OUTSIDE DISPLAY: (Also referred to as *Outside* or *Outdoor Sales*.) Any primary use of a premises whereon goods, materials, or merchandise is displayed for the purpose of sale on a temporary basis for not more than twenty-four (24) hours, and which the display area is greater than thirty percent (30%) of the gross floor area of the principal building

OUTSIDE STORAGE: (Also referred to as *Open Storage*.) Keeping, displaying, or storing, outside a building, of any goods, materials, merchandise or equipment on a lot or tract on a generally permanent basis for more than twenty-four (24) hours. This includes storage within boxes, containers, portable sheds, trailers, and other structures that are not permanently affixed to a foundation, do not resemble the main onsite building in architectural style, or are not assembled onsite.

OVERLAY ZONING DISTRICT: A zoning district that establishes regulations that combine with the regulations of an underlying (base) zoning district. The purposes of an overlay district shall be to prohibit uses otherwise allowed in the base district, to establish additional or different conditions for such uses, or to authorize special uses, together with standards for such uses, not otherwise allowed in the base district.

PARK OR PLAYGROUND (PRIVATE): A recreation facility, park or playground which is not owned by a public agency such as the City or School District, and which is operated for the exclusive use of private residents or neighborhood groups and their guests and not for use by the general public.

PARK OR PLAYGROUND (Public; Municipal): Publicly owned and operated parks, recreation areas, playgrounds, swimming pools and open spaces that are available for use by the general public without membership or affiliation. This land use shall include special event type uses such as rodeos, concerts, festivals, and other special events requiring special event permits, as set forth in the City of Pearland's Code of Ordinances.

PARKING LOT: A paved, surfaced or leveled area designed and ordinarily used for accessory or public parking of motor vehicles, including commercial parking areas available for lease and leased premises available for public parking. The term shall not include parking garages.

PARKING AREA: An off-street area for the temporary storage of motor vehicles, whether free, for compensation or as an accommodation for clients or customers.

PARKING LOT TREE: A tree of a species listed on the Large Tree list and the Small Tree list and includes both large and small parking lot trees as provided on the list.

PARKING LOT TREE LIST: A Large Tree list and a Small Tree list issued and revised from time to time by the City Engineer, which, based upon recognized arboricultural standards, shall designate trees that are required to be used for planting in parking lots. The City Engineer may only decline to include and may only remove otherwise suitable trees because of health or disease concerns or warnings. The list shall be subdivided into large trees and small trees based upon canopy size characteristics.

PARKING SPACE: An individual vehicle parking space within a parking lot, which shall be computed based on applicable provisions in other parts of the Ordinances of the City of Iowa Colony.

PARKING, STACKED: Also known as Tandem parking. An off-street parking stall arrangement, not more than two spaces in depth, wherein one space is located directly in front of another space and requires the moving of the rear vehicle for another vehicle to enter or leave the forward space.

PARKWAY AREA: That portion of the public right-of-way laying primarily between the edge of the pavement or curb and the private property line.

PARKWAY TREE: A tree of a species listed on the Large Tree list or the Small Tree list that is situated in the parkway area adjacent to any tract or parcel of land and that has a caliper equal to or greater than 1½ inches.

PARTIALLY SHIELDED: Shielding so that the lower edge of the shield is at or below the centerline of the lamp to minimize the light transmission above the horizontal plane, or at least ninety percent (90%) of the emitted light projects below the horizontal plane as evidenced by the manufacturer's photometric data.

PARTLY SHIELDED LUMINAIRE: A luminaire with opaque top and translucent or perforated sides, designed to emit most light downward.

PAVED: Ground surface covered with concrete and constructed in conformance with applicable requirements of the City of Iowa Colony Building Code.

PAWN SHOP: An establishment where articles are traded in exchange for money plus a right to redeem such articles within a given amount of time upon repayment of such money with interest. The establishment may also be involved in the retail sale of primarily used items is also allowed, provided that the sale of such items complies with local, State and Federal regulations.

PEDESTRIAN HARDSCAPE: Stone, brick, concrete, asphalt, or other similar finished surfaces intended primarily for walking such as sidewalks and pathways.

PERMITTED USE: A use specifically allowed in one (1) or more of the various districts by right. This term does not include conditionally or special permitted uses.

PERSON: A natural person, the natural person's heirs, executors, administrators, or assigns and includes a firm, partnership, or corporation, it's or their successors or assigns, or the agent of any of the aforesaid.

PERSON IN CHARGE: Any person who has real, or apparent care, custody, and control of real property or buildings located thereon.

PERSONAL SERVICE SHOP: A retail establishment for the purpose of supplying limited personal services, including but not limited to cleaning and laundry collection station; interior decorating; watch and jewelry repair; art gallery; library; museum; studio for professional artwork, photography, dance, or fine arts, including teaching of applied and fine arts; this definition does not include massage parlors, barber shops, beauty shops, or hairdressers.

PET CARE FACILITY/ANIMAL KENNEL: A commercial establishment in which dogs or other domesticated (pet) animals are housed, groomed, bred, boarded, trained, sold, or provided other health and well-being related services, for a fee or compensation. This term along with the parenthetical phrase "without outdoor pens" means that all the listed activities occur indoors, except outdoor exercise under supervision for a limited period (e.g., one-half to one hour at a time). This term along with the parenthetical phrase "with outdoor pens" means that all the listed activities may occur outdoors for an extended period. This term does not include a veterinary clinic.

PETITION FOR A LEGISLATIVE DECISION: A request for approval of an action authorized under this Unified Development Code requiring action by the City Council acting in its legislative capacity.

PETITION FOR CHANGE IN NON-CONFORMING STATUS: A request by a property owner to the City of Iowa Colony Zoning Board of Adjustment (ZBA) for a change in the status of a non-conforming use or structure to allow for modification to the use or property owned.

PETITION FOR RELIEF FROM DEDICATION OR CONSTRUCTION REQUIREMENT: A request for relief from a requirement imposed under this Unified Development Code to dedicate or construct a public improvement based on constitutional standards, and that is reviewed and decided under this Unified Development Code.

PETROLEUM PRODUCTS BULK STORAGE (WHOLESALE): A facility for the long-term storage and distribution of petroleum that may also involve wholesale sales, but not retail sales, of petroleum and petroleum-based products. No manufacturing or refining of petroleum or petroleum-based products occurs on the premises, only storage and/or distribution functions.

PHOTOELECTRIC SWITCH: A control device employing a photocell or photodiode to detect daylight and automatically switch lights off when sufficient daylight is available.

PHOTOMETRIC: Quantitative measurements of light levels and distributions.

PLANNED DEVELOPMENT: The terms Planned Development and Planned Unit Development shall have the same meaning.

PLANNED UNIT DEVELOPMENT (PD) DISTRICT: A land development project comprehensively planned which permits flexibility in building siting, mixtures of housing types and land uses, usable open spaces, and the preservation of significant natural features.

PLAT: A map, drawing, chart, or plan showing the exact layout and proposed construction of a proposed development into one or more lots, blocks, streets, parks, school sites, commercial or industrial sites, easements, alleys and/or any other elements as required by this Unified Development Code and which a subdivider shall submit for approval in accordance with this Unified Development Code.

POLICE STATION: Any public service building of the municipal government that is used in the provision of police protection services, including the housing of police personnel and related automobiles.

PLAZA: An unroofed public open space designed for pedestrians that is open to public sidewalks on at least one side.

PORCH, (FRONT PORCH): The ground floor platform attached to the front or side of the main building.

PRELIMINARY SUBDIVISION PLAT: A plat that illustrates and thereby assures the general layout of a proposed subdivision, the adequacy of public facilities needed to serve the proposed subdivision, and the overall compliance of the land division with applicable requirements of the Unified Development Code and that is reviewed and decided prior to approval of a Final Subdivision Plat.

PREMISES: A parcel or tract of land or one or more platted lots under the same ownership and use, together with the buildings and structures located thereon.

PRIMARY FINISH: An exterior finish consisting of masonry, glass wall, cementitious stucco, or a combination thereof.

PRIVATE OPEN SPACE: Private property under common ownership designated for recreational use, including a private park, play lot, plaza or ornamental area intended for use or enjoyment of property owners within a subdivision. Open space does not include streets, alleys, utility easements, public parks or required setbacks.

PROJECT COVERAGE: The total amount of impermeable surfaces (impervious cover) of an entire proposed development, as opposed to the lot-by-lot amount defined for the impervious cover calculation.

PROJECTING FAÇADE ELEMENTS: Building elements which attach to the outside of the primary building envelope. Projecting façade elements can include stoops, porches, bay windows, awnings, canopies, second-floor balconies, colonnades, or arcades.

PROPANE SALES (RETAIL): Retail sales of gaseous substances commonly used for household purposes such as propane or butane; does not include the storage, sale, or distribution of other types of combustible substances or alternative fuels such as containerized natural gas, liquid propane, etc.

PROPERTY LINE: The edges of the legally defined extent of privately owned property.

PROTECTED TREE: A corridor tree, designated tree, green corridor tree or parkway tree; any tree of a size twenty (20) caliper inches or more of any species; or any tree of a size of one and one-half (1 ½) caliper inches or more of any species included in the Large Tree list.

PROTECTED TREE REPLACEMENT REQUIREMENT: The requirement established to replace a protected tree as found elsewhere in this Code, as applicable.

PUBLIC ART: Art that is visually or physically accessible to the public (within the public realm e.g., a Street) and that is acquired by City funds, donated to the City, or provided by a private entity as a community benefit, including monuments and statues, building ornament, and visible public infrastructure such as bridges, etc.

PUBLIC EDUCATIONAL FACILITIES: Facilities that are used to provide instruction or education by primary or secondary schools or institutions of higher education that receive public funding. Private schools, day cares and other similar uses, and facilities not used for instructional purposes such as administrative and service facilities shall not be included in this definition.

PUBLIC FACILITIES: Infrastructure and municipal service improvements owned and/or operated by the City, excluding dry utilities such as gas, phone, cable, etc.

PUBLIC OPEN SPACE: Property that is owned by or dedicated to the City and that is designated for recreational use, including a park, play lot, plaza or ornamental area intended for use or enjoyment of citizens. Open space does not include streets, alleys, utility easements, public parks or required setbacks.

PUBLIC RIGHT-OF-WAY: A strip of land used or intended to be used, wholly or in part, as a public street, alley, crosswalk way, sidewalk, or drainage-way.

PUBLIC STREET RIGHT-OF-WAY: The entire width between the boundary lines of every way which is held by the city, a county, the state or otherwise by the public in fee or dedication when any part thereof is open to the use of the public for purposes of vehicular travel.

PUBLIC VIEW: Areas that can be seen from any public street.

RAIN SENSOR DEVICE: A calibrated device that is designed to measure rainfall and override the irrigation cycle of the irrigation system when a pre-determined amount of rainfall has occurred.

RECONSTRUCTION: Rehabilitation or replacement of a structure which either has been damaged, altered or removed or which is proposed to be altered or removed to an extent exceeding fifty percent (50%) of the replacement cost of the structure at the time of the damage, alteration or removal.

RECORD DRAWINGS: See *As-Built/Record Drawings*.

RECORDED PLAT: A subdivision plat that has been finally approved by the city and that has been filed with the applicable County after meeting all City requirements for recordation under this Unified Development Code.

RECREATION CENTER (PRIVATE, FOR PROFIT): An indoor business establishment used for recreation and social activities.

RECREATIONAL VEHICLE (RV): A vehicle that is:

- a. Built on a single chassis;
- b. Four hundred (400) square feet or less when measured at the largest horizontal projection;
- c. Designed to be self-propelled or permanently tow-able by a light-duty truck; and
- d. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

REFUSE CONTAINER: Any container, including dumpster, used as temporary storage of routinely collected waste.

REFUSE DUMP: A place reserved or used for the dumping or accumulation of refuse or discarded matter.

REGISTERED FAMILY HOME: See *Child Day Nursery*.

REHABILITATION CARE FACILITY (HALFWAY HOUSE): A dwelling unit which provides residence and care to not more than nine (9) persons regardless of legal relationship who have demonstrated a tendency towards alcoholism, drug abuse, mental illness, or antisocial or criminal conduct living together with not more than two (2) supervisory personnel as a single housekeeping unit.

REHABILITATION CARE INSTITUTION (BUSINESS): A facility which provides residence and care to ten (10) or more persons, regardless of legal relationship, who have demonstrated a tendency toward alcoholism, drug abuse, mental illness, or antisocial or criminal conduct together with supervisory personnel.

RELATIVE PHOTOMETRY: Photometric measurements made of the lamp plus luminaire and adjusted to allow for light loss due to reflection or absorption within the luminaire. Reference standard: IES LM-63

REMAINDER TRACT: Land that is part of a larger parcel that is not subject to a subdivision plat affecting the parcel.

REMODELING: Renovation, alteration or repair of an existing structure that is not an addition.

REMOVE OR REMOVAL: To take a tree away from its existing position and includes such actions that may be reasonably expected to damage a tree sufficiently to cause it to die.

REPAIR: To restore or mend to sound working condition after damage, decay, or failure.

REPAIR(S) (LIGHTING): The reconstruction or renewal of any part of an existing luminaire for the purpose of its ongoing operation, other than re-lamping or replacement of components including capacitor, ballast, or photocell. Note that retrofitting a luminaire with new lamp and/or ballast technology is not considered a repair and for the purposes of this ordinance the luminaire shall be treated as if new. "Repair" does NOT include normal re-lamping or replacement of components including capacitor, ballast, or photocell.

REPLACEMENT: The act of moving one structure from its existing location or site and replacing it with another structure.

REPLACEMENT LIGHTING: Lighting installed specifically to replace existing lighting that is sufficiently broken to be beyond repair.

RESERVE: A tract of land that is not restricted to single-family residential use and not designated on a subdivision plat as a lot or street right-of-way use and is designated as a reserve.

RESIDENTIAL USE: A dwelling unit or group of dwelling units; includes dwelling units within the upper story or stories of a building wherein other parts of the building are used for a nonresidential purpose or purposes, such as a retail establishment or office.

RESPONSIBLE OFFICIAL: The Building Official or an assign, or the City Engineer who has been designated to accept a type of development application or plans for filing, to review and make recommendations concerning such applications, and where authorized, to initially decide such applications, to initiate enforcement actions, and to take all other actions necessary for administration of the provisions of this Unified Development Code with respect to such development applications.

RESTAURANT (WITH DRIVE-IN SERVICE OR DRIVE-THRU SERVICE): An eating establishment where food or drinks are primarily served to customers in motor vehicles, or where facilities are provided on the premises which encourage the serving and consumption of food in automobiles on or near the restaurant premises. An area may also be provided for the consumption of food the premises.

RESTAURANT (WITH NO DRIVE-IN OR DRIVE-THRU SERVICE): An eating establishment where customers are primarily served at tables or are self-served, where food is consumed on the premises, and which do not have a drive-through window.

RETAIL SHOP FOR ACCESSORIES, GIFTS & SIMILAR GOODS: An establishment engaged in the selling of goods and merchandise to the general public for personal or household consumption and rendering services incidental to the sale of such goods.

RIBBON CURB: A concrete boundary marking the edge of a roadway or paved area and, unlike a typical raised curb, is not vertically separated from the roadway or paved area.

ROADWAY: That portion of a public street which is improved, designed, or ordinarily used for vehicular travel, exclusive of the curb, berm, or shoulder. If a public street includes two or more separate roadways, "roadway" means each such roadway separately.

ROADWAY OR HIGHWAY LIGHTING: Lighting provided for freeways, expressways, limited access roadways, and roads on which pedestrians, cyclists, and parked vehicles are generally not present. The primary purpose of roadway or highway lighting is to help the motorist remain on the roadway and help with the detection of obstacles within and beyond the range of the vehicle's headlights.

ROOT COLLAR: An encircling structure of band-like markings or a marked color change (from the tree bark) located at the highest part of the root system joining into the trunk of the tree at or slightly below the surrounding soil line.

RUNOFF: Water that flows from the area where it fell because it is not absorbed soon enough by the soil.

SALES AREA: Uncovered area used for sales of retail goods and materials, including but not limited to automobiles, boats, tractors, and other farm equipment, building supplies, and gardening and nursery products.

SCHOOL - OTHER THAN PUBLIC OR PAROCHIAL: A school under the sponsorship of a private agency or corporation, other than a religious agency, which offers a curriculum that is generally equivalent to public elementary and/or secondary schools.

SCHOOL - PUBLIC OR PAROCHIAL: A school under the sponsorship of a public or religious agency which provides elementary or secondary curricula, but not including private business or trade/commercial schools.

SCHOOL - TRADE OR COMMERCIAL: A for-profit business that offers vocational instruction and training in trades such as the computer industry, welding, brick laying, machinery operation/repair, and similar trades.

SCREENING WALL: (Also called *Solid Wall*.) A solid vertical barrier constructed of masonry materials that is intended to separate and limit visibility between that which is on either side of the barrier, for example adjacent land uses or particular site elements.

SEASONAL LIGHTING: Temporary lighting installed and operated in connection with holidays or traditions.

SEAT: One (1) sitting space equal to eighteen (18) inches of bench or pew width if other than an individual chair.

SECONDARY BUILDING SETBACK: The area of a lot measured from a lot line to a secondary building.

SECURITY DWELLING: An accessory dwelling incidental and subordinate to the primary use. The function of a security dwelling would be the protection and security of the primary use served.

SETBACK LINE: A line which marks the setback distance from the property line, and establishes the minimum required front, side, or rear yard space of a building plot.

SHALL: As used in this Code, is mandatory and not discretionary.

SHARED USE OF TOWERS: Also referred to as "*Co-location*". The use of a single antenna support structure and/or site by more than one communications provider.

SHED: (Also referred to as *Tool Shed*.) An accessory structure typically used for storage that is: (1) constructed onsite; (2) securely affixed to the ground by means of a permanent foundation or with tie-downs designed to be used to anchor a shed to the ground; (3) resembles the main onsite structure in architectural style; and (4) does not exceed fifteen percent (15%) of the square footage of the main onsite structure in size.

SHELTERED CARE FACILITY: A nonprofit or for-profit boarding home for the sheltered care of persons with special needs, which, in addition to providing food and shelter, may also

provide some combination of personal care, social or counseling services, and transportation.

SHIELDED DIRECTIONAL LUMINAIRE: A luminaire that includes an adjustable mounting device allowing aiming in any direction and contains a shield, louver, or baffle to reduce direct view of the lamp.

SHOPPING CENTER OR INTEGRATED BUSINESS DEVELOPMENT: A commercial development such as a strip center, mall, multi-tenant office building, commercial center, or industrial complex in which two (2) or more separate businesses occupy a single or multiple structures which share on-site parking and common driveways.

SHRUB: Any plant, deciduous or evergreen, which is generally multi-stemmed and sold by height or spread and measured in inches or feet.

SIDEWALK: Also called a *Walkway*. The paved portion of a public street right-of-way which is between the curb lines, or the lateral lines of a roadway, and the adjacent property lines and is improved and designed for or is ordinarily used for pedestrian travel. A paved pedestrian way generally located within the public street right-of-way but outside the roadway but may be located outside the public street right-of-way when a public access easement is granted.

SIGHT TRIANGLE: A triangle-shaped area adjacent to the intersection of two streets, formed by two lines.

SIGN: Any object, device or display facing the exterior (outdoors), which is used to inform or give direction or to advertise or identify a person, organization, business, product, service, event or location by any means, including words, letters, numbers, symbols, figures, or illumination.

SIGN, ALLOWABLE EFFECTIVE AREA: The maximum effective sign area as allowed by the UDC, as measured from the highest point on the sign to the elevation of the center of the bottom of the sign (excluding base) by the width at the widest point. The highest point and the width shall be inclusive of all supports and framing.

SIGN COPY: The letters, numbers, symbols, or geometric shapes, either in permanent or changeable form, on the surface of a sign.

SIGN PERMIT: A City-issued permit that authorizes the display, erection, rebuilding, expansion or relocation of any on-premises or off-premises sign and that conforms to this UDC.

SIGN, ANIMATED: A sign with any visual effect of a light source which causes the perception of movement of graphics or text.

SIGN, ATTACHED: Any sign attached to, applied on, or supported by any part of a building or accessory structure, including awnings and other similar permanent attachments to the buildings. Also, may be referred to as "building sign".

SIGN, BANNER A temporary sign that is designed to be attached or installed with rope, wire, or other temporary means to any part of the building façade, to allow ease of installation and removal.

SIGN, BILLBOARD: A, off-premise sign which is subject to regulation under the provisions of the Federal Highway Beautification Act, 23 U.S.C.A. Section 131 et seq., as amended.

SIGN, BLADE: A non-illuminated panel sign with dimensional copy suspended from a decorative bracket attached to the building, typically upon a merchant's storefront, permitted for occupant identification purposes only, and limited to 1 blade sign per public entrance where public foot traffic occurs, and limited to two square feet per face.

SIGN, BUILDER/SUBDIVISION: Any sign that advertises 1) a new subdivision for the purpose of selling lots, land, and/or buildings and/or 2) a builder(s) that has lots, land, or buildings for sale. Such sign may or may not be directional.

SIGN, COMMUNITY INFORMATION: Any sign which promotes items of general interest to the community including time, temperature, date, atmospheric conditions and upcoming noncommercial events or charitable causes.

SIGN, ELECTRONIC CHANGEABLE MESSAGE: Any sign with a fixed or changing display/message composed of a series of lights that may be changed through electronic means. Includes Electronic Changeable message board and scrolling signs.

SIGN, ELECTRONIC CHANGEABLE MESSAGE BOARD: Any sign with a fixed or changing display/message composed of a series of lights that may be changed through electronic means.

SIGN, FLASHING/BLINKING: Sign with a type of animation characterized by cyclical switching of visual content or colors between on and off states in rapid successive increments of less than four (4) seconds.

SIGN, FREESTANDING: An on-premise sign which advertises an establishment and is located on the premises owned or controlled by said establishment, which is supported by a single vertical support anchored or set into the ground.

SIGN, GROUND: Also referred to as a *Monument Sign*. A sign which is supported by one (1) monolithic structure which is not less in width than one-half ($\frac{1}{2}$) the maximum sign height, set upon the ground and is not part of a building, including ground signs that advertise for more than one occupancy on the premises (multi-tenant).

SIGN, ILLUMINATED: A sign exposed to artificial lighting by light sources located on or in the sign or specifically directed toward the sign.

SIGN, MARQUEE: A sign with slots or wires for inserting individual letters so that a message about products sold or services provided on the same premises may be changed.

SIGN, MONUMENT: See *Ground Sign*.

SIGN, MULTI-TENANT: An on-premise sign with the name of the primary on-site facility and a list of the individual stores or businesses mounted on such sign. Examples include signs describing a mall arrangement, a shopping center development, and industrial park complex, or a complex of buildings with a unifying name and group of businesses.

SIGN, MULTI-USER: A ground sign used to advertise more than two (2) businesses that are part of an integrated business development. A multi-user sign shall be located on the premises of one of said businesses, but shall be allowed to be off-premise signage as to the other businesses that are part of the integrated business development.

SIGN, NON-COMMERCIAL or NON-BUSINESS: A sign with a message that does not contain or convey commercial context or information or advertising for any business, commodity, service, entertainment, product or other attraction or event.

SIGN, NONCONFORMING: means any sign lawfully existing on the effective date of the ordinance from which the sign regulations in this Unified Development Code derive which does not conform to all the standards and requirements of this Unified Development Code.

SIGN, OFF-PREMISE PORTABLE: An off-premise sign which is also a portable sign.

SIGN, OFF-PREMISE: A sign displaying advertising copy that pertains to a business, person, organization, activity, event, place, service, or product not principally located or primarily manufactured or sold on the premises on which the sign is located.

SIGN, ON-PREMISE: A sign displaying advertising copy that pertains to a business, person, organization, activity, event, place, service, or product principally located or primarily manufactured or sold on the premises on which the sign is located.

SIGN, PERMANENT: A sign designed to be anchored to the ground, a building or other structure for the duration of the use of the premises.

SIGN, POLITICAL: A sign that contains primarily a political message and that is located on private real property with the consent of the property owner.

SIGN, PORTABLE: Any sign designed or constructed to be easily moved from one location to another, including, but not limited to, signs mounted upon or designed to be mounted upon a trailer, bench, wheeled carrier, A-frame, or other non-motorized mobile structure; a portable sign which has its wheels removed shall still be considered a portable sign hereunder. For the purpose of this definition, trailer signs and signs on benches are "portable signs".

SIGN, REAL ESTATE: A sign which has the purpose of advertising for sale a parcel of real property or an estate in land, including rentals.

SIGN, SCROLLING: Sign with a type of animation which causes displayed text or graphics to move continuously up, down, or across the screen, so that a line of text or graphics appears at one edge of the screen for each line that moves off the opposite edge.

SIGN, SUBDIVISION IDENTIFICATION: Any sign that is a permanent sign identifying an entrance to a residential or nonresidential (e.g., office park) subdivision.

SIGN, SUSPENDED: Signs which hang or are suspended from any projecting element off the façade of the building. This can include Blade Signs.

SIGN, TEMPORARY: Any sign constructed of cloth, canvas, light fabric, cardboard, wallboard, plywood, or other light materials with short life expectancies. A portable sign shall not be considered a temporary sign.

SIGN, TOTAL EFFECTIVE SIGN AREA: The total effective area provided by a sign, measured from the highest point on the sign to the elevation of the center of the bottom of the sign (excluding base) by the width at the widest point. The highest point and the width shall be inclusive of all supports and framing.

SINGLE-FAMILY RESIDENTIAL: A building (attached or detached) designed to contain one or two separate living units with facilities for living, sleeping, cooking, or eating.

SITE: A tract of property that is the subject of a development application.

SITE DEVELOPMENT PLAN: The final step of the development process within a PD district, if required by the ordinance adopting the PD.

SITE PLAN: A scaled and detailed drawing that conforms to the requirements of this UDC, and that shows the roads, parking, footprints of all buildings, existing trees, proposed landscaping, parkland, open space, grading and drainage, and similar features needed to verify compliance with the City's approved land use plan and development standards.

SITE PREPARATION PERMIT: A permit that is issued under this Unified Development Code, that authorizes site preparatory activities other than construction or placement of a structure on the land under one or more site plans and that, upon approval, authorizes the property owner to apply for a construction permit.

SKY GLOW: The brightening of the nighttime sky that results from scattering and reflection of artificial light by moisture and dust particles in the atmosphere. Sky-glow is caused by light directed or reflected upwards or sideways and reduces one's ability to view the night sky.

SPACE: A plot of ground within a mobile home or manufactured housing park designed for the accommodation of one (1) mobile home or manufactured home, together with the open space as required by this UDC. This term also includes the terms "lot", "stand" and "site". *Space* may also mean any plot or parcel of ground upon which is erected any accommodation for any recreational vehicle or structures of a temporary nature for living and sleeping purposes.

SPECIAL EXCEPTION: A City-authorized modification of zoning standards applicable to particular types of development within any zoning district in a manner consistent with the overall intent of the zoning regulations and for which express standards are prescribed

SPECIALTY SHOP: An establishment for the purpose of supplying limited specialty items for hobbies and other similar activities including but not limited to antiques, art objects and supplies, ceramic supplies, books, camera and photo supplies, candy, florist, gifts, greeting cards, framing, stamps and coins, stationery, and tobacco.

SPECIMEN TREE: An exemplary tree of good health and true to species habit and form, containing a minimum caliper of 1½ inches.

STABLE, COMMERCIAL: A facility used for the rental of a stall space or spaces, or for the sale or rental of horses or mules.

STABLE (PRIVATE, PRINCIPAL OR ACCESSORY USE): A facility used solely for the owner's private purposes for the keeping of horses, mules or ponies which are not kept for remuneration, hire or sale.

STONE MATERIAL: Hard or durable naturally occurring rock, weathered, cut, or dimensioned, and manufactured stone products.

STOOP: A staircase on the facade of a building, usually constructed of concrete or stone, that leads either to a small un-walled entrance platform or directly to the main entry door.

STOREFRONT WINDOWS: The large glass window facing the front of the building in a commercial, retail or office structure.

STREET: The entire width between property lines when any part thereof is open to the use of the public, as a matter of right, for the purpose of vehicular traffic. This definition shall include public as well as private streets. An "Alley" is not considered to be a street and is separately defined herein.

STREETLIGHT: Any man-made light installed for the purpose of vehicular traffic illumination purposes on a pole with a minimum fixture height of thirty (30) feet above natural ground located within public or private street right-of-way.

STREET LIGHTING: Lighting provided for major, collector, and local roads where pedestrians and cyclists are generally present. The primary purpose of street lighting is to help the motorist identify obstacles, provide adequate visibility of pedestrians and cyclists, and assist in visual search tasks, both on and adjacent to the roadway.

STREETSCAPE: The principal variables of streetscape are the type and dimension of curbs, walks, planters, street trees and streetlights.

STREET TREE: A list of trees (large Trees and Small Trees) issued and revised from time to time by the Building Official or the City Engineer, which, based upon recognized arboricultural standards, shall designate trees that are required to be used for planting adjacent to and within street rights-of-way within the city. The Building Official or City Engineer may only decline to include and may only remove otherwise suitable trees based on health or disease concerns or warnings. The list shall be subdivided into categories of trees that may be planted under power lines and trees that shall not be planted under power lines. The categories of trees that may be planted under power lines shall include live oak trees.

STREET TREE LIST: The Large Tree list and the Small Tree list indicated in Appendix 3.1.3.12 and Appendix 3.1.3.13

STRUCTURE: Anything constructed, the use of which requires permanent location on the ground or attachment to something having a permanent location on the ground. Also see "Building".

STUDIO, HEALTH REDUCING OR SIMILAR SERVICE: Includes, but is not limited to, an establishment which provides facilities and equipment, such as gymnasiums, weight rooms, swimming pools or spas, exercise apparatus and instruction classes, which are intended to promote

health, fitness, weight reduction and/or similar health-related activities. Such facilities may include such accessory uses as food service, sales of sundries and apparel, and childcare services, provided that such accessory uses are clearly incidental to the primary use and are for the use of studio patrons only.

STUDIO - TATTOO OR BODY PIERCING: A building or portion of a building used for selling and/or applying tattoos (by injecting dyes/inks into the skin), and/or for piercing the skin with needles, jewelry, or other paraphernalia, primarily for the purpose of ornamentation of the human body.

STUDIO FOR RADIO AND/OR TELEVISION: A building or portion of a building used as a place for radio or television broadcasting.

SUBDIVIDE:

(a) Is the following when done for the purpose of sale or building development:

1. The division of any tract of land into two or more tracts or lots; or
2. The assembly of two or more tracts of land into one tract or lot.

(b) Is the following regarding changes to a recorded subdivision plat:

1. A re-subdivision of all or part of the subdivision;
2. Any change of lot size or lot lines; or
3. The relocation of any street.

SUBDIVIDER: Any person or any agent of the person dividing or proposing to divide land to constitute a subdivision, as that term is defined in this section. In any event, the term "subdivider" is restricted to include only the owner, equitable owner or authorized agent of the owner or equitable owner of land to be subdivided.

SUBDIVISION: Pertaining to land for which a plat has been recorded, *subdivision* means an area of subdivided lots; pertaining to the act of subdividing land, see the definition of *subdivide* herein.

SUBMITTAL DATE: The date upon which the responsible City staff person decides that a zoning or development application is complete and when a fee receipt is issued by the City for the required application fee.

SURVEYOR: A licensed state land surveyor or a registered professional land surveyor, as authorized by state statutes, to practice the profession of surveying.

SWIMMING POOL, COMMERCIAL: A swimming pool with accessory facilities which is not part of the municipal or public recreational system, and which is not a private swim club, but where the facilities are available for use by the public for a fee.

SWIMMING POOL, PRIVATE (USE ONLY BY RESIDENT): A swimming pool constructed for the exclusive use of the residents of a one-family, two-family or multiple-family dwelling and located, fenced and built-in accordance with the city code of ordinances. A

private swimming pool shall not be operated as a business nor maintained in a manner to be hazardous or obnoxious to adjacent property owners.

TCEQ: The acronym for the Texas Commission on Environmental Quality.

TELEMARKETING AGENCY: An establishment which solicits business or the purchase of goods and/or services by telephone only. No sales of goods or services to the public occurs at or on the premises. No products are stored at or on the premises.

TEMPORARY CLASSROOM BUILDING: A building(s) built on skids, and which is utilized by a public school district for the purpose of eliminating the shortage of classrooms to bring the student/teacher ratio into compliance with state law.

TEMPORARY LIGHTING: Lighting installed and operated for periods not to exceed 60 days, completely removed, and not operated again for at least 30 days.

TENNIS OR SWIM CLUB: A recreational area containing a swimming pool or tennis courts or both with related facilities and/or clubhouse, all which facilities are available to the public through a private membership.

THIN BRICK: Brick which does not have the thickness of Brick material but is at least one-half (1/2) inch thick and meets the latest version of ASTM Standard C-1088 Thin Veneer Brick Units, Clay or Shale, Exterior grade.

THIRD PARTY: A party contracted to provide lighting.

THIS ORDINANCE: The entire Uniform Development Code, as herein defined.

THROUGH STREET: A street that is not a cul-de-sac street and which intersects with at least two other streets that are not cul-de-sacs streets, at intersections that are 3-way or 4-way intersections.

TIEDOWN: Any device designed for the purpose of anchoring a mobile home or manufactured home to ground anchors, as required by V.T.C.A., Occupations Code, Chapter 1201.

TIME SWITCH: An automatic lighting control device that switches lights according to time of day.

TOTAL TREE PLANTING REQUIREMENT: The total number of trees, if any, that must be planted under this article, excluding any which might be planted as part of a landscape buffer and further excluding the protected tree replacement requirement.

TOTAL TREE REQUIREMENT: The total number of trees that must be provided under this article, excluding any which might be provided as part of a landscape buffer, and further excluding the protected tree replacement requirement. This sum shall be made up of:

- (1) Any street and parking lot trees to be planted; and
- (2) Planting equivalency credits earned pursuant to section 3.1.2.3.

TRANSFER STORAGE & BAGGAGE TERMINAL: An area and building where cargo is stored and where trucks, including tractor and trailer units, load, and unload cargo on a regular basis. May include facilities for the temporary storage of loads prior to shipment.

TRANSIT TERMINAL: Any premises for the transient housing and/or parking of motor-driven buses and the loading and unloading of passengers.

TRANSLUCENT: Allowing light to pass through, diffusing it so that objects beyond cannot be seen clearly (not transparent or clear).

TRAVEL TRAILER/RV PARK/CAMPGROUND: An area or commercial campground for users of recreational vehicles, travel trailers, and similar vehicles to reside, park, rent or lease on a temporary basis. For this definition, "temporary" means a maximum three-month time.

TREE: Any evergreen or deciduous tree which at the time of planting has a caliper equal to or greater than 1½ inches as measured six inches above the root collar, which is not less than six feet in height as measured from the root collar, and which meets the Standard for Nursery Stock Specifications as established by the American Association of Nurserymen (1986 ed.).

TREE, LARGE: A tree that is a minimum of three inches (3") in caliper at the time of planting and is a minimum planted height of eight feet (8') at the time of planting.

TREE, ORNAMENTAL: A tree that is a minimum of two-inch (2") in caliper at the time of planting and is a minimum planted height of six feet (6') at the time of planting.

TREE PRESERVATION: All definitions related to tree preservation that are contained within this UDC.

TRUCK: See Heavy Load Vehicle.

TRUCK AND BUS LEASING: The rental of new or used panel trucks, vans, trailers, recreational vehicles, or motor-driven buses in operable condition and where no repair work or intensive cleaning operations are performed.

TRUCK SALES (HEAVY TRUCKS): The display, sale, or rental of new or used heavy load vehicles in operable condition.

TURF AND/OR TURFGRASS: Continuous plant coverage consisting of grass species appropriately suited to the site where it was planted.

TXDOT: The acronym for the Texas Department of Transportation.

UNDERSTORY: The small tree, shrub, and grass constituents of a plant association, excluding canopy vegetation.

UNIFORM DEVELOPMENT CODE: The following ordinances of the City, as they may be amended from time to time: this ordinance (the Unified Development Code or UDC), the Zoning Ordinance, the Subdivision Ordinance, all Building Codes of any kind, and any ordinance providing that it amends or is part of the Uniform Development Code.

UNSHIELDED: Fixtures lacking any means to restrict emitted light to below the horizontal plane.

UNSHIELDED LUMINAIRE: A luminaire capable of emitting light in any direction including downward.

UPLIGHT: For an exterior luminaire, flux radiated in the hemisphere at or above the horizontal plane.

USABLE OPEN SPACE: An open area or recreational facility that is designed and intended to be used for outdoor, active or passive, recreation purposes. An area of usable open space has a slope that does not exceed ten percent (10%), and no dimension of less than ten feet (10'). An area of usable open space may also include landscaping elements (e.g., trees, ground cover), trails, recreational facilities, water features and decorative objects such as art or fountains.

USE: The classification of the purpose or activity for which land or buildings are designated, arranged, intended, occupied, or maintained.

UTILITY: A business that provides an essential commodity or service, such as electric, gas transmission, and local telephone, and that is generally under government regulations. Unless otherwise specified, this term (or the plural "utilities") when used within this UDC refers to a public utility.

UTILITY, DRY: Facility that provides a service for electricity, natural gas, telecommunications, cable television, and/or internet/data. Also referred to as private utility.

UTILITY, WET: Facility that provides a service for potable water distribution, wastewater collection, and storm drainage. Also referred to as public utility.

VIDEO SALE or RENTAL: An establishment primarily engaged in the retail sales or rental/lease of video tapes, films, CD-ROMs, and electronic media.

VISIBLE: Capable of being seen by or perceptible to the general public.

VARIANCE: Authorization to deviate from or vary one or more standards applicable to a development application that is reviewed and decided under this Unified Development Code.

VERTICAL ILLUMINANCE: Illuminance measured or calculated in a plane perpendicular to the site boundary or property line.

VESTED RIGHTS PETITION: A request for relief from one or more standards of this Unified Development Code based on an assertion that the petitioner has acquired a vested right requiring the City to review and decide the application under standards in effect prior to the effective date of the standards of this Unified Development Code.

VIOLATION: The failure of a structure or other development to fully comply with this article.

VISIBILITY TRIANGLE: A triangle sight area, at all intersections, 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. The triangle is established by measuring forty-five feet (45') from the intersection of the extended curb or edge of the pavement of major thoroughfares, and twenty-five feet (25') from the extended edge of the curb or pavement of local streets. A straight line connecting the ends of each measured distance which forms the hypotenuse shall establish the visibility triangle. The visibility triangle shall not contain any visual or physical impediments or obstructions to the vertical view between thirty inches (30") and seven feet (7') in height. Visibility triangle shall also mean a triangle sight 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 lot within a right triangle with the right angle at the point where the curb break begins and the sides forming the right angle being fifteen feet (15') long, one of which extends back along the adjacent curb and the other back toward the private property or parkway. (Also refer to the definition of Visibility Triangle as it applies to tree preservation in section 4.2.3.2 of the UDC)

WAIVER: Authorization to deviate from or vary one or more standards applicable to a development application that is reviewed and decided this Unified Development Code.

WALKWAYS: Passages or paths for walking.

WATER FEATURES: Features of a site that holds water temporarily or permanently. These may include either natural features (lakes, wetlands, rivers, creeks, etc.) or artificial features (retention and detention ponds, fountains, ditches, and canals).

WAREHOUSE STORAGE or DISTRIBUTION FACILITY: Building or facility used for the storage and/or distribution of wholesale items/products.

WHOLESALE DISTRIBUTOR: An establishment or place of business primarily engaged in the selling and/or distributing merchandise to retailers; to industrial, commercial, institutional, or professional business users, or to other wholesalers; or engaged in acting as agents or brokers and buying merchandise for, or selling merchandise to, such individuals or companies.

WRECKING OR SALVAGE YARD: A yard or building where motor vehicles, parts of motor vehicles, building materials, or machinery are stored, dismantled and/or offered for sale in the open as whole units, as salvaged parts or as scrap or processed metal.

XERISCAPE: Quality landscape that conserves water, protects the environment, and is drought tolerant and adaptable to local conditions. The principles of xeriscape include planning and design, appropriate choice of plants, soil analysis which may include the use of solid waste compost, efficient irrigation, practical use of turf, appropriate use of mulches, and proper maintenance.

YARD: Open space on the lot or parcel on which a building is situated, between the property line and an imaginary straight line that incorporates the nearest face of the main building and drawn to bisect the property, which is open and unobstructed to the sky by any structure except as herein provided.

YARD, FRONT: That portion of the yard located between the front property line and a parallel imaginary straight line through the point nearest the front property line in the front-most face of the principal building(s).

YARD, FRONT (FLAG LOT): The distance between the front of the building and the point nearest the abutting street where the lot satisfies applicable width requirements.

YARD, REAR: That portion of the yard located between the rear property line and an imaginary straight line parallel to the front property line through the point nearest the rear property line in the rearmost face of the principal building(s).

YARD, REQUIRED an area being equal to the required setback areas (front, side, and rear) for a given zoning district.

YARD, SIDE: That portion of the yard bounded by the front yard, the rear yard, the side property line, and the side facade of the principal building(s).

Copy

CITY OF IOWA COLONY

UNIFIED DEVELOPMENT CODE



ORIGINAL ADOPTION DATE: MAY 15, 2017

AMENDED BY ORD. 2017-21 – ADDED BUILDING STANDARDS, OCTOBER 16, 2017

AMENDED BY ORD. 2017-22 – ADDED STREET LIGHTS, OCTOBER 16, 2017

AMENDED BY ORD. 2017- - REVISED BUILDING STANDARDS, NOVEMBER 20, 2017

AMENDED BY ORD. 2017 - - REVISED LANDSCAPE STANDARDS, DECEMBER 18, 2017

DRAFT REVISIONS – August 18, 2021 JKM

Section 0.1.1.1. Facts and Recitations

The facts and recitations contained in the preamble to this Unified Development Code are hereby found to be true and correct and incorporated herein for all purposes.

- (a) **City Limits.** All provisions of this ordinance shall apply throughout the incorporated limits of the City.
- (b) **ETJ.** The following provisions of this ordinance shall also apply throughout the extraterritorial jurisdiction of the City:
 - (1) Any provision applicable upon a subdivision of land; and
 - (2) Any provision, to the extent made applicable to the extraterritorial jurisdiction by a development agreement, strategic partnership agreement, or other agreement of any kind.
- (c) **Limited Purpose Annexation Area.** An area annexed into the City for limited purposes shall be subject to this ordinance only to the extent, if any, provided by the limited purpose annexation, unless explicitly provided otherwise herein.

Section 0.1.1.3. Definitions and Meanings

Words, terms, and phrases defined in Chapter 5 shall have the meanings set forth therein, unless indicated otherwise, for the purposes of this Ordinance.

Section 0.1.1.4. Special Provisions

Special Provisions.

- (a) **Plat Approval Required.**

Unless a subdivision is specifically exempted from the requirements to obtain a plat by this Ordinance or any other adopted Ordinance of the City of Iowa Colony:

- (1) It shall be unlawful for any person to subdivide any tract, lot, or parcel of land within the territorial limit of the City of Iowa Colony or within the extra-territorial jurisdiction of the City of Iowa Colony until an appropriate plat of such subdivision is approved and recorded in conformity with this Ordinance.
- (2) It shall be unlawful for any person to construct, or cause, allow, or permit to be constructed any public or private street, utility service or facility, building, structure, or other improvement on any tract, lot, or parcel of land until each plat required by this ordinance or any other ordinance of the City has been approved and recorded in conformity with such ordinance.
- (3) It shall be unlawful for any person to connect or serve any utility service or facility to any tract, lot, or parcel of land until each plat required by this ordinance or any

other ordinance of the City is approved and recorded in conformity with such ordinance.

- (4) No building, electrical, mechanical, plumbing, sign, certificate of occupancy, or any other permit issued by the City of Iowa Colony will be issued for the construction or repair of any improvement or the occupancy of any building or structure until each plat required by this ordinance or any other ordinance of the City is approved and recorded in conformity with such ordinance; and it shall be unlawful for any person to construct or repair any improvement, or occupy any building or structure , without first obtaining from the City of Iowa Colony each permit required by any ordinance of the City.

(b) Improvements.

All improvements required by this Ordinance, any other City of Iowa Colony ordinance, an adopted Comprehensive Plan of the City of Iowa Colony, a drainage district, a county, the state, or any other governmental entity having jurisdiction over the subdivision, or any improvement which, in the judgement of the Planning and Zoning Commission or the City Council is necessary for the adequate provision of streets, drainage, utilities, city services, and facilities to serve the subdivision shall:

- (1) be constructed at the sole expense of the developer unless the City deems oversizing is necessary; and
- (2) comply with the rules and regulations of any entity having jurisdiction over the subdivision. If there is a conflict between the regulations of jurisdictions, the City's regulations shall apply unless otherwise provided by law.

Section 0.1.1.5. Exemptions

Exemption from Platting.

- (a) Land used for agricultural purposes only. To qualify for this exemption, a tax designation that such land is used for agricultural purposes only must be submitted to the City.
- (b) A subdivision of land into parts greater than five (5) acres, where each part has access to a public road and no public improvements is being or is required to be dedicated.
- (c) Any exemption provided by Chapter 212 of the Texas Local Government Code.

Section 0.1.1.6. Addition to Building Codes, Subdivision Ordinance, and Zoning Ordinance

- (a) All portions of this ordinance shall be part of all Building Codes of any kind of the City, as they may be amended from time to time.
- (b) All portions of this ordinance that apply upon the subdivision of land shall be part of the Subdivision Ordinance of the City, as it may be amended from time to time.
- (c) A portion, if any, of this ordinance within the authority of statutes concerning zoning shall be a part of the Zoning Ordinance of the City, as it may be amended from time to time.

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Division 1 – General Provisions

Section 1.1.1.1. Source of Authority

- (a) Authority under this Unified Development Code shall be vested in and delegated to the officials and decision-makers designated in this Article 1, the constitution, and laws of the state of Texas and the City Code. This authority shall be deemed supplemental to any other authority lawfully conferred upon the officials and decision-makers. The omission of a citation in this Unified Development Code to any authority conferred upon the officials and decision-makers under the constitution or laws of the state of Texas or the City Code, nor the failure to identify in this article authority conferred by other provisions of this Unified Development Code, shall not be construed as limiting the actions of such officials and decision-makers taken in accordance with and in reliance upon such authority.

Section 1.1.1.2. Implied Authority

- (a) The officials and decision-makers shall have all implied authority necessary to carry out the duties and responsibilities expressly delegated by this Unified Development Code to the extent the implied authority is not in conflict with the expressly delegated authority.

Section 1.1.1.3. Limitation on Authority

- (a) It is the policy of the City that the standards and procedures applicable to development of property within the City limits and within the City's extraterritorial jurisdiction are as stated in this Unified Development Code, notwithstanding any representation by any City official summarizing, paraphrasing or otherwise interpreting such standards to the contrary, whether generally or as applied to development of specific property.
- (b) No City official, whether an employee of the City or a member of an appointed board or commission, or a member of the governing body of the City, shall have the authority to make representations to a property owner concerning the likelihood of an outcome of that official's decision or the decision of an appointed board or commission or the City Council, on any development application or legislative action that has yet to be filed or is pending before the City for decision. An official may, however, upon request of a person, convey information concerning that official's position on a pending application in accordance with procedures established in this Chapter 1. No person is entitled to rely upon any representation made by an official in contravention of this Subsection, and each and every such representation shall be deemed in violation of the policy of the City and is not binding

on the City in any respect. No subsequent decision of the City shall be deemed a ratification of any representation made in contravention of this Subsection.

- (c) No City official, whether an employee of the City or a member of an appointed board or commission, or a member of the City Council, shall have the authority to make binding representations to any person concerning the likelihood that a change in any legislative classification or a change in the text of this Unified Development Code as applied to a specific tract of land will be granted, or that an existing legislative classification or text provision will remain in effect, or that any petition for relief will be granted. No person is entitled to rely upon any representation made by an official in contravention of this Subsection, and each such representation shall be deemed in violation of the policy of the City and is not binding on the City in any respect. No subsequent decision of the City shall be deemed a ratification of any representation made in contravention of this Subsection.
- (d) The City's approval of a permit or plat application under the standards and procedures of this Unified Development Code does not guarantee or assure that development of the property in accordance with the standards will prevent, minimize, or mitigate harm to adjoining property. A person who undertakes development activities shall not rely on the City's approval of a development application as ensuring that the development activities will not result in harm to adjoining property. The regulations contained in this Unified Development Code constitute an exercise of the City's governmental authority, and approval of a development application shall not give rise to any liability on the part of the City or its officers, agents, and employees, nor will an approval release the applicant from any liability for harm arising out of development of the property under applicable law.
- (e) Except as expressly provided for in this Unified Development Code, no official, board, commission of the City, or the City Council, shall have authority to waive any requirement or standard for an application. Any attempted waiver of a requirement or standard for an application in contravention of this Subsection shall hereby be deemed null and void, and, upon discovery, shall be grounds for revocation of a permit or approval, or reconsideration of a legislative decision.

Section 1.1.1.4. Conflict in Authority

- (a) In the event of a conflict between the terms of this ordinance, or between this ordinance and any other ordinance, the more restrictive provision shall govern and control.
- (b) Whenever a specific standard or procedure of this Unified Development Code is incomplete when applied in isolation, such standard shall be supplemented by any general or specific provision of this Code or the City Code to give effect to the incomplete provision.

Division 2 – City Staff

Section 1.1.2.1. Responsible Official

- (a) The responsible official shall be the Building Official or the City Engineer who is assigned responsibility under this Unified Development Code for taking the following actions regarding a particular type of application or relief petition authorized under this Chapter 1:

- (1) Accepting the application or petition for filing and processing the application;
 - (2) Reviewing and making recommendations concerning the application or petition;
 - (3) Seeking advice of other City officials and coordinating any recommendations from such officials concerning the application or petition;
 - (4) Initially deciding the application or petition, where so authorized;
 - (5) Determining a request for exemption;
 - (6) Preparing reports to and advising any board, commission or the City Council that has responsibility for making recommendations on or deciding the application or petition;
 - (7) Promulgating additional or modified policies, standards, and administrative rules for adoption by the City Council that apply to the application or petition;
 - (8) Initiating enforcement actions concerning compliance with the standards applicable to the application or petition and the conditions imposed thereon; and
 - (9) Taking all other actions necessary for administration of the provisions of this Unified Development Code with respect to the application or petition.
- (b) The specific duties of the responsible official shall include those authorized under the universal procedures applicable to all types of development applications pursuant to Article 2 of this Chapter 1, those authorized under the provisions governing procedures for deciding applications under this Chapter 1, and those authorized under relief procedures pursuant to Article 3 of this Chapter 1.
- (c) The responsible official may delegate the official's authority under this Code to subordinate officials, who shall thereupon be deemed the responsible official for purposes of carrying out the delegated duties.

Section 1.1.2.2. City Engineer

- (a) The City Engineer is the responsible official for the following types of development applications and relief petitions (except as provided):
- (1) Application for approval of construction plans, and all related construction management tasks, including without limitation, approval of contracts for public improvements;
 - (2) Application for a Development/Grading Permit for compliance with flood plain regulations;
 - (3) Appeal of a decision on any application for which the City Engineer is the responsible official;
 - (4) Variance petition for any application for which the City Engineer is the responsible official;
 - (5) Vested rights petition for any decision where the City Engineer is the responsible official for the application for which the vested rights petition is filed; and

- (6) Petition for relief from a dedication or construction requirement.
- (7) Application for a Subdivision Master Plat, Preliminary Subdivision Plat, Preliminary Development Plat, Final Subdivision Plat, Final Development Plat, Minor Subdivision Plat, amending plat, and replat;
- (b) The City Engineer is the initial decision-maker for the following types of development applications and relief petitions, subject to appeal as provided in this Chapter 1:
 - (1) Application for approval of construction plans, and all related construction management tasks, including without limitation approval of a contract for public improvements;
 - (2) Application for a Development/Grading Permit for compliance with flood plain regulations;
 - (3) Vested rights petition for any decision for which the City Engineer is the initial decision-maker;
 - (4) Application for a Subdivision Master Plat, Preliminary Subdivision Plat, Preliminary Development Plat, Final Subdivision Plat, Final Development Plat, Minor Subdivision Plat, amending plat, and replat;
 - (5) Application for a site preparation permit; and
 - (6) Park dedication fee determination.
- (c) The City Engineer is the Floodplain Administrator for the City and shall carry out duties and responsibilities as authorized in Flood Hazard Prevention Ordinances.

Section 1.1.2.3 Building Official

- (a) The Building Official is the responsible official for and shall initially decide the following types of applications:
 - (1) Building permit;
 - (2) Certificate of occupancy;
- (b) The Building Official is the initial decision-maker for appeals of the following application, subject to further appeal as provided for in this Chapter 1:
 - (1) Certificate of Occupancy;

Section 1.1.2.4. City Manager

- (a) Initial Decision-Maker on Appeals. The City Manager is the initial decision-maker for appeals of the following types of development applications, subject to further appeal as provided for in this Chapter 1:
 - (1) A Site Preparation Permit;
 - (2) An impact fee decision; and,

(3) A Site Plan

Section 1.1.2.5. Other City Officials

- (a) The City Attorney and any other official delegated responsibilities under this Unified Development Code are authorized to take all actions necessary to carry out their responsibilities in accordance with the requirements and limitations prescribed herein.

Division 3 – Planning and Zoning Commission

Section 1.1.3.1. Structure of Commission

- (a) The members of the Planning and Zoning Commission are appointed by the Mayor and ratified by the City Council and serve without compensation. In making appointments to the Planning and Zoning Commission, the Council shall seek to ensure broad representation and expertise among the membership. The Planning and Zoning Commission shall establish bylaws to govern rules of procedure and the election of officers.

Section 1.1.3.2. Advisory Capacity

- (a) The Planning and Zoning Commission shall advise the City Council on applications and petitions for legislative decisions as authorized by this Unified Development Code. In that capacity, the Planning and Zoning Commission shall review, prepare reports upon, and make recommendations concerning approval, conditional approval, or denial of the following types of petitions and development applications, in accordance with the procedures and standards that apply to the petition or development application:
 - (1) Petition for amending the Comprehensive Plan;
 - (2) Petition for a zoning map amendment, including a petition for creation of an overlay district, Special Use Permit (SUP), or Planned Development (PD) district;
 - (3) Amendments to the text of the Unified Development Code (UDC); and
 - (4) Other advisory duties as assigned by City Council.

Section 1.1.3.3. Final Authority

- (a) The Planning and Zoning Commission shall have final authority on applications and petitions concerning approval, conditional approval, or denial of the following types of petitions and applications, in accordance with the procedures and standards that apply to the petition or application:
 - (1) Subdivision plat review

Division 4 – Zoning Board of Adjustment (ZBA)

Section 1.1.4.1. Structure of the Board

- (a) The members of the Zoning Board of Adjustment are appointed by the Mayor and ratified by the City Council and serve without compensation. In making appointments to the Zoning Board of Adjustment, the Council shall seek to ensure broad representation and expertise among the membership.
- (b) All members of the Zoning Board of Adjustment shall reside within the City limits.
- (c) The Zoning Board of Adjustment shall establish bylaws to govern rules of procedure and the election of officers. These rules must be consistent with this chapter and state law. Officers of the ZBA shall include a chairperson and a chairperson pro-tem and other officers as may be deemed necessary by the ZBA. In the absence of both the chairperson and the chairperson pro-tem, a member of the ZBA may be a temporary chairperson, as voted by the attending ZBA Board of Adjustment members, any of whom may administer oaths and compel the attendance of witnesses. The chairperson may vote to the same extent as any other member of the ZBA.
- (d) Meetings of the ZBA shall be held at the call of the chairperson and at other times as the ZBA may determine. All meetings of the ZBA shall be open to the public, except that the ZBA may hold closed meetings as permitted under state law.
- (e) The ZBA shall keep minutes of its proceedings, showing the vote of each member upon each question, or, if absent or failing to vote, indicating that fact, and shall keep records of its official actions, all of which shall be filed in the office of the ZBA and shall be public information.

Section 1.1.4.2. Authority for Deciding Applications

- (a) The Zoning Board of Adjustment shall finally decide the following types of applications:
 - (1) An application for a special exception;
 - (2) An application for a change in the status of a non-conformity; and
 - (3) An application for a zoning variance.
- (b) The Zoning Board of Adjustment shall finally decide appeals on the following matters:
 - (1) An appeal of the Building Official's decision on a sign permit or an interpretation of the sign regulations;
 - (2) An appeal of a city official's interpretation of the requirements of this UDC, unless a separate appeals process is otherwise defined within this UDC.

Section 1.1.4.3. Rules Governing Proceedings

- (a) A super-majority (75%) concurring vote of the members of the ZBA is necessary to reverse an order, requirement, decision, or determination of any administrative official, or to decide in favor of the applicant on a matter upon which the ZBA is required to pass under this Unified Development Code, or to authorize a variance or special exception from the terms of a provision of this Unified Development Code.
- (b) A quorum shall consist of a majority of the total members of the ZBA.
- (c) The authority delegated to the Zoning Board of Adjustment under this Unified Development Code shall not be construed to effect any of the following:
 - (1) Approval of a petition for a zoning map amendment;
 - (2) Approval of a Special Use Permit;
 - (3) Authorization of a use not authorized in the zoning district in which the applicant's property is located, except to the extent necessary to decide a special exception or a petition for a change in status of a non-conformity.
- (d) The Zoning Board of Adjustment shall not render any decision on an application, appeal, or relief petition while a petition for a zoning amendment, application for a Special Use Permit, or plat application for the same land is pending and until such petition or application has been finally decided pursuant to procedures in this Chapter 1.
- (e) Appeals shall be processed and decided in the manner provided in Article 3, division 1 of this Chapter 1.
- (f) Any public hearing shall be preceded by published, personal and posted notice in the manner provided in Article 2, Division 2 of this Chapter 1. Public hearings shall be conducted in the manner provided in Article 2, Division 3 of this Chapter 1.
- (g) Appeals of any decision of the ZBA may be taken to a state district court, county court, or county court-at-law by filing a verified petition stating that the decision of the ZBA is illegal - within ten (10) days after the date the decision is filed with the City Secretary.

Division 5 – Building Code Board of Adjustment (BCBA)

Section 1.1.5.1. – Structure of the Board

- (a) The members of the Building Code Board of Adjustment are appointed by the Mayor and ratified by the City Council and serve without compensation. In making appointments to the Building Code Board of Adjustment, the Council shall seek to ensure broad representation and expertise among the membership.

- (b) All members of the Building Code Board of Adjustment shall reside within the City limits.
- (c) The Building Code Board of Adjustment shall establish bylaws to govern rules of procedure and the election of officers. These rules must be consistent with this chapter and state law. Officers of the BCBA shall include a chairperson and a chairperson pro-tem and other officers as may be deemed necessary by the BCBA. In the absence of both the chairperson and the chairperson pro-tem, a member of the BCBA may be a temporary chairperson, as voted by the attending BCBA members, any of whom may administer oaths and compel the attendance of witnesses. The chairperson may vote to the same extent as any other member of the BCBA.
- (d) Meetings of the BCBA shall be held at the call of the chairperson and at other times as the BCBA may determine. All meetings of the BCBA shall be open to the public, except that the BCBA may hold closed meetings as permitted under state law.
- (e) The BCBA shall keep minutes of its proceedings, showing the vote of each member upon each question, or, if absent or failing to vote, indicating that fact, and shall keep records of its official actions, all of which shall be filed in the office of the BCBA and shall be public information.

Section 1.1.5.2. Authority for Deciding Applications

- (a) The Building Code Board of Adjustment shall finally decide the following types of applications:
 - (1) An application for a special exception to any building code adopted by the City of Iowa Colony;
 - (2) An application for a change in the status of an existing non-conformity to any building code adopted by the City of Iowa Colony; and
 - (3) An application for a building code variance.
- (b) The Building Code Board of Adjustment shall finally decide appeals on the following matters:
 - (1) An appeal of the Building Official's decision on a building permit or an interpretation of the building code regulations;

Section 1.1.5.3. Rules Governing Proceedings

- (a) A super-majority (75%) concurring vote of the members of the BCBA is necessary to reverse an order, requirement, decision, or determination of any administrative official, or to decide in favor of the applicant on a matter upon which the BCBA is required to pass under this Unified Development Code, or to authorize a variance or special exception from the terms of a provision of any building code adopted by the City of Iowa Colony.
- (b) A quorum shall consist of a majority of the total members of the BCBA.
 - (1) The authority delegated to the Building Code Board of Adjustment under this Unified Development Code, or any other ordinance or regulation shall not be

construed to affect any other rule, regulation, or interpretation for or within any code, manual, or ordinance except those rules, regulations, or interpretations for or within an adopted building code of the City of Iowa Colony.

- (c) The Building Code Board of Adjustment shall not render any decision on an application, appeal, or relief petition while a petition for a zoning amendment, application for a Special Use Permit, or plat application for the same land is pending and until such petition or application has been finally decided pursuant to procedures in this Chapter 1.
- (d) Appeals shall be processed and decided in the manner provided in Article 3, division 1 of this Chapter 1.
- (e) A public hearing shall be held at a Building Code Board of Adjustment meeting with the only posted notice as required for public meetings by state law and conducted in the manner provided in Article 2, Division 3 of this Chapter 1.
- (f) Appeals of any decision of the BCBA may be taken to a state district court, county court, or county court-at-law by filing a verified petition stating that the decision of the BCBA is illegal within ten (10) days after the date the decision is filed with the City Secretary.

Division 6 – City Council

Section 1.1.6.1. Authority for Amendments to the Unified Development Code (UDC)

- (a) The City Council may from time to time amend, supplement or change by ordinance the text of this Unified Development Code on its own initiative or upon petition for a text amendment.

Section 1.1.6.2. Authority for Deciding Legislative Applications

- (a) The City Council shall finally decide all types of legislative applications authorized under this Unified Development Code.

Section 1.1.6.3. Authority for Deciding Appeals and Relief Petitions

- (a) The City Council shall finally decide appeals on the following development applications and relief petitions:
 - (1) A vested rights petition filed in conjunction with an application for which the City Council is the final decision-maker; and
 - (2) A parkland dedication fee appeal that has been forwarded by the City Engineer.
- (b) The City Council shall finally decide the following petitions for relief:
 - (1) Petition for relief from a dedication or construction requirement.

Article 2 – Universal Procedures

Division 1 – Application Processing

Section 1.2.1.1. Initiation of Application

- (a) Unless otherwise expressly provided by this Unified Development Code, a petition for legislative action affecting land, other than a petition for a text amendment or a zoning amendment, or an application for a permit, may be initiated only by a City official or body, the owner of an interest in the land subject to the application, or the owner's designated agent. If the applicant is a designated agent, the application shall include a written statement from the property owner authorizing the agent to file the application on the owner's behalf. The responsible official may establish the type of documents needed to determine ownership or agency.

Section 1.2.1.2. Complete Application

- (a) Every petition for a legislative action or application for a permit or approval (referred to in this section as an "application") authorized by this Unified Development Code shall be subject to a determination of completeness by the official responsible for processing the application.
 - (1) No application shall be accepted by the responsible official for processing unless it is accompanied by all documents required by and prepared in accordance with the requirements of this Unified Development Code.
 - (2) The incompleteness of the application shall be grounds for denial or revocation of the application.
 - (3) A determination of completeness shall not constitute a determination of compliance with the substantive requirements of this Code. A determination of completeness shall be made by the responsible official in writing to the applicant no later than the tenth (10th) business day after the official filing date that the application is submitted to the responsible official. The determination shall specify the documents or other information needed to complete the application and shall state the date the application will expire if the documents or other information is not provided. An application shall be deemed complete on the eleventh 11th business day after the application has been received if the applicant has not otherwise been notified that the application is incomplete.
 - a. The application shall expire on the forty-fifth (45th) day after the date the application is filed if: The applicant fails to provide documents or other information necessary to comply with the City's requirements relating to the permit application;

- b. The City provides to the applicant, not later than the tenth (10th) business day after the date the application is filed, written notice that specifies the necessary documents or other information, and the date the application will expire if the documents or other information is not provided; and
 - c. The applicant fails to provide the specified documents or other information within the time provided in the notice.
- (4) If the application is not completed on the 45th day after the application is submitted to the responsible official, the application will be deemed to have expired, and it will be returned to the applicant together with any accompanying applications.

Section 1.2.1.3. Waiver

- (a) Notwithstanding the requirements of Section 1.2.1.2, the responsible official may initially waive the submission of any information in the application and accompanying materials that is not necessarily due to the scope and nature of the proposed activity. The decision maker may withdraw a waiver of application requirements if the decision maker determines that meeting the previously waived requirements is necessary to determining compliance with applicable standards of approval.

Section 1.2.1.4. Official Filing Date

- (a) The time period established by state law or this Unified Development Code for processing or deciding an application shall commence on the official filing date. The official filing date is the date the applicant delivers the complete application or plan to the City or deposits the application or plan with the United States Postal Service by certified mail addressed to the City.

Section 1.2.1.5. Post-Submission Conference

- (a) An applicant is encouraged to request a post-submission conference with the responsible official after submittal of an application to determine whether the application is complete. The purposes of the post-submission conference are to ascertain the nature of the proposed development; to identify the procedures and standards that apply to the application; to discuss any project modifications recommended by the responsible official; to identify any requests for relief to be sought by the applicant; to determine whether any waiver of application requirements should be granted; and to outline the schedule for acting on the application.
 - (1) A post-submission conference is optional and shall not be required as a standard of approval of the application.

- (2) An applicant is encouraged to contact and meet with neighborhood organizations and neighborhood property owners for the area in which the applicant's proposed development is located. An applicant may request, in connection with a post-submission conference, contact information for neighborhood organizations known by the City. Contact with these organizations is optional and shall not be required as a standard of approval of the application.

Section 1.2.1.6. Universal Development Application Contents

- (a) The City is hereby authorized to prepare application forms that include information requirements, checklists, drawing sizes, applicant contact information, and any other relevant information.
- (b) All development applications or petitions for a legislative decision shall contain the following information:
 - (1) Identification of property owner and authorized agent;
 - (2) Description of the property and the nature of the development that is the subject of the application;
 - (3) Identification of all zoning classifications (inside the City only) or Plan of Development for the property;
 - (4) Identification of all pending legislative applications for the property;
 - (5) Identification of decisions on all quasi-judicial or administrative applications for the property that remain in effect;
 - (6) Identification of all accompanying applications;
 - (7) Identification of all pending or accompanying requests for relief;
 - (8) Demonstration of compliance with approved priority permits;
 - (9) Proposed waiver, if any, of the time for decision on the application; and
 - (10) Any other information concerning such application and requested by the City or the responsible official.

Section 1.2.1.7. Application Fees

- (a) Every petition for a legislative action or application for a permit or approval shall be accompanied by the prescribed fees set forth in the fee schedule prepared and adopted by the City. The prescribed fee shall not be refundable, except when the City Council in its discretion waives the application fee for resubmission of an approval that was denied. The fee schedule may be amended from time to time by resolution of the City Council.

Section 1.2.1.8. Modification of Applications

- (a) The applicant may modify any application following its filing and prior to the expiration of the period during which the City is required to act on the application. If the modification is under revisions requested by the City, and the modification is received at least five (5) working days prior to the time scheduled for decision on the application, the application shall be decided within the period for decision prescribed by this Unified Development Code. In all other instances (e.g., when the applicant chooses to submit a revised application on his own accord because of a change in development decisions), submittal of a modified application shall extend the time for deciding the application for a period equal to the time specified in this Unified Development Code to decide the original application, commencing on the date the modified application is received, unless a waiver of the time for decision is first required, in which case the terms of the approved waiver shall govern the period within which the City must act on the application.

Section 1.2.1.9. Action by Responsible Official

- (a) Following the determination that an application is complete; the responsible official shall circulate the application to all other administrative officials whose review is required for a decision on the application and compile the comments and recommendations of the officials. The responsible official shall render a decision in the time prescribed if the official is the decision-maker for the application. In all other cases, the responsible official shall forward the application for review to any advisory body and the final decision-maker, and prepare a report to such board or commission, or to the City Council including the compilation of any comments and recommendations by other administrative officials. The responsible official also shall prepare required notices and schedule the application for decision within the time and in the manner required by this Unified Development Code.

Section 1.2.1.10. Exemption Determination

- (a) For any application for a development permit for which exemptions are listed, an exemption from the requirement to apply for such permit shall be determined in the following manner:
- (1) The application for exemption must be filed on a form supplied by the responsible official, must be accompanied by the review fee set by the City Council, and must include all the following information:
 - a. Name, address, and telephone number of the property owner and the applicant.
 - b. A brief description of the activity or development for which exemption is sought;

- c. A scale drawing depicting the boundaries of the site, the location of existing improvements on the site, and the location of the proposed development activities on the site.
 - d. Information establishing the basis for the exemption.
- (2) The responsible official shall notify the applicant of the decision. If the responsible official denies the application for exemption, the official shall require that an application for the development permit be prepared in accordance with this Code.
- (b) An exemption is a separate and distinct consideration that is differentiated from a special exception and/or a variance.
 - (c) Other sections within this UDC contain exemptions.

Section 1.2.1.11. Action by Advisory Body

- (a) In the absence of a recommendation from an advisory body by a majority vote on a proposed application, the advisory body shall be presumed conclusively to have recommended that the application be considered by the City Council with a recommendation for denial from the advisory body.

Section 1.2.1.12. Decision-maker

- (a) The decision-maker for the application shall approve, approve with conditions, or deny the application within the time prescribed by this Unified Development Code. Unless otherwise prescribed by law, where the decision-maker is a board, commission or the Council, the application shall be decided by majority vote of a quorum of the members of the board, commission, or the Council, provided that a super-majority vote or other decision rule on the application has not been invoked in accordance with the provisions of law or this Code.

Section 1.2.1.13. Conditions to the Approval

- (a) The initial or final decision-maker may attach such conditions to the approval of an application as are reasonably necessary to assure compliance with applicable requirements of this Unified Development Code.

Division 2 – Notice Requirements

Section 1.2.2.1. Initiation of Application

- (a) Unless otherwise expressly provided by this Unified Development Code, a petition for legislative action affecting land, other than a petition for a text amendment or a zoning amendment, or an application for a permit, may be initiated only by a City official or body, by the owner of an interest in the land subject to the application, or the owner's designated agent. If the applicant is a designated agent, the application shall include a written statement from the property owner authorizing the agent to file the application on the owner's behalf. The responsible official may establish the type of documents needed to determine ownership or agency.

Section 1.2.2.2. Published Notice

- (a) Whenever notice of a public hearing before a board or commission or the City Council is required to be published in a newspaper under state law or other City ordinances, the responsible official shall cause notice to be published in a newspaper of general circulation in the City before the 15th day before the date set for the required hearing. The notice shall set forth the date, time, place, and general purpose of the hearing, and, where the decision concerns an individual tract or parcel of land, an identification of the subject property.

Section 1.2.2.3. Personal Notice

- (a) Whenever personal notice of a public hearing before a board or commission or the City Council is required by state law, the responsible official shall cause notice to be sent by regular mail before the 10th day before the hearing date to 1) each owner of real property located within 200 feet of the exterior boundary of the property in question, 2) the applicant and/or property owner, and 3) if the matter to be considered is an appeal, to the appellant. The notice shall set forth the name of the applicant, the time, place and purpose of the hearing, identification of the subject property, and if the matter to be considered is an appeal, the name of the appellant.
 - (1) Ownership for purposes of notice under this ordinance shall be as indicated on the most recently approved municipal tax roll for land inside the City limits, and on the most recently approved county tax roll for land in the extraterritorial jurisdiction. For recently annexed land that is not included on the most recently approved municipal or county tax roll, notice may be given by publication.
 - (2) Notice may be served by depositing the notice in the United States Mail, properly addressed, postage prepaid, by first class or certified mail as chosen by the City.

Section 1.2.2.4. Posting Notice on Property

- (a) Any person, firm or corporation requesting a zoning change, a special use permit (SUP), or a zoning variance to be reviewed by the ZBA or Planning and Zoning Commission shall be required to erect and maintain a sign(s), to be inspected by the City, upon the property for which a variance or zoning change, SUP, or a zoning variance has been requested. Such sign(s) shall be located as follows:
- (1) One (1) sign per public street frontage shall be located within thirty feet (30') of the abutting street, or as determined by the Building Official or a designee.
 - (2) To be clearly visible and readable from the public right-of-way and not obstructed in any manner.
 - (3) So as not to create a hazard to traffic on the public rights-of-way abutting the property.
 - (4) In the case of a variance request, on the subject property at least ten (10) days prior to the hearing of such variance request by the Zoning Board of Adjustment, and to remain continuously on said property until final action by the Board or withdrawal of the case by the applicant. Removal of the sign by the applicant prior to a decision by the Zoning Board of Adjustment shall constitute a withdrawal of the request.
 - (5) In the case of a zoning change request or a request for a SUP, on the subject property at least ten (10) days prior to the hearing of such request by the Planning and Zoning Commission or City Council, and to remain continuously on said property until final action by the City Council or withdrawal of the case by the applicant.
 - (6) Removal of the sign by the applicant prior to a recommendation by the Planning and Zoning Commission and/or a final decision by the City Council or ZBA shall constitute a withdrawal of the request.
- (b) The signs shall be of a size, type, and message content as determined by the City, but shall advise that a variance, SUP, or zoning change has been requested and shall list the telephone number of the City Secretary for more information. The City is hereby authorized to establish size, type and message requirements for such signs and to distribute such requirements to applicants.
- (c) Upon making an application for a variance, SUP, or zoning change, the applicant shall place sign(s) as required by this section. The City may inspect such sign(s) to ensure compliance as required by this section.
- (d) In the case of a zoning variance request, after the variance request is approved by the Zoning Board of Adjustment, denied by the Zoning Board of Adjustment, or withdrawn by the applicant, the applicant shall remove the sign from the area of the request within ten (10) days of such event.
- (e) In the case of a zoning change request or a request for a SUP, after the request is approved by the City Council, denied by the City Council, or withdrawn by the applicant, the applicant shall remove the sign from the area of the request within ten (10) days of such event.

- (f) It shall be unlawful for anyone to remove, destroy, deface, or obstruct the view of a sign which gives notice that a variance, SUP, or zoning change has been requested.
- (g) In the event the applicant shall fail to erect and/or maintain signs in accordance with this section, then the public hearing before the appropriate body shall be postponed to a date in the future which would allow time for compliance.
- (h) The erection of any sign required by this section shall not require a sign permit.
- (i) The owner or applicant shall promptly notify the Building Official of any sign required by this section which becomes lost, stolen or vandalized. In the case of a zoning variance request, the Zoning Board of Adjustment shall have the power to decide whether there has been substantial compliance with the posting requirements in the case of lost, stolen, or vandalized signs. In the case of a zoning change request or a request for a SUP, the City Council shall have the power to decide whether there has been substantial compliance with the posting requirements in the case of lost, stolen or vandalized signs.

Section 1.2.2.5. Notification Following Decision

- (a) Within ten (10) working days of the date of a responsible official, board, commission, or City Council determination on an application, written notification of the action shall be mailed to the applicant, stating the action taken. Record of this notification shall be filed with the secretary of the board or commission or City Council on the date of notification.

Section 1.2.2.6. Notification of Appeal or Revocation

- (a) Whenever appeal is taken from a final decision on an application following a public hearing, or whenever the City is to consider revocation of a permit which was obtained following a public hearing, personal notice of the appeal or revocation proceeding shall be provided in the manner prescribed by Section 1.2.2.3. If no public hearing was held prior to approval of the application, personal notice of revocation shall be given only to the holder of the permit.

Division 3 – Public Hearings

Section 1.2.3.1. Setting of the Hearing

- (a) When the responsible official determines that an application is complete and that a public hearing is required by this Unified Development Code, the official shall consult with the secretary of the body required to conduct the hearing and shall select a place and a time certain for the hearing and shall cause notice of such hearing to be prepared and made under Section 1.2.2.1. The time set for the hearing shall conform to the time periods required by this Code.

Section 1.2.3.2. Conduct of Hearing

- (a) Any person may appear at the public hearing and submit evidence, either individually or as a representative of an organization. Each person who appears at a public hearing shall state his or her name, address, and if appearing on behalf of an organization, state the name and mailing address of the organization for the record.
- (b) The public hearing shall be conducted in accordance with State law.

Section 1.2.3.3. Record of Proceedings

- (a) The body conducting the hearing shall record the proceedings by any appropriate means.

Section 1.2.3.4. Continuance of Proceedings

- (a) The body conducting the hearing may, on its own motion or at the request of any person, for good cause, continue the hearing to a fixed date, time and place. No notice shall be required if a hearing is continued. If a public hearing is closed, no further public testimony shall be taken

Section 1.2.3.5. Additional Rules

- (a) The body conducting the hearing may adopt rules of procedure to limit the number of applications for development approval which may be considered per meeting and the time for each presentation and may apply such additional rules to govern the public hearing which are not inconsistent with this section.

Section 1.2.3.6. Joint Public Hearing

- (a) The City Council may convene a joint public hearing with the Planning and Zoning Commission in the manner prescribed in Chapter 211.007(d) of the Texas Local Government Code.

Division 4 – Post-Decision Procedures

Section 1.2.4.1. Re-Application Following Denial

- (a) A request which has been denied by the responsible official, the Planning and Zoning Commission, and/or the City Council may be resubmitted at any time for reconsideration by the city (a new filing fee must accompany the request). The responsible official, the

Planning and Zoning Commission, and/or the City Council may deny any request with prejudice. If a request has been denied with prejudice, the request may not be resubmitted to the City for one (1) year from the original date of denial.

Section 1.2.4.2. Amendments and Revisions to Approval

- (a) Unless another method is expressly provided by this Unified Development Code, any request to amend or revise an approved application shall be considered a new application, which must be decided in accordance with the procedures governing the original application and the standards in effect at the time such new application is filed with the City.

Division 5 – Expiration, Extension, & Reinstatement

Section 1.2.5.1. Time of Expiration

- (a) Unless otherwise expressly provided by this Unified Development Code, a complete, officially filed application shall automatically expire and become null and void, and all activities under the permit thereafter shall be deemed in violation of this Code, if (1) the applicant fails to satisfy any condition that was imposed as part of the approval of the development application or that was made under the terms of any development agreement, within the time limits established for satisfaction of such condition or term, or (2) the applicant fails to submit a subsequent application required by this Unified Development Code within the time so required. If no time limit for satisfaction of conditions is specified in the decision on the application, the time shall be presumed to be two (2) years from the date the complete application was officially filed, except as provided in Section 1.2.5.8.

Section 1.2.5.2. Effect of Expiration

- (a) Upon the expiration of a complete, officially filed application, all previously approved applications for the same land also shall expire on the expiration date if the filing of an application for the expired permit was required to avoid expiration for the previously approved permit or permits, except as provided in Section 1.2.5.8. Thereafter, a new application for each permit deemed expired under this section must be approved subject to regulations in effect at the time the new application is accepted for filing.

Section 1.2.5.3. Extension Procedures - Initial Request

- (a) Unless a different time is expressly provided for a specific procedure by this Unified Development Code, the responsible official or the board, commission or the City Council that finally approves an application may grant an initial extension of the time for expiration of the application for a period not to exceed one (1) year from the date of the expiration of the application, provided that a request for extension is made in writing at least thirty (30) days before the approved application expires. Every request for extension shall include a statement of the reasons why the expiration date should be extended. The decision-maker may grant a request for an initial extension upon demonstration that circumstances beyond the control of the permit holder have resulted in the permit holder's inability to perform the tasks necessary to prevent the permit from expiring before the expiration date.

Section 1.2.5.4. Extension Procedures - Subsequent Extension

- (a) A permit-holder may apply for an extension of the expiration date for an application for a period not to exceed two (2) years from the date of the expiration of an officially filed, complete application. A second (2nd) extension of the expiration date of an officially filed, complete application may be granted for a period not to exceed one (1) additional year. The extension application must be in writing. Such an extension may be granted only by the City Council. In determining whether to grant a request, the Council shall consider the reasons for the requested extension, the ability of the applicant to comply with any conditions attached to the original approval, whether extension is likely to result in timely completion of the project, and the extent to which any newly adopted regulations should be applied to the proposed development.

Section 1.2.5.5. Conditions

- (a) In granting an extension, the official or body deciding the request may impose such conditions as are needed to assure that the land will be developed in a timely fashion and that the public interest is served. In granting a subsequent extension request, the City Council may require that one or more newly adopted development standards be applied to the proposed development.

Section 1.2.5.6. Reinstatement

- (a) Unless otherwise provided by this Unified Development Code, an applicant may request reinstatement of an expired application by filing a written request with the responsible official within thirty (30) days of the date of expiration. The request for reinstatement shall include a statement of the reasons why the application should be reinstated and extended. A request for reinstatement shall be processed and decided in the manner provided for an extension of an expiration period for more than one (1) year. The expiration date shall not

be extended for more than two (2) years from the date a complete application was officially filed.

Section 1.2.5.7. Effect of Decision on Extension or Reinstatement

- (a) The granting of an extension or reinstatement request for a permit also extends or reinstates any other permits otherwise deemed expired under Section 1.2.5.2. The denial of an extension or reinstatement results in the immediate lapse of the permit and any other permits deemed expired under Section 1.2.5.2. Thereafter, the permit holder shall file a new application for a permit or permits before undertaking any activity authorized by the lapsed permit.

Section 1.2.5.8. Expiration for Projects Commenced on or After Effective Date of Ordinance

- (a) Notwithstanding any other provision of this Unified Development Code, for any permit authorized by this Code for which an expiration date is established and which is submitted for filing after the effective date of this ordinance, the expiration date shall be two (2) years following the date of approval of the permit, unless the holder of the permit files a petition before such date for a vested rights alleging that progress has been made toward completion of the project for which the application subject to expiration was filed. If a vested rights petition is timely filed, the City Council shall determine the expiration date of the permit in deciding the petition.
- (b) Notwithstanding any other provision of this Unified Development Code, for any permit authorized by this Code which is submitted for filing after the effective date of this ordinance and which has expired under subsection (a), all previously approved applications for the same land also shall expire no later than five years from the date of filing of the first application for the project for which the expired application was filed, if the filing of an application for or approval of the expired permit was required to avoid expiration for the previously approved permit or permits, unless the holder of such permits files a petition before such date for a vested rights determination alleging that progress has been made toward completion of the project for which the applications subject to expiration were filed. If a vested rights petition is timely filed, the City Council shall determine the expiration date of the previously approved permits in deciding the petition.

Division 6 – Enforcement & Revocation of Permits

Section 1.2.6.1. Enforcement Activities

- (a) Enforcement activities include informal contacts with individuals to advise them of requirements, the issuance of verbal warnings, written warnings, and municipal court

citations, formal court action, billing and collection, and any other action to enforce this ordinance. Employees of the Fire Marshal's office and Building Inspections are authorized to issue municipal court citations for violations of this article.

Section 1.2.6.2. Right to Enter

- (a) The authorized official shall have the right to enter upon any premises at any reasonable time for the purpose of making inspections of buildings or premises that may be necessary to carry out the duties in the enforcement of this Unified Development Code. Submittal of any application for a permit that authorizes construction of structures or improvements shall be construed as a grant of authority to the responsible official to enter on land subject to the application for purposes of enforcing the approved permit.

Section 1.2.6.3. General Remedies

- (a) If any building or structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained or any building, structure, or land is used or developed in violation of this Unified Development Code or any development application approved hereunder, in addition to other remedies, the City may institute any appropriate action or proceedings to prevent, enjoin, or abate such activity. Appropriate action or proceedings may include termination of utility services (water, gas, electric) by providers; revocation of permits, licenses, or bonds; and institution of legal action in a court of competent jurisdiction.

Section 1.2.6.4. Stop Work Orders

- (a) Whenever any construction or development activity is being done contrary to any term, condition, or requirements of an approved application or this Unified Development Code, the authorized official may order the work stopped by notice in writing, served on the property owner or authorized agent. Notice shall be given before the order shall be effective, except when the order should be effective immediately to protect and preserve the public health, safety, or general welfare. Any person thereafter shall cease and desist from further development or construction material to the alleged noncompliance, until corrected by compliance and authorized by the responsible official to proceed with the work. This prohibition shall extend throughout any appeal period.
- (b) The owner or authorized agent may appeal the stop work order to the authorized official by giving written notice. The authorized official shall hear the appeal within five (5) working days of receiving the notice.
- (c) The appellant may appeal a negative ruling by the authorized official in writing to the City Manager, who shall hear the appeal within five (5) working days after receipt of the notice of appeal.

- (d) The decision-maker on the appeal may require the placement of temporary erosion control, drainage protection or other measures by the owner or appellant to protect the site and the community resources during the appeal period.
- (e) The authorized official or the City Council shall decide the appeal and make such order as is necessary to assure compliance with the terms of this Unified Development Code and all approved development applications.

Section 1.2.6.5. Municipal Court Actions

- (a) The City Attorney is authorized to prosecute violations of this Unified Development Code in the municipal court where jurisdiction lies for the action.
- (b) In prosecutions for violations of this Unified Development Code, it shall not be necessary to allege or prove a culpable mental state, as said requirement is hereby waived.

Section 1.2.6.6. Civil Court Actions

- (a) With the approval of the City Council, the City Attorney or any attorney chosen by the City is authorized to file and prosecute a civil action at law or in equity, in any court of competent jurisdiction to enforce the provisions of this Unified Development Code.

Section 1.2.6.7. Cumulative Remedies. No Election of Remedies

- (a) All rights and remedies of the City, and all liabilities and obligations of any other person, under any provisions of this ordinance and any other source shall be cumulative of each other.
- (b) Pursuit or receipt by the City of any enforcement action or remedy shall not impair the right of the City to pursue or receive any other enforcement action or remedy of any nature. The doctrine of election of remedies shall not apply against the City.

Section 1.2.6.8. Fines and Penalties

- (a) A person who violates any provision of this Unified Development Code pertaining to fire safety, zoning or public health and sanitation, including dumping of refuse, shall be punished, upon conviction, by a fine not to exceed \$2,000. A person who violates any other provision of this Unified Development Code shall be punished, upon conviction, by a fine not to exceed \$500. The owner or owners of any building or premises or part thereof, where anything in violation of this ordinance shall be placed or shall exist, any architect, builder, contractor, agent, persons, or corporation employed in connection therewith, and who may have assisted in the commission of any such violation, shall be guilty of a separate offense and upon conviction shall be fined as herein provided. This Subsection does not apply to enforcement of an ordinance in the City's extraterritorial jurisdiction.

Section 1.2.6.9. Separate Offenses

- (a) Each calendar day or portion of a calendar day that a violation continues or recurs shall be deemed a separate offense.

Section 1.2.6.10. Nonwaiver by Nonenforcement

- (a) The failure or omission of the City, upon one or more occasions, to enforce any right, obligation, or remedy hereunder shall never be construed as a waiver of the City's right to strictly enforce such right, obligation, or remedy, and the City may resume such strict enforcement without advance notice.

Section 1.2.6.11. Nonwaiver of Immunity. Nonliability of the City.

- (a) Nothing herein or in any notice, order, or other document issued pursuant hereto shall ever be construed as a full or partial waiver of governmental immunity, official immunity, or any other immunity of the City.
- (b) To the fullest extent allowed by law, the City shall not be liable for any act, omission, or condition related in any way, directly or indirectly, wholly, or partly, to this ordinance.

Section 1.2.6.12. Revocation Proceedings

- (a) If an authorized official determines, based on inspection or investigation by the City, that there are reasonable grounds for revocation of an approved application, the official shall set a hearing before the board or commission to which appeal may be taken from such decision under this Unified Development Code. If the City Council was the original decision-maker, the Council may refer the proposed revocation to the Planning and Zoning Commission for its report and recommendation prior to such hearing. Circumstances that warrant revocation of an approved application shall include but not be limited to the following:
 - (1) A material mistake was made in approving the application;
 - (2) Approval of the application was procured based on material misrepresentations or fraud on the part of the applicant;
 - (3) Development activities being undertaken on the land subject to the permit are not in conformity with terms of the approved application; or
 - (4) The use authorized by the permit is in violation of a condition of approval of the approved application.

- (b) The applicant and any interested parties shall be given notice of the hearing in the manner provided in Chapter 1, Article 2, Division 2. The public hearing shall be conducted in accordance with the procedures described in Chapter 1, Article 2, Division 3.
- (c) In rendering its decision whether to revoke the approved application, the decision-maker shall determine whether the activity authorized under the original approved application complies with the terms, conditions, and requirements of such approval. The decision-maker may revoke the application, affirm it, or affirm it with attached conditions that assure that the terms; conditions and requirements of the application shall be met.
- (d) Following revocation and pending any appeal, it shall be unlawful to undertake or perform any activity that was previously authorized by the approved application without applying for and obtaining approval of a new application for the activity. Appeal from the decision to revoke the approved application shall be to the City Council, unless the decision to revoke was made by the Council, in which case revocation is final.

Section 1.2.6.13. Exemption

- (a) This division does not apply to building permits issued under separate ordinance or provision of the City Code.

Division 7 – Text Amendments

Section 1.2.7.1. Amendments to the Unified Development Code (UDC)

- (a) The City Council may from time to time amend, supplement, or change the text of this Unified Development Code.

Section 1.2.7.2. Hearing and Notice

- (a) The City Council shall conduct a public hearing on a proposed text amendment in accordance with Chapter 1, Article 2, Division 3.
- (b) The hearing and notice requirements of this section do not apply to an action of the City Council imposing a moratorium on the acceptance, processing or issuance of development permits or petitions for legislative actions.

Section 1.2.7.3. Recommendation of Advisory Body

- (a) Where required by this Unified Development Code or other law, the City Council shall first consider the recommendation of the Planning and Zoning Commission, together with the recommendations of any other advisory body prescribed by this Code, concerning the

proposed text amendment. Where action is required of the Planning and Zoning Commission or other advisory body on a proposed text amendment, the advisory body also shall conduct a public hearing.

Section 1.2.7.4 Initiation of Text Amendments

- (a) Unless otherwise limited by this Unified Development Code, a petition for amending the text of the Unified Development Code may be initiated by the City Council, the Planning and Zoning Commission, a board, commission or advisory body described in Chapter 1, Article 1, an ad hoc advisory body appointed by the Council, a responsible official designated in this Code, any citizen or owner of land within the City limits, or any citizen or owner of land within the City's extraterritorial jurisdiction (for a regulation that applies to the ETJ).
 - (1) Except for amendments initiated by the City Council, the petition to amend the text of this Unified Development Code shall state with particularity the nature of the amendment and the reason for the amendment.
 - (2) A petition for a text amendment may be submitted in conjunction with a development application, approval of which depends on approval of the amendment, but shall in every such instance be decided prior to any action by the City on the development application.
 - (3) The City Council may establish rules governing times for submission and consideration of text amendments.

Article 3 – Relief Procedures

Division 1 – Appeals

Section 1.3.1.1. Purpose, Applicability and Effect

- (a) The purpose of an appeal is to contest an initial decision on an application based upon alleged misapplication of the criteria for approval of the application. An appeal shall not be used as a means of amending, varying, or otherwise modifying the standards of this Code that apply to the development application.
- (b) Unless otherwise provided by this Code, any final administrative decision on an application by a City official, including a determination by the responsible official that a proposed development is exempt from one or more applications, may be appealed to the board or commission designated in the regulations establishing the procedure by which the decision was made. For administrative decisions on applications appeal shall be to the Zoning Board of Adjustment. Final decisions on an application by a board or commission may be appealed to the City Council only if expressly provided for in the regulations establishing the procedure by which the decision was made.

- (c) The granting of an appeal supersedes the decision from which appeal was taken, and results in approval, conditional approval, or denial of the application for which approval was sought.

Section 1.3.1.2. Appeal Requirements

- (a) The applicant and any interested person may appeal a final decision on an application to the appellate body designated by this Code, if any.
- (b) The appeal shall contain a written statement of the reasons why the final decision is erroneous and shall be accompanied by the fee established by the City Council. An appeal by an applicant shall be accompanied by a copy of the application on which the initial decision was rendered. An appeal may include any other documents that support the position of the appellant.
- (c) A written appeal must be filed with the responsible official within ten (10) working days from the date of notification of the final decision on the application.

Section 1.3.1.3. Processing of Appeal and Decision

- (a) The responsible official for an appeal is the responsible official designated by this Code for processing of the application at issue in the appeal. Upon receipt of a written appeal, the responsible official shall compile all documents constituting the record of the decision on appeal and transmit the record to the appellate body.
 - (1) Receipt of a written appeal of a decision on an application stays all proceedings of the City in furtherance of the decision from which appeal is taken, including without limitation acceptance, processing or issuance of any applications that are dependent on the application being appealed, and any development activities authorized by initial approval of the application. The stay shall be lifted only if the responsible official certifies in writing to the appellate body that a stay would cause imminent peril to life or property.
 - (2) Thereafter, the stay may be reinstated only by order of the appellate body or a court of record, on application, after notice to the responsible official, for due cause shown.
- (b) Notification of the appeal and conduct of the public hearing thereon shall be in accordance with Article 2, divisions 2 and 3 of this Chapter 1. The initial public hearing on the appeal shall be held within twenty-five (25) working days after the filing of the appeal with the responsible official unless a different time is prescribed by the provisions of this chapter.
- (c) The appellate body shall decide the appeal within thirty (30) working days of the close of the public hearing. The appellate body shall affirm, reverse, or modify the decision from which the appeal was taken.
- (d) The appellant and the applicant for the development permit shall be notified of the decision on appeal in the manner provided in Article 2, Division 2 of this Chapter 1.

Section 1.3.1.4. Criteria

- (a) In deciding the appeal, the appellate body shall apply the same criteria that govern the initial decision on the application under the provisions of this Code.

Section 1.3.1.5. Expiration and Extension

- (a) For purposes of determining expiration or extension periods under this Code, the date of the appellate body's granting of relief on an appeal is the date on which the application is deemed approved.

Division 2 – Petition for Relief from Dedication or Construction Requirement

Section 1.3.2.1. Purpose, Applicability and Effect

- (a) The purpose of a petition for relief from a dedication or construction requirement is to assure that the application of uniform dedication and construction standards to a proposed development does not result in a disproportionate burden on the property owner, taking into consideration the nature and extent of the demands created by the proposed development on the City's public facilities systems.
- (b) A petition for relief under this section may be filed by a property owner to contest any requirement to dedicate land or to construct public improvements for dedication to the public that is imposed under the City's public facilities standards in Chapter 3 of this Unified Development Code to an application or to any related application authorized under this Code, whether the requirement is under uniform standards, or attached as a condition to approval of the petition or permit. A petition under this section shall not be used to waive standards on grounds applicable to a petition for a waiver under Section 3.1.1.6 of this UDC.
- (c) If the relief requested under the petition is granted in whole or in part by the City Council, the dedication or construction requirement initially imposed shall be modified accordingly, and the standards applied, or the conditions attached to initial approval of the application shall be thereafter applied in accordance with the relief granted. In the event the original application was denied by the decision-maker based upon the property owner's failure to incorporate the dedication or construction requirement in the proposed permit, the application shall be remanded to the original decision-maker for a decision consistent with the relief granted by the Council.

Section 1.3.2.2. Petition Requirements

- (a) A petition for relief from a dedication or construction requirement may be filed by a property owner or the applicant for an application, in which the dedication or construction requirement has been applied or attached as a condition of approval, or as grounds for denying the application.
- (b) The petition for relief from a dedication or construction requirement shall allege that application of the standard or the imposition of conditions relating to the dedication or construction requirement is not roughly proportional to the nature and extent of the impacts created by the proposed development on the City's facilities system or does not reasonably benefit the proposed development.
 - (1) The petitioner shall provide a study in support of the petition for relief that includes information as required by the City Engineer including any other information that shows the alleged disproportionality between the impacts created by the proposed development and the dedication or construction requirement imposed by the City.
- (c) A petition for relief from a dedication or construction requirement shall be filed with the responsible official within ten (10) days of the decision to conditionally approve or deny an application for approval of an application that has been submitted. The study in support of the petition shall be filed within 30 days of the initial decision unless the petitioner seeks an extension in writing. The responsible official may extend the time for submitting the study for a period not to exceed an additional 30 days for good cause shown.

Section 1.3.2.3. Land in Extraterritorial Jurisdiction

- (a) Where land or facilities to be dedicated are located in the extraterritorial jurisdiction of the City and are to be dedicated to a county under an interlocal agreement under Tex. Loc. Gov't Code Chapter 242, or are located with a drainage district and are to be dedicated to the District, a petition for relief or study in support of the petition shall not be accepted as complete for filing by the responsible official unless the petition or study is accompanied by verification that a copy has been delivered to the county or drainage district in which the facilities are to be located.

Section 1.3.2.4. Processing of Petitions and Decision

- (a) The City Engineer is the responsible official for a petition for relief from a dedication or construction requirement. Where the petition is for relief from dedication of rights-of-way for or construction of a facility in the City's extraterritorial jurisdiction that is to be dedicated to a county under an interlocal agreement under Texas Local Government Code, Chapter 242, or to a drainage district, the City Engineer shall coordinate a recommendation with the county or drainage district official responsible for reviewing plats in the county.
- (b) The City Engineer shall evaluate the petition and supporting study and shall make a recommendation to the City Council based upon the information contained in the study, any

comments received from the county, and the City Engineer's analysis. In evaluating the petition and study, the City Engineer may utilize any reasonable methodology in evaluating the petitioner's study, including but not limited to impact methodologies.

- (c) The City Council shall decide the petition for relief from a dedication or construction requirement.
- (d) The City Council shall conduct a public hearing in accordance with Article 2, Division 3 of Chapter 1, within thirty (30) working days after the study supporting the petition is filed with the City Engineer.
- (e) The petitioner bears the burden of proof to demonstrate that the application of a dedication or construction requirement that is uniformly applied imposes a disproportionate burden on the petitioner.
- (f) The City Council shall consider the petition for relief from a dedication or construction requirement and, based upon the criteria set forth in Section 1.3.2.5, shall take one of the following actions:
 - (1) Deny the petition for relief, and impose the standard or condition in accordance with the initial decision; or
 - (2) Deny the petition for relief, upon finding that the proposed dedication or construction requirements are inadequate to offset the impacts of the development and either deny the application or require that additional dedications of rights-of-way for or improvements to such systems be made as a condition of approval of the application; or
 - (3) Grant the petition for relief, and waive in whole or in part any dedication or construction requirement to the extent necessary to achieve proportionality; or
 - (4) Grant the petition for relief, and direct that the City participate in the costs of acquiring land for or constructing the capital improvement under standard participation policies.
- (g) The petitioner shall be notified of the decision on the petition for relief in the manner provided in Article 2, Division 2 of Chapter 1.

Section 1.3.2.5. Criteria for Approval

- (a) Criteria for Approval.
 - (1) In deciding the petition for relief from a dedication or construction requirement, the City Council shall determine whether the application of the standard or condition requiring dedication of an interest in land for public improvements or construction of capital improvements is roughly proportional to the nature and extent of the impacts created by the proposed development and reasonably benefits the development.
 - (2) In making such determination, the Council shall consider the evidence submitted by the petitioner, the City Engineer's report and recommendation and, where the

property is located within the City's extraterritorial jurisdiction, or a drainage district, any recommendations from the county or district.

Section 1.3.2.6. Expiration and Extension

- (a) Where an application was denied based upon the imposition of the standard or condition requiring dedication of land or construction of a capital improvement, the petitioner shall resubmit the application to the original decision-maker within ninety (90) days of the date the petition for relief is granted, in whole or in part, showing conformity with the City Council's decision on the petition.
 - (1) If such re-submittal of the application is not made within the ninety-day (90-day) period, the relief granted by the City Council on the petition shall expire.
 - (2) The Council may extend the time for filing the application for good cause shown, but in any event, the expiration date for the relief granted shall not be extended beyond one year from the date the petition was granted.
 - (3) If the application is modified to increase the number of residential units or the intensity of non-residential uses, the responsible official may require a new study to validate the relief granted by the City Council.
 - (4) If the development application for which relief was granted is denied on other grounds, a new petition for relief may be required.
- (b) Where approval of the application was conditioned on satisfaction of the dedication or construction requirement, the City Engineer may require the applicant to submit a modified application or supporting materials consistent with the relief granted by the City Council on the petition.
 - (1) The relief granted on the petition shall remain in effect for the period the plat or related approved application is in effect and shall expire upon expiration of the application.
 - (2) Extension of the plat also shall result in extension of the relief granted on the petition.

Division 3 – Vested Rights Petition

Section 1.3.3.1. Purpose, Applicability and Effect

- (a) The purpose of a vested rights petition is to determine whether one or more standards of this Unified Development Code should not be applied to a development application by operation of state law, or whether certain permits are subject to expiration.
- (b) A vested rights petition may be filed for an application authorized under this Unified Development Code, filed in accordance with the Texas Local Government Code, Chapter 245

or successor statute. A vested rights petition may not be filed with a petition for a text amendment, a zoning map amendment, or any other request for a legislative decision by the City Council. A vested rights petition also may be filed prior to expiration of certain permits pursuant to Section 1.2.5.8.

- (c) Upon granting of a vested rights petition in whole or in part, the responsible official shall process the application and the decision-maker shall decide the application in accordance with the standards specified in the relief order based on prior ordinance requirements or development standards or extend the permit otherwise subject to application pursuant to Section 1.2.5.8.

Section 1.3.3.2. Petition Requirements

- (a) A vested rights petition may be filed by a property owner or the owner's authorized agents, including the applicant, with any development application identified in Section 1.3.2.1, or by the holder of a permit subject to expiration pursuant to Section 1.2.5.8.
- (b) The vested rights petition shall allege that the petitioner has a vested right for some or all the land subject to the development application under Texas Local Government Code, Chapter 245 or successor statute, or pursuant to Texas Local Government Code, Section 43.002 or successor statute, that requires the City to review and decide the application under standards in effect prior to the effective date of the currently applicable standards. The petition shall include the following information and documents:
 - (1) A narrative description of the grounds for the petition;
 - (2) A copy of each approved or pending application or permit (the "Vesting Permit") which is the basis for the contention that the City may not apply current standards to the application which is the subject of the petition;
 - (3) The date of submittal of the application for the Vesting Permit, or of a plan pursuant to which the Vesting Permit was subsequently filed, if the submittal date is different from the official filing date.
 - (4) The date the project for which the application for the Vesting Permit was submitted was commenced.
 - (5) Identification of all standards otherwise applicable to the application from which relief is sought;
 - (6) Identification of any current standards which petitioner agrees can be applied to the application at issue;
 - (7) A narrative description of how the application of current standards affect the application for which the petition is filed; and
 - (8) A copy of any prior vested rights determination involving the same land.
 - (9) Where the petitioner alleges that a permit subject to expiration under Section 1.2.5.8 should not be terminated, a description of the events constituting progress toward completion of the project for which the permit subject to expiration was approved.

- (c) A vested rights petition shall be filed with an application for which a vested right is claimed, except that the petition may be filed before the date of expiration of any permit when filed pursuant to Section 1.2.5.8. Where more than one application is authorized to be filed by this Unified Development Code, the petition may be filed simultaneously for each application.

Section 1.3.3.3. Processing of Petitions and Decision

- (a) The responsible official for a vested rights petition is the responsible official for processing the application with which the petition is associated, except where a petition is submitted pursuant to Section 1.2.5.8. Where multiple applications are submitted, and there is more than one responsible official, the decision of each responsible official shall be coordinated with that of any other responsible official on the vested rights petition. The responsible official shall promptly forward a copy of the vested rights petition to the City Attorney following acceptance.
- (b) If the responsible official is the decision-maker on the application, the official shall determine whether the relief requested in the vested rights petition should be granted in whole or in part, and shall formulate a written report summarizing the official's reasoning and setting forth the decision on the petition, which shall be delivered to the applicant within ten (10) business days from the date the vested rights petition is accepted for filing, unless the tenth business day falls on a weekend or a City holiday, in which case the deadline shall be the next business day following said weekend or holiday.
- (c) If the application is to be decided by the Planning and Zoning Commission or another board or commission, the Building Official shall submit a report in the form of a recommendation to the decision-maker. The commission or board shall render a decision on the vested rights petition in conjunction with its decision on the application.
- (d) Where the City Council is the final decision-maker on the application, or for any petition submitted pursuant to Section 1.2.5.8, the petitioner may submit a written request that the vested rights petition be immediately forwarded to the Council for a determination. The request must be accompanied by a waiver of the time for decision on the application imposed under this Unified Development Code pending decision by the Council on the petition, which shall stay further proceedings on the application. Upon receipt of the request, the responsible official shall prepare a recommendation and forward the matter to the Council for decision, which shall decide the petition within thirty (30) calendar days of the petitioner's request. If no written request for Council referral is filed, the Council shall decide the vested rights petition with its decision on the application.
- (e) The petitioner or any interested person may appeal the responsible official's or the commission's or board's decision on the vested rights petition within ten (10) working days of the date of such decision to the City Council in accordance with the procedures in Division 1 of this Article 3. An appeal under this Subsection stays acceptance of filing of any related applications. The Council shall decide the petition within thirty (30) days of receipt of the notice of appeal.

Section 1.3.3.4. Action on Petition and Order

- (a) The decision-maker on the vested rights petition may take any of the following actions:
- (1) Deny the relief requested in the petition, and direct that the application shall be reviewed and decided under currently applicable standards;
 - (2) Grant the relief requested in the petition, and direct that the application shall be reviewed and decided in accordance with the standards contained in identified prior regulations; or
 - (3) Grant the relief requested in part, and direct that certain identified current standards shall be applied to the application, while standards contained in identified prior regulations also shall be applied; or
 - (4) For petitions filed pursuant to Section 1.2.5.8, specify the expiration date or the conditions of expiration for the permit(s).
- (b) The responsible official's report and each decision on the vested rights petition shall be memorialized in an order identifying the following:
- (1) The nature of the relief granted, if any;
 - (2) The approved or filed application(s) upon which relief is premised under the petition;
 - (3) Current standards which shall apply to the application for which relief is sought;
 - (4) Prior standards which shall apply to the application for which relief is sought, including any procedural standards;
 - (5) The statutory exception or other grounds upon which relief is denied in whole or in part on the petition;
 - (6) To the extent feasible, subordinate applications that are subject to the same relief granted on the petition; and
 - (7) For petitions filed pursuant to Section 1.2.5.8, the date of expiration of the permit or permits.

Section 1.3.3.5. Criteria for Approval

- (a) The decision-maker shall decide the vested rights petition based upon the following factors:
- (1) The nature and extent of prior applications filed for the land subject to the petition;
 - (2) Whether any prior vested rights determinations have been made with respect to the property subject to the petition;
 - (3) Whether any prior approved applications for the property have expired or have been terminated in accordance with law;
 - (4) Whether current standards adopted after commencement of the project-affect proposed use of the land based upon the proposed application;

- (5) Whether any statutory exception applies to the standards in the current Unified Development Code from which the applicant seeks relief;
 - (6) Whether any prior approved applications relied upon by the petitioner have expired;
 - (7) For petitions filed pursuant to Section 1.2.5.8, whether any of the events in Section 1.3.3.8(c) have occurred; and
 - (8) Any other provisions outlined in the Texas Local Government Code Chapter 245 or successor statute.
- (b) If the claim of vested rights under a petition is based upon a pending application subject to standards that have been superseded by current standards under this Unified Development Code, the decision-maker may condition any relief granted on the petition on the approval of the application under such prior standards.

Section 1.3.3.6. Application Following Final Decision on Petition

- (a) Following the City's final decision on the vested rights petition, the property owner shall conform the application for which relief is sought to such decision. The decision-maker on the application shall consider any application revised under this Subsection in accordance with the procedures for deciding the initial application under this Unified Development Code and in conformity with the relief granted on the petition. If the relief granted on the vested rights petition is consistent with the application on file, no revisions are necessary. If proceedings have been stayed on the development application pending referral of the vested rights petition to the City Council, proceedings on the application shall resume after the Council's decision on the vested rights petition.

Section 1.3.3.7. Expiration and Extension

- (a) Relief granted on a vested rights petition shall expire on occurrence of one of the following events:
- (1) The petitioner or property owner fails to submit a required revised application consistent with the relief granted within forty-five (45) days of the final decision on the petition; or
 - (2) The application for which relief was granted on the vested rights petition is denied under the criteria made applicable through the relief granted on the petition; or
 - (3) The application for which relief was granted on the vested rights petition expires.
- (b) Extension of the date of expiration for the application for which relief was granted on a vested rights petition shall result in extension of the relief granted on petition for a like period.

Section 1.3.3.8. Dormant Projects

(a) For purposes of this section only:

- (1) Initial permit means any of the following types of approvals granted under the UDC Ordinance, as amended, or any predecessor ordinance that was in effect prior to the adoption of this UDC, including: site plan, design plan, special use permit, variances or any other application that was approved subject to a schematic drawing illustrating the location, arrangement, orientation, or design improvements on a site intended for development.
- (2) Final permit means a building permit or certificate of occupancy, approved under the UDC Ordinance, as amended, or any predecessor ordinance that was in effect prior to the adoption of this UDC.

(b) Any application for an initial permit that was approved or filed before, but that was not subject to an expiration date, two (2) years prior to the adoption date of this UDC shall expire on the effective date of this Unified Development Code.

(c) The owner of the land subject to an initial permit that expires under Subsection (b) above may petition the City Council to reinstate such permit by filing a written petition within sixty (60) calendar days of the effective date of this Unified Development Code. The petition shall clearly state the grounds for reinstatement, and shall be accompanied by documentation of one of the following:

- (1) As of two (2) years prior to the adoption date of this UDC, one of the following events had occurred:
 - a. A final permit for all or part of the land subject to the approved initial permit was approved, or was filed and was subsequently approved;
 - b. An application for a final permit was submitted for all or part of the land subject to the expired initial permit, but such application was rejected on grounds of incompleteness;
 - c. Costs for development of the land subject to the initial permit, including but not limited to costs associated with roadway, utility and other infrastructure facilities designed to serve the land in whole or in part, but exclusive of land acquisition costs, were incurred in the aggregate amount of five percent (5%) of the most recent appraised market value of the land;
 - d. Fiscal security was posted to ensure performance of an obligation required for all or a part of the land subject to the approved initial permit; or
 - e. Utility connection fees for all or part of the land subject to the approved initial permit were paid.
- (2) After two (2) years prior to the adoption date of this UDC but before the expiration date specified in Subsection (b) above, one of the following events had occurred:
 - a. A final permit was approved for all or part of the land subject to the approved permit, and remained in effect for such land on such expiration date; or

- b. A complete application for approval of a final permit for all or part of the land subject to the approved initial permit was pending for decision on such expiration date.
- (d) The City Council may take one of the following actions:
 - (1) Reinstate the expired initial permit without an expiration date, if it finds that the petitioner has met any one of the criteria listed in Subsection (c)(1);
 - (2) Reinstate the initial permit for all or part of the land subject thereto, if it finds that the petitioner has met any one of the criteria listed in Subsection (c)(2), subject to such expiration dates or other conditions that assure that the remaining land that is not subject to an approved or pending final permit application will be developed in a timely fashion. In granting relief under this provision, the Council may require that development of such remaining land is subject to standards enacted after approval of the initial permit;
 - (3) Deny the petition, if it finds that the petitioner has failed to meet any of the criteria in Subsection (c); or
 - (4) Reinstate the permit for only that part of the land subject to a pending final permit application, if it finds that the petitioner has met the criteria in Subsection (c)(2)(b) and the pending application subsequently was approved and deny the petition for the remaining land subject to the expired initial permit.

Division 4 – Petition for Waivers

Section 1.3.4.1. Purpose, Applicability and Effect

- (a) The purpose of a petition for a waiver is to determine whether one or more standards of applicable to applications or permits within this Unified Development Code should not be applied to an application by operation of state law.
- (b) The applicant may file a petition for waiver of one or more standards applicable to a application or permit.

Section 1.3.4.2. Application & Decision-maker

- (a) The waiver petition shall be decided by the City Council.

Section 1.3.4.3. Criteria for Approval

- (a) The following criteria shall be applied in deciding a waiver:

- (1) There are special circumstances or conditions arising from the physical surroundings, shape, topography, or other feature affecting the land such that the strict application of the provisions of this Chapter to the proposed use would create an unnecessary hardship or inequity upon or for the applicant, as distinguished from a mere inconvenience, in developing the land or deprive the applicant of the reasonable and beneficial use of the land;
 - (2) The circumstances causing the hardship do not similarly affect all or most properties in the vicinity of the petitioner's land;
 - (3) The waiver is necessary for the preservation and enjoyment of a substantial property right of the petitioner;
 - (4) Granting the waiver will not be detrimental to the public health, safety, or welfare, or injurious to other property within the area;
 - (5) Granting the waiver will not have the effect of preventing the orderly use and enjoyment of other land within the area in accordance with the provisions of this Code, or adversely affect the rights of owners or residents of surrounding property;
 - (6) The hardship or inequity is not caused wholly or in substantial part by the petitioner;
 - (7) The request for a waiver is not based exclusively on the petitioner's desire for increased financial gain from the property, or to reduce an existing financial hardship; and
 - (8) The degree of variation requested is the minimum amount necessary to meet the needs of petitioner and to satisfy the standards in this section.
- (b) The petitioner bears the burden of proof to demonstrate that the application of a dedication or construction requirement that is uniformly applied imposes a disproportionate burden on the petitioner.
- (c) The City Council shall consider the waiver petition and, based upon the criteria set forth in Subsection (a) above, shall take one of the following actions:
- (1) Deny the petition, and impose the standard or requirement as it is stated in this UDC; or
 - (2) Grant the petition and waive in whole or in part the standard or requirement as it is stated in this UDC.
- (d) The petitioner shall be notified of the decision on the waiver petition in the manner provided in Article 2, Division 2 of Chapter 1.

Section 1.3.4.4. Effect of Approval

- (a) The waiver granted shall remain in effect for the period the approved development application is in effect and shall expire upon expiration of the application. Extension of the application also shall result in extension of the relief granted on the petition.

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Chapter 3: Site Development Design and Improvements

Article 1 – Landscape

Division 1 – General

Section 3.1.1.1. Purpose

- (a) These regulations are enacted to ensure the health, safety, and welfare of the Citizens of Iowa Colony, Texas by protecting the existing natural environment and providing additional exterior landscaping requirements that enhance the outdoor visual character and quality of life.

Section 3.1.1.2. Application/Authority/Jurisdiction

- (a) This article is applicable to all persons, including, without limitation, the city and other governmental agencies and entities, except that its application shall not extend to real property owned or controlled by the State of Texas or the United States of America.
- (b) The Building Official or an assign shall have authority and jurisdiction over all trees, shrubs and plants of any kind and character that are now or may hereafter be planted on or along the streets or other public places of the city, including all plantings of every kind and character lying outside of the property lines of privately owned property and as prescribed in this Code.
- (c) The Building Official or an assign shall have the duty to:
 - (1) Direct, regulate and encourage the planting, culture and preservation of shade and ornamental trees and plants on the streets and public places of the City;
 - (2) Direct, regulate and encourage the pruning, spraying, cultivation and maintenance of such trees and plants, and to direct the time and method of pruning and trimming the same;
 - (3) Remove or cause to be removed any tree or plant, or other obstruction that a would interfere with the development of adjoining trees or plants or with the free use of the streets or sidewalks;
 - (4) Advise property owners with respect to the kinds of trees to plant or shrubbery desired on the particular street, and the method of planting the same;
 - (5) Take all such measures as may be deemed necessary or desirable to control all dangerous insects, pests and plant diseases that may affect trees or shrubbery on the streets or other public places in the city;

- (6) Devise plans for the planting of trees on and along the streets between the curbs and property lines within the city, where trees may be desirable;
- (7) Prescribe the character, kind, size, space, and position of all trees so planted on or along public streets or other public places;
- (8) Prevent the planting of trees, shrubs or other plants that are not desirable; and
- (9) Plant or cause to be planted such trees on or along such streets or other public places as the Building Official or an assign may deem proper.

Section 3.1.1.3. Designation of Trees.

- (a) The city council may by motion designate a tree that:
 - (1) Has historical significance arising from any historical event or events that are associated with the tree; or
 - (2) Has arboricultural significance as listed on the county, state or national tree register by American Forests, the Texas Forest Service, or an equivalent arboricultural organization.
- (b) No tree shall be designated except upon application made or joined by the owner of the tree, which application shall be filed with the Building Official or an assign in such for as the Building Official or an assign may require and shall set forth and document the grounds for the requested designation.
- (c) The Building Official or an assign shall review each application that is received and shall return any application that is determined to be incomplete or inconsistent with the requirements of this section. A complete and consistent application that is based upon historical significance shall be submitted for review by the Building Official or an assign, which shall review the same and provide a response, if any, within 45 days. The Building Official or an assign shall submit comments of the City Council together with the Building Official or an assign's own recommendation for approval or denial.
- (d) The City Council shall consider each application based on the application itself and the recommendations and comments provided. City Council shall not be obligated to conduct any hearing on the matter, provided that interested persons may make an appearance on the matter or may submit written comments to the city secretary for distribution to the council members.
- (e) The City Council shall approve or disapprove an application that is referred by the Building Official or an assign by motion. The decision of the City Council shall be final, and if the application is disapproved, another application for designation of the same tree may not be considered for a period of three years.

- (f) To the extent permitted by laws governing the filing of documents in Brazoria County real property records, a notice setting forth each tree designation shall be filed by the City in the real property records of Brazoria County.

Section 3.1.1.4. Green Corridors

- (a) A green corridor may be designated in accordance with this section.
- (b) In this section, a tract or parcel of land and its contiguous parkway that is devoted by actual use or by valid deed restrictions or covenants running with the land to single-family residential use or being located within a single-family residential zoning district is referred to as a "single-family property." The provisions of this section shall not be construed to prohibit a single-family property from being physically situated within a green corridor. However, a single-family property shall not be subject to any requirement created by the green corridor designation.
- (c) Each green corridor shall consist of the right-of-way of a major thoroughfare and building setback areas of abutting and contiguous properties. A green corridor shall be not less than one (1) mile long.
- (d) A green corridor may be designated by the City Council by motion following a hearing and determination that designation of the green corridor would significantly enhance the beautification of the city. Trees within the green corridor shall be entitled to enhanced protection as provided in this article, and the City Council may, in designating the green corridor, specify one or more particular species, varieties, and/or colors of trees to be planted, to the exclusion of others within the green corridor. Additionally, green corridors may be given priority for expenditure of city moneys for street tree planting, to the extent permitted by law.
- (e) Petitions for the designation of a green corridor shall be submitted to the city secretary upon a form promulgated by the Building Official or an assign for that purpose. Each petition shall be joined and signed by the owners of properties representing three quarters of the front footage of tracts or parcels that would be adjacent to the major thoroughfare in the proposed green corridor, single-family properties and their owners excluded. All required signatures must be collected within a period not exceeding 90 days, and the petition must be filed with the city secretary not later than the fifteenth day after the last date of any property owner's signature on the petition.
- (f) The City Council shall conduct a hearing regarding each petition within 90 days following the date of its filing. Written notice of the hearing shall be given by the city secretary in such manner as the City Council may specify in the call for the hearing. Any person may present testimony at the hearing. Additionally, written comments may be provided to the city secretary for distribution to council members. If a petition is disapproved, another petition for designation of the same or substantially the same green corridor shall not be considered for a period of three years.

- (g) Nothing in this section shall be construed to prohibit the City Council from waiving any irregularity in any petition or from designating any green corridor for which a petition has not been presented.

Section 3.1.1.5. Removal of Protected Trees

- (a) The provisions of this section shall be applicable to the removal of a protected tree unless:
 - (1) The tree is situated upon the site of a construction or enlargement of a building or parking lot such that Division 2 of this article is applicable; or
 - (2) The tree is not a designated tree and is situated upon a tract or parcel of land devoted by use or by valid deed restrictions or covenants running with the land to single-family residential use or within a single-family residential zone; and the term "protected tree" is so restricted as used in this section.
- (b) No person shall cause a protected tree to be removed without complying with a protected tree replacement requirement, which may be satisfied as follows:
 - (1) By the planting anywhere on the tract or parcel of land where the protected tree to be removed is situated or in the adjacent parkway area of additional trees based on one caliper inch of tree planted for one caliper inch of tree removed; or
 - (2) By contributing to the fund created under section 3.1.2.3 (a) (2) of this Code an amount equal to:
 - a. If the tree is a parkway tree, \$225.00 per caliper inch of tree removed for a six-inch (6") caliper tree and smaller, \$375.00 per caliper inch of tree removed for over six inch and up to twelve-inch (12") caliper trees, and \$500.00 per caliper inch of tree removed for over twelve-inch (12") caliper trees; or
 - b. If the tree is a corridor tree or green corridor tree, \$103.00 per caliper inch of tree removed; or
 - c. A combination of the foregoing;

any or all of which shall be subject to a cost adjustment from January 2016 in accordance with the formula established in the definition of the term "cost adjustment."

Installation of trees provided shall be subject to the planting standards established in Division 2 of this article, and the trees shall be planted within 30 days following the removal of the tree unless a documented assurance of planting is provided to the Building Official or an assign with the notice, in which case the trees shall be placed within six months of the removal of the trees. A documented assurance may be provided in the same manner as under section 3.1.2.12 (b) of this Code. A variance may be requested in the same manner provided in sections 3.1.2.14 through 3.1.2.16 of this Code. Additionally, the mitigation

provisions of section 3.1.2.17 of this Code shall be applicable to trees that are provided to satisfy a protected tree replacement requirement.

- (c) No person shall cause a protected tree to be removed without first filing with the Building Official or an assign a written notice of removal of the protected tree, which must be filed at least 20 days prior to the removal. The notice shall include a map depicting the tract or parcel of land upon which the protected tree or trees to be removed are situated and shall demonstrate the way the protected tree replacement requirement will be provided.
- (d) It is an affirmative defense to prosecution under this section that the protected tree sustained damage from fire, windstorm, accident or other cause such that the protected tree became an immediate threat to persons or property, provided that the owner of the tree caused the circumstances to be documented and filed written notice of the removal with the Building Official or an assign within ten days following the removal of the tree.
- (e) It is a defense to prosecution under this section that the protected tree was removed by or on behalf of a public utility or a governmental entity and that its removal without notice was reasonably required for the maintenance or installation of public facilities or utility systems.
- (f) The Building Official or an assign shall promulgate forms of notices and procedures under this section. A map need not be prepared in the form of a survey map, if it shall provide sufficient information to unmistakably identify the protected tree that is to be removed and the location of any tree that is to be planted to provide the protected tree replacement requirement, as well as the species and caliper of each tree. If the owner elects to contribute to the fund created under section 3.1.2.3 (a) (2) of this Code, then the contribution shall be tendered with the notice. No provision of this section shall be construed to require city personnel to review any notice filed under this section for accuracy or sufficiency or to perform any site inspection of trees for which notices are filed.
- (g) No provision of this article shall be deemed to excuse compliance with Division 3 of this chapter. If a notice of removal calls for the removal of a tree situated in a public right-of-way that is protected under Division 3, then written permission for its removal issued by Building Official or an assign shall be submitted with the notice of removal that is required under subsection (c), above.

Section 3.1.1.6. Cumulative Effect

- (a) The protections afforded to trees under this article are cumulative of other provisions of this Code, including, but not limited to, section 3.1.1.2 and Division 3 of this chapter. Without limitation of the foregoing, nothing in this article shall be construed to authorize the removal or damaging of a tree growing in whole or in part within a public street that is subject to protection under Division 3 without full compliance with the provisions of Division 3.

Section 3.1.1.7. Tree Protection; Affirmative Defense

- (a) No person shall perform or cause or allow to be performed any construction activity, including, without limitation, construction or repair of buildings or other structures, installation or repair of utilities, or installation or repair of streets or sidewalks within the dripline circle area of any protected tree that is not to be lawfully removed, without complying with the applicable provisions of the City of Iowa Colony Engineering Design Criteria Manual with respect to any protected tree. It is an affirmative defense to prosecution under this section that the construction activity is an emergency repair of utilities on public or private property.

Section 3.1.1.8. Records

- (a) Notices, maps, applications, landscape plans and other documents received by the city under this article are governmental records, and any person providing a false governmental document shall be subject to prosecution as provided by the Texas Penal Code.
- (b) Governmental records received by the city under this article are subject to public inspection and copying as provide by law.

Section 3.1.1.9. Fines and Penalties

- (a) See Chapter 1

Section 3.1.1.10. Single-family Residential Properties

- (a) While properties with an existing single-family residence are not subject to the requirements of Division 2 of this article, it is the policy and requirement of the city that no final building permit inspection approval shall be given by the building official for construction of a new single-family residential house unless the property owner has complied with this section by preserving or planting a tree or trees or obtaining credit therefor, as follows:
 - (1) The required tree or trees, whether planted or preserved, shall be one and one-half inches (1½) caliper size or larger.
 - (2) The required tree or trees may be either new trees that are planted in compliance with this article or trees already existing on the building site or abutting street right-of-way as herein below provided that have been preserved in accordance with this article.

(3) The required tree or trees, whether newly planted or preserved, must be of species listed on the Large Tree list or the Small Tree list.

(4) Except as provided in subsection (b), below, the requirement for building sites or lots being one (1) acre or more in size is:

- a. Planting or preservation of one tree of one and one-half inch (1½") caliper or larger, per six-thousand three-hundred (6,300) square feet of lot or building site; or
- b. If the tree is an existing tree that is preserved, then it may be situated anywhere on the building site or in the abutting street right-of-way.
- c. For a newly planted tree, up to one-half (1/2) of the total tree requirement, it may be planted in the abutting street right-of-way, unless the Building Official or an assign requires it to be planted elsewhere on the building site upon determination by the Building Official or an assign that no adequate planting site exists in the abutting street right-of-way.

(5) Except as provided in subsection (b), below, the requirement for building sites or lots being between six-thousand and three hundred (6,300) square feet and one (1) acre in size is:

- a. Planting of two (2) new trees of one and one-half inch (1½") caliper or larger per six-thousand three-hundred (6,300) square feet of lot or building site area; if this option is selected, then one tree must be planted in the abutting street right-of-way unless the Building Official or an assign requires it to be planted elsewhere on the building site upon determination by the Building Official or an assign that no adequate planting site exists in the abutting street right-of-way, and the other tree shall be planted on the building site; or
- b. Planting of one new tree of four inch (4") caliper or larger per six-thousand three-hundred (6,300) square feet of lot or building site area; if this option is selected, then the tree may be planted in the abutting street right-of-way, unless the Building Official or an assign requires it to be planted elsewhere on the building site upon determination of the Building Official or an assign that no adequate planting site exists in the abutting street right-of-way; or
- c. Preservation of an existing tree of 1½-inch caliper or larger, up to one-half (1/2) of the total tree requirement and planting of one new tree of 1½-inch caliper or larger per six-thousand three-hundred (6,300) square feet of lot or building site area; if this option is selected, then one tree may be preserved in the abutting street right-of-way and the other tree shall be planted either (1) within the abutting street right-of-way unless the Building Official or an assign requires it to be planted elsewhere on the building site upon determination by the Building Official or an assign that no adequate planting site exists in the abutting street right-of-way, or (2) elsewhere on the building site.

- (b) The Building Official or an assign may excuse the planting or preservation of the tree or trees otherwise required under this section and instead authorize the property owner to purchase credits under section 3.1.2.3 of this Code upon determination that the size and configuration of the property and the house do not afford sufficient space for the planting or preservation of even one tree.
- (c) Nothing in this ordinance shall waive any rights of the City to control its rights-of-way, including but not limited to the right to remove a tree from the right-of-way.

Section 3.1.1.11. Screening of Electric Meters on Residential Properties

A single-family or multi-family residential development that contains three or more electric meters that are clustered together in a group meter or gang meter configuration that is visible from the right-of-way shall install screening around the electric meters in accordance with the following:

- (1) The screen must be constructed out of wood, lattice, metal, brick, vegetation, or other opaque fencing material;
- (2) The screen must be tall enough to obstruct the view of the electric meters from the right-of-way; and
- (3) The screen shall provide for at least three (3) feet of front clearance from the face of the meter and at least two (2) feet of side clearance from the electric meter, or the minimum clearance for electric meters required by all utility companies with authority to service the electric meters.

Section 3.1.1.12. Limitation on Tree Mitigation Requirements and Fees

(a) In this section:

- (1) "Residential structure" means:
 - a. A manufactured home as that term is defined by Section 1201.003 Texas Occupations Code;
 - b. a detached one-family or two-family dwelling, including the accessory structures of the dwelling;
 - c. a multiple single-family dwelling that is not more than three (3) stories in height with a separate means of entry for each dwelling, including the accessory structures of the dwelling; or
 - d. any other multifamily structure.

- (2) "Tree mitigation fee" means a fee or charge imposed by the City in connection with the removal of a tree from private property.
- (b) This Code does not require a person to pay a tree mitigation fee for the removed tree if the tree:
- (1) is located on a property that is an existing one-family or two-family dwelling that is the person's residence; and
 - (2) is less than ten (10) inches in diameter at the point on the trunk four-point-five (4.5) feet above the ground.
- (c) To the extent that this Code imposes a tree mitigation fee for tree removal on a person's property, that person may apply for a credit for tree planting under this Article to offset the amount of the fee, and the City must grant the credit to the extent provided by this Article, if the application complies with this section.
- (d) An application for a credit under subsection (c) must be in the form and manner prescribed by the Building Official. To qualify for a credit under this section, a tree must be:
- (1) planted on property:
 - a. for which the tree mitigation fee was assessed; or
 - b. mutually agreed upon by the City and the person; and
 - (2) at least two (2) inches in diameter at the point on the trunk four-point-five (4.5) feet above the ground.
- (e) For purposes of subsection (d) (1) b, the City and the person may consult with an academic organization, state agency, or nonprofit organization to identify an area for which tree planting will best address the science-based benefits of trees and other reforestation needs of the City.
- (f) The amount of a credit provided to a person under this section must be applied in the same manner as the tree mitigation fee assessed against the person and;
- (1) equal to the amount of the tree mitigation fee assessed against the person if the property is an existing one-family or two-family dwelling that is the person's residence (Note: The mitigation fee is zero in these circumstances, per subsection (b), if the tree removed is less than ten (10) inches in diameter at a height of four-point-five (4.5) feet above the ground, so this paragraph applies only to trees at least ten (10) inches in these circumstances);
 - (2) at least fifty (50) percent of the amount of the tree mitigation fee assessed against the person if;
 - a. the property is a residential structure or pertains to the development, construction, or renovation of a residential structure; and
 - b. the person is developing, constructing, or renovating the property nor for use as the person's residence; or

- (3) at least forty (40) percent of the amount of the tree mitigation fee assessed against the person if;
 - a. the property is not a residential structure; or
 - b. the person is constructing or intends to construct a structure on the property that is not a residential structure.
- (g) As long as the City meets the requirement to provide a person a credit under subsection (c), this section does not affect the ability of or require the City to determine the following, and does not impair any provisions of this Article requiring the determining the following:
 - (1) the type of trees that must be planted to receive a credit under this section, except as provided in subsection (d);
 - (2) the requirement for tree removal and corresponding tree mitigation fees, if applicable;
 - (3) the requirements for tree-planting methods and best management practices to ensure that the tree grows to the anticipated height at maturity; or
 - (4) the amount of a tree mitigation fee.
- (h) This Code does not prohibit the removal of or impose a tree mitigation fee for the removal of a tree that:
 - (1) is diseased or dead; or
 - (2) poses an imminent or immediate threat to persons or property.

Division 2 – Building Sites

Section 3.1.2.1. Application

- (a) The requirements of this division shall only apply to a building site where any of the following conditions is present:
 - (1) There is new construction of a nonresidential or multifamily residential building for which a building permit is required;
 - (2) There is an enlargement exceeding one thousand (1,000) square feet in area of the exterior dimensions of an existing nonresidential or multifamily residential building for which a building permit is required;
 - (3) There is either a new parking lot for which site plans are required for initial construction or an existing parking lot which is expanded in area to provide additional parking spaces; or
 - (4) There is a city-funded construction or reconstruction project that includes the entire width of the pavement of a public street and is at least thirty (30) feet in length.
- (b) The requirements of this division apply to the entirety of the building site if:

- 1) It is completely developed by the new construction of a building (or buildings) and appurtenant surface parking area, or
- 2) It is a city-funded construction or reconstruction project that includes the entire width of the pavement of a public street and is at least thirty (30) feet in length.

In case the entirety of the building site is only partially developed by new construction or enlargement, the requirements of this division shall be applied incrementally. Trees, shrubs, and landscape buffers are required with respect to and in proportion to:

- 1) The area of the new or increased building and off-street parking spaces, or
- 2) The length of street pavement, if the building site is a city-funded construction or reconstruction project that includes the entire width of the pavement of a public street and is at least 30 feet in length. This subsection shall control over any other conflicting or inconsistent provision.

(c) The requirements of this division do not apply to:

- (1) The reconstruction of an existing single family structure;
- (2) The reconstruction of any existing non-residential building of which fifty (50) percent of the existing building floor area square footage or less was physically destroyed or ruined by flooding, fire, windstorm, or act of God. This exemption shall apply only where reconstruction of that building will not result in an increase in the paving area of the parking facilities to be provided; or
- (3) The placement of a temporary classroom building if there is a reasonable likelihood that the condition necessitating a temporary classroom building will not continue for more than five (5) years and an analysis of the public-school site and the buildings thereon support the conclusion that timely compliance with the statutory student/teacher ratio cannot be achieved without the installation of the temporary classroom building(s).

(d) Nothing in this division shall be construed to require a landscape plan or landscape plan review for finish work performed by an owner, a tenant or on behalf of a tenant, in a portion of a building unless that tenant finish work or remodeling results in an increase in the paving area of the parking facilities to be provided or in an enlargement of the exterior dimensions of an existing building.

(e) Nothing in this division shall be construed to preclude the filing of a landscape plan where the requirements of this division are not otherwise applicable, and the property owner desires to plant trees and obtain a credit under section 3.1.2.3 (c) of this Code.

Section 3.1.2.2. Landscape Plan Required

- (a) A landscape plan for the building site shall be submitted to the Building Official or an assign by an applicant for a building permit for approval in accordance with the provisions of this division.
- (b) The landscape plan may be depicted on either the development plans or parking lot site plan, provided the drawing scale is sufficient to properly depict the landscape plan requirements. The landscape plan shall identify and show the locations of existing and proposed utility lines (both above and below ground), roadways, sidewalks, streetlights, trees, shrubs, understory, natural features, other landscape elements, and planting or construction details. Where credit is being requested for the preservation of existing trees and associated understory, the landscape plan shall also demonstrate the way the requirements for preservation established under section 3.1.2.10 are to be satisfied. A plant schedule shall be provided which includes quantities, minimum size at time of planting, and botanical and common names keyed to the plan.
- (c) If the building site includes any protected trees, then the landscape plan shall depict the location of each and indicate whether each is to be removed or preserved. If any protected trees are to be removed, then a protected tree replacement requirement shall be applicable, in addition to any other tree planting requirements of this division, which may be satisfied as follows:
 - (1) By the planting anywhere on the building site or in the adjacent parkway area of additional trees based on one (1) caliper inch of tree planted for one (1) caliper inch of tree removed;
 - (2) By contributing to the fund created under section 3.1.2.3. (a) (2) of this Code an amount equal to either:
 - a. If the tree is a parkway tree, two hundred and twenty-five dollars (\$225.00) per caliper inch of tree removed for a six-inch (6") caliper tree and smaller, three hundred and seventy-five dollars (\$375.00) per caliper inch of tree removed for over six-inch (6") and up to twelve-inch (12") caliper trees, and five hundred dollars (\$500.00) per caliper inch of tree removed for over twelve-inch (12") caliper trees; or
 - b. If the tree is a green corridor tree, \$103.00 per caliper inch of tree removed, which shall be subject to a cost adjustment from January 2016 in accordance with the formula established in the definition of the term "cost adjustment".
 - (3) By preservation credits as provided in section 3.1.2.3 (b) of this Code; or
 - (4) By a combination of the foregoing.
- (d) The protected tree replacement requirement shall not be applied to trees;
 - (1) That must reasonably be removed to:

- a. Install or maintain public utilities;
 - b. Construct or maintain access drives, streets and sidewalks;
 - c. Prevent visual impairment in a visibility triangle;
 - d. Prevent visual impairment where a driveway intersects with a street; or
 - e. Conduct emergency repairs of utilities on public or private property; or
- (2) That are in poor condition, such that it is more likely than not that the tree would have died within one (1) year if not removed.
- (e) Based upon the landscape plan as filed, the Building Official or an assign shall review the landscape plan to verify compliance with all requirements of this article prior to the issuance of a building permit. If an artificial lot is delineated, it shall be depicted on the building plans prior to the issuance of the building permit. Nothing in this section shall be construed to require that city personnel perform a site inspection prior to the issuance of the building permit.
- (f) No building permit shall be issued by the building official for the construction or alteration of a building within the city unless the Building Official or an assign approves the landscape plan verifying that the applicant has provided for the planting of trees and shrubs to the extent required in this article. If the landscape plan calls for the removal of any protected tree, then the building permit shall be conditioned such that the protected tree may not be removed until the twentieth day following the date of filing of the landscape plan.
- (g) Except as provided in subsection (h) below, no final certificate of occupancy shall be issued by the building official for the occupancy of a new or altered building unless the plantings required by this article have been provided. Prior to the issuance of a certificate of occupancy, the building official shall inspect the planting provided to verify compliance with the approved landscape plan.
- (h) A conditional certificate of occupancy may be issued if the owner provides the building official with either the documented assurances specified in section 3.1.2.3 or a bond or assigned certificate of deposit as set forth in section 3.1.2.13.
- (i) Except for section 3.1.1.12. which concerns tree removal mitigation, no provision of this article shall be deemed to excuse compliance with Division 3 of this chapter. If a landscape plan calls for the removal of a tree situated in a public right-of-way that is protected under Division 3 of this chapter, then written permission for its removal issued by the Building Official or an assign and shall be submitted with the landscape plan filed under this section.

Section 3.1.2.3. Tree Planting Equivalency Credits

- (a) The following credits may be claimed against the total tree requirement under this division:
- (1) Credit for planting trees exceeding the minimum caliper required. Credit toward the total tree requirement shall be given for the planting of trees that exceed the

minimum caliper required by this division at the rate of two (2) trees for each tree with a caliper of four inches (4") or more that is planted.

- (2) Credit for depositing with the City a sum of money equal to the cost of planting the required trees. Money so deposited shall be placed in a special fund designated for the purposes of planting street trees in city parks or public street rights-of-way that are located as near as possible to the area in which the removed trees were located. The credit shall be calculated based on a planting cost per tree of five hundred dollars (\$500.00) per fifteen (15) gallon container-grown tree, planted and maintained for a year, subject to a cost adjustment from January 2016 in accordance with the formula established in the definition of the term "cost adjustment." The maximum allowable credit under this option shall not exceed thirty percent (30%) of the total tree requirement.
- (3) Credit for preserving existing on-site trees. Credit for the preservation of existing on-site trees (including any to be transplanted) may be granted when requested and depicted on the landscape plan in accordance with section 3.1.2.2. In order to be eligible for credit, an existing tree to be preserved on the site shall have a minimum caliper of one and one-half inches (1½"), shall be in good condition, and shall be true to species habit and form. Credit for preserving existing trees shall be granted based upon the caliper of the trees preserved, with a credit of one (1) tree to be allowed for each one and one-half (1½) total caliper inches of eligible trees that are preserved, subject to the limitations otherwise provided in this division. This item (3) shall not apply to trees situated in the abutting street right-of-way.
- (4) Credit for preserving existing right-of-way street trees. Credit for the preservation of existing trees situated within the abutting street right-of-way that are designated on the Large Tree list may be granted when requested and depicted on the landscape plan in accordance with section 3.1.2.2 of this Code. To be eligible for credit, an existing street tree to be preserved shall have a minimum caliper of one and one-half inches (1½"), shall be situated in the street right-of-way, be in good condition, and be true to a species listed on the Large Tree list in habit and form. Credit for preserving existing street trees shall be granted based on one (1) street tree preserved for each street tree otherwise required to be planted in the same block-face under this article, with no additional credit being allowed for preservation of a street tree that exceeds one and one-half inches (1½") in caliper. Preservation methods for the tree must be at a minimum those specified in section 3.1.2.9. of this Code.

Provided, however, that:

- (5) The combined credit under items (1) and (2) above may not exceed fifty percent (50%) of the total tree planting requirement, and
- (6) The total number of Large Trees, whether planted or preserved, shall never be less than fifty percent (50%) of the number required in section 3.1.2.6. of this Code as applied separately to each side of the property that abuts a street right-of-way and, if any side abuts two (2) or more block faces, then separately to each block face.

- (b) A credit may be claimed for up to the entire protected tree replacement requirement for preservation of existing trees in the same manner provided in subsection (a)(3), above, except that the credit shall be based upon one (1) caliper inch of tree preserved for one (1) caliper inch of tree removed. However, a tree or caliper inch portion of a tree preserved may only be used for credit against the total tree requirement or the protected tree replacement requirement, but not both.
- (c) Any owner who proposes to plant trees when no planting requirement exists under this division or desires to plant trees more than the requirements of this division may, at the time of filing of a landscape plan, request future credit against tree requirements upon the same building site. Upon completion of the work and verification of the unrequired planting or excess in planting by the Building Official or an assign, a certificate of credit shall be provided by the Building Official or an assign to the owner.

Section 3.1.2.4. Artificial Lot Delineation

- (a) If the building site is over two acres in size, the applicant may request that the Building Official or an assign designate an artificial lot to satisfy the requirements of this division. If requested, the Building Official or an assign shall designate an artificial lot consistent with the purposes and policies of this division as determined from the criteria established below. No artificial lot may be delineated by the Building Official or an assign unless it:
 - (1) Wholly includes the area on which the construction work is to be done;
 - (2) Has an area that does not exceed fifty percent (50%) of the area of the building site; and
 - (3) Depicts and includes all proposed and existing buildings and structures, access drives, appurtenant parking required for the building expansion or new building construction, and other areas functionally appurtenant to the buildings or structures.

Section 3.1.2.5. Review of Documents

- (a) The Building Official or an assign shall review building permit applications for the construction or expansion of a building or parking lot, and construction drawings for city-funded construction or reconstruction projects that include the entire width of the pavement of a public street and are at least 30 feet in length, to determine if the proposed landscape plan complies with the provisions of this article.
- (b) When a certificate of occupancy is sought, the Building Official or an assign shall determine whether the applicant has complied with this article.
- (c) A building permit shall not be issued unless the application shows the plans, upon completion of construction, will comply with this article.

- (d) A certificate of occupancy shall not be issued or approved unless the applicant demonstrates compliance with the provisions of this article.

Section 3.1.2.6. Street Trees Required

- (a) Street trees shall be planted within the public street rights-of-way, or on private property within ten feet (10') parallel and adjacent to a local street right-of-way, or on private nonresidential property within 25 feet (25') parallel and adjacent to a major thoroughfare, or in the esplanade pursuant to the requirements of section 3.1.2.8 (b). When the building site abuts a designated state or federal highway or road or any designated county road and street trees are not otherwise required by law, street trees shall be planted on private property in accordance with this section. The number of street trees planted shall equal the total number of trees (T) required under the following formula:

$T = (X/30)$, where X shall represent the length in linear feet measured along each side of the property line on the public street(s).

This formula and all resulting planting requirements under this section shall be applied separately to each side of the property that abuts a street right-of-way, and if any side abuts two (2) or more block faces, then separately to each block face.

- (b) Street trees planted in accordance with this section shall be of a species listed on the Large Tree list. In the case of trees planted within the public rights-of-way, trees shall be planted in a location which conforms with the requirements of section 3.1.2.8. of this division. The trees shall be planted so as not to interfere with existing utilities, roadways, sidewalks, or streetlights.
- (c) The planting scheme for street trees shall be such that no street tree is planted closer than twenty feet (20') to any other street tree (whether an existing tree or a tree planted hereunder) with the trees being spaced without extreme variation in distance across each block face frontage considering existing site conditions and driveway locations. The Building Official or an assign may authorize a partial waiver under the credit terms of section 3.1.2.3 of this Code if he determines that planting all of the otherwise required street trees upon any given side of the property that abuts a street right-of-way or block face would result in excessive tree canopy, based upon existing trees that are to be preserved during construction. Any request for a waiver shall be in writing and shall specify the preservation methods that will be used for the existing trees, which shall meet or exceed the requirements of section 3.1.2.9. of this Code. Additionally, the Building Official or an assign may authorize the spacing to be reduced from twenty feet (20') to no less than eighteen feet (18') if he determines that the conditions in the right-of-way make compliance at twenty (20) foot spacing impracticable.

Section 3.1.2.7. Parking Lot Planting of Trees and Shrubs Required

- (a) In addition to any street trees that may be required pursuant to section 3.1.2.6, the owner of a building site included under section 3.1.2.1 shall provide one (1) tree for every ten (10) parking spaces, rounding up or down in the case of a fraction to the nearest whole number, but in no case less than one (1) tree. There shall be at least one (1) parking lot or street tree within one hundred and twenty feet (120') of each parking space as measured from the center of the trunk of the tree to some point on the marked parking space. Not fewer than one-half (1/2) of the parking lot trees so required shall be large trees, and the remainder may be either large or small trees. In the case of a parking lot that is being expanded, the trees required pursuant to this subsection may be planted in the same manner as those required for a new parking lot.
- (b) In addition to the street tree and parking lot tree requirements established within section 3.1.2.6 and subsection (a), above, the owner of a building site included under section 3.1.2.1 shall plant or cause shrubs, as listed on the Shrub List, Appendix 3.1.3.14, to be planted along the perimeter of all parking surfaces so that the parking lot is screened from all adjacent public streets, exclusive of driveway entrances, pedestrian walkways and visibility triangles. Shrubs shall be maintained at a height of no more than thirty-six inches (36") nor less than eighteen inches (18") as measured from the surrounding soil line. The number of shrubs required under this subsection shall be equal to the total number of street trees required under this division multiplied by ten (10). No less than seventy-five percent (75%) of the shrubs required under this section shall be planted along the perimeter of the parking surface adjacent to the public street.

Section 3.1.2.8. General Planting Standards

- (a) Trees and shrubs planted in a parkway shall be planted in accordance with the applicable standards required by Appendix 3.1.3.11 and Appendix 3.1.3.13. The following additional limitations shall apply:
 - (1) When located in the visibility triangle, trees shall be headed to a minimum height of seven feet (7'), and shrubs shall be maintained at a maximum height of thirty inches (30") as measured from the surrounding soil line.
 - (2) For streets with curbs or proposed curbs, trees shall be planted at least three feet (3') from the back of the existing curb or the city's final approved design line of the back of the curb of any public street as measured from the center line of the tree trunk. Provided, the city engineer may in writing authorize the planting distance to be reduced after review of the specific location, with the preference that at least two feet (2') of open space should be maintained between the street side of the tree and the back of the curb.
 - (3) For streets without curbs or proposed curbs, trees shall be planted at least four feet (4') behind the roadside drainage ditch as measured from the back (private

property) side of the top of the roadside drainage ditch bank to the center line of the tree trunk. Provided, the city engineer may in writing authorize the planting distance to be reduced, after review of the specific location, with the preference that the roots do not interfere with ditch maintenance.

(b) In addition to the tree and shrub planting standards contained within Appendix 3.1.3.11 and Appendix 3.1.3.13, trees and shrubs in esplanades shall be planted according to the following requirements:

- (1) Trees in any major arterial or major collector street esplanade shall not be planted closer to the end of the esplanade than seventy-five feet (75').
- (2) Trees in any local street esplanade shall not be planted closer to the end of the esplanade than fifty feet (50').
- (3) Trees planted in any esplanade shall be located not closer than fifty feet (50') from any mid-block opening in the esplanade.
- (4) Shrubs planted in any esplanade shall not be planted closer to the end of the esplanade than twenty-five feet (25') or closer than three feet (3') from the back of the curb or the final approved design line for the curb of any public street. Use of ground covers or annuals and perennials conforming with the height restrictions of a visibility triangle shall not be restricted.
- (5) Trees planted in the esplanade shall not be located closer than five feet (5') from the back of the curb or the final approved design line for the curb. Trees shall not be spaced at intervals of less than thirty feet (30').

(c) Any tree located within a parking lot must be planted and maintained within a permeable area which has a radius of not less than three feet (3'). No tree shall be planted closer than three feet (3') from a curb or tire stop.

Section 3.1.2.9. Preservation of Existing Trees and Associated Understory

(a) The following procedure shall be required where credit for the preservation of existing trees and associated understory is being requested to be applied toward the total tree planting requirement pursuant to section 3.1.2.3 of this Code or the protected tree replacement requirement. Where such credit is being requested, the applicant shall also supply to the Building Official for review with the building plans a tree and associated understory preservation plan, which shall be integrated into the proposed landscape plan and shall include:

- (1) Delineation of proposed limit of clearance and establishment of tree protection zones which shall extend to just outside the dripline of the tree and understory to be protected, if any;
- (2) Proposed soil stabilization practices, i.e., silt fence, hay bales;

- (3) The species of each tree to be preserved and for which credit is being requested;
 - (4) The proposed finished grade and elevation of land within six feet of or within the dripline of any tree to be preserved, whichever is greater, shall not be raised or lowered more than three inches (3") unless compensated for by welling or retaining methods;
 - (5) Existing and proposed location of all trees and plant materials to be relocated at the drawing scale;
 - (6) A landscaping tabulation, and itemized credit requests for existing trees to be preserved which have a minimum of four inches (4") in caliper and greater;
 - (7) Tree and associated understory preservation details; and
 - (8) Specification of ground plane treatment as either turf or sod. If a combination of both is utilized, the limit of each shall be indicated.
- (b) The following tree relocation information shall be provided on the landscape plan or in a report for the transplantation of existing specimen trees when preservation credit is being requested for them. This information shall include an assessment of the cost of transplanting the trees as opposed to the potential mortality rate which may result from the attempted transplantation. If relocation is elected, the following information shall be provided:
- (1) Transplanting techniques;
 - (2) Equipment to be utilized;
 - (3) Locations of existing trees and proposed locations for transplanted trees;
 - (4) Genus, species, caliper, height and general condition of the existing tree;
 - (5) Pruning and maintenance schedule and methods to be followed; and
 - (6) Which form of assurance of performance will be provided, i.e., executed contract, bond or assigned certificate of deposit.
- (c) If preservation credit is requested, the trees shall be protected and preserved as set forth in this Article and as promulgated by the Building Official or an assign and the City Engineer.
- (d) The Building Official or an assign shall make recommendations to minimize damage to existing vegetation during the site construction phase. The Building Official or an assign shall also suggest possible uses for those trees removed because of development such as the creation of wood chip mulch from removed hardwood trees.

Section 3.1.2.10. Duty; Affirmative Defenses

- (a) All owners of building sites included under section 3.1.2.1 shall plant or cause the planting of trees or shrubs required in sections 3.1.2.6 or secure the planting equivalency credits

allowed in section 3.1.2.3, and if protected trees are being removed, shall further satisfy the protected tree replacement requirement in accordance with this division.

- (b) All owners and lessees of new or expanded parking lots on building sites included under section 3.1.2.1 shall additionally plant trees or shrubs in compliance with section 3.1.2.7, and if protected trees are being removed, shall further satisfy the protected tree replacement requirement in accordance with this article.
- (c) It shall be an affirmative defense to prosecution under this section that:
 - (1) The person caused the tree or shrub to be planted and maintained in accordance with this article, but the tree or shrub died more than two (2) years after the issuance of the certificate of occupancy;
 - (2) The person caused the tree or shrub to be planted and maintained on the public right-of-way in accordance with this article, but the tree or shrub died and was removed by the owner with the written permission of the Building Official or an assign or the City Engineer or the period allowed by this article for replacing the tree or shrub has not yet elapsed;
 - (3) The person caused the tree or shrub to be planted or maintained on private property in accordance with this article, but the tree or shrub died, and the period allowed by this article for replacing the tree or shrub has not yet elapsed;
 - (4) The building permit for the person's property is for single-family residential use;
 - (5) The person's property has an unexpired conditional certificate of occupancy, and the person has provided an executed contract or a bond or assigned certificate of deposit in accordance with this article; or
 - (6) A variance or waiver was secured for the building site in conformity with the requirements of this article.

Section 3.1.2.11. When Required Landscaping (Trees, Shrubs or Fences) Must be Installed, Documented Assurance

- (a) Except as otherwise provided in subsection (b) and section 3.1.2.12, all proposed landscaping must be installed in accordance with the approved landscape plan prior to issuance of a final certificate of occupancy on a building site.
- (b) The property owner may elect to provide the Building Official with documented assurances that the landscaping will be completed within a six (6) month period. If so, a conditional certificate of occupancy may be issued by the Building Official for six (6) months. For purposes of this section, 'documented assurance' shall mean a copy of an executed contract for the proper installation of the required landscaping in accordance with the approved landscape plan within a six (6) month period.

- (c) The property owner is responsible for notifying the Building Official when the landscape installation is complete. If the property owner fails to notify the Building Official within the prescribed six (6) month period, the Building Official shall revoke the conditional certificate of occupancy.

Section 3.1.2.12. Bond, Assigned Certificate of Deposit

- (a) Prior to the issuance of any conditional certificate of occupancy, any applicant who has not provided the documented assurance set forth in section 3.1.2.11 shall file with the Building Official a bond which bond shall be executed by the applicant as principal and by a good and sufficient corporate surety company licensed to do business in the State of Texas. The bond in the sum of one and one-quarter (1 ¼) times the proposed cost to install the required landscaping improvements and fences, based upon the reasonable adjusted costs established by the Building Official and of record from time to time, shall be payable to the City and conditioned that the principal and surety will pay all amounts required to install the landscaping and fences required by this division. The bond shall provide that it will remain in full force and effect until released by the Building Official pursuant to this division.
- (b) In lieu of such bond, an applicant for a conditional certificate of occupancy may, upon payment to the City of a nonrefundable fee of one hundred dollars (\$100.00), assign an account with a financial institution insured by the Federal Deposit Insurance Corporation to the city. Such account shall have a deposit of not less than the amount required under subsection (a). Under such an assignment, the financial institution must agree not to release, make payment from, or otherwise divert or dispose of the funds in such account, except it shall agree to disburse all or such portion of the funds in the account as may be directed by City Council resolution.

Upon installation and inspection of the required landscaping, the City shall release the assigned deposit to the property owner.

When requesting a conditional certificate of occupancy, the owner must grant the City permission to enter upon the owner's land for the purpose of installing the required landscaping if the owner does not fulfill the owner's obligation to install the required landscaping within the specified six (6) month period. If permission is not granted, the owner's application for a conditional certificate of occupancy shall be denied.

- (c) In the event that any holder of a conditional certificate of occupancy who has previously furnished an account assignment under subsection (b) elects to furnish a bond under subsection (a) instead, then the holder shall be entitled to disbursement of the account proceeds in the same manner and under the same terms provided in subsection (b).

Section 3.1.2.13. Appeal of Denial of Building Permits

- (a) Appeals from the denial of a building permit for noncompliance with this division shall be reviewed and acted upon by the Building Code Board of Adjustment (BCBA).

Section 3.1.2.14. Variance Procedure

- (a) An applicant for a building permit may make written application to the Building Official for a variance from the requirements of this division other than those which may be made the basis of a request for a waiver under section 3.1.2.18. A completed application for a variance shall include:

- (1) Completed application on form supplied by the City; and
- (2) A nonrefundable fee of two hundred dollars (\$200.00) for uses other than single family residential uses.

This application package shall be reviewed by the Building Official or an assign.

- (b) Within seven (7) days of the date the application is accepted, the Building Official shall forward a copy of the application to the City Engineer who shall file the City Engineer's report and recommendations regarding the proposed variance with the BCBA.
- (c) A staff report regarding the variance request shall be provided to the BCBA prior to the meeting at which the variance shall be considered.

Section 3.1.2.15. Standards for Variance

- (a) The BCBA is authorized to consider variances from the provisions of this division by majority vote of those members of the BCBA present and voting, when the BCBA determines that all four (4) of the following conditions exist:
 - (1) The imposition of the terms, rules, conditions, policies, and standards of this division would deprive the owner or applicant of the property of reasonable use of the land or building;
 - (2) The circumstances supporting the granting of the variance are not the result of a hardship imposed or created by the applicant, and the general purposes of this division are observed and maintained;
 - (3) The intent of this article is preserved; and
 - (4) The granting of such a variance will not be injurious to the public health, safety, or welfare.

Section 3.1.2.16. Applicability of Variance

- (a) Any variance granted under the provisions of this section will apply only to the specific property and use upon which the BCBA was requested to review. All variances as granted shall be in writing, shall be signed by the City Secretary and maintained as a permanent record of the BCBA.

Section 3.1.2.17. Mitigation for Loss of Installed and Preserved Vegetation

- (a) All proposed, existing or relocated vegetation shall be maintained in accordance with this article and appear healthy for a minimum of two (2) years from the issuance of the final certificate of occupancy. Dying, damaged or removed trees shall be replaced at the owner's expense with another living plant that complies with the approved landscape plan. The tree replacement quantity shall be equal to or greater than the original or credited quantity for the tree in question.
- (b) The Building Official or an assign shall notify the owner of a building site in writing when a plant is discovered which does not meet the requirements of subsection (a), above. The owner shall then replace the plant within one year from receipt of the written notice or between November 1st and April 1st, whichever period is less.

Section 3.1.2.18. Interference with Existing Utilities, Curbs, Sidewalks, Drainage Facilities, Roadways, Street Lights, Appeal of Denial of Waiver.

- (a) The Building Official shall grant a waiver when requested in the application if the area in which the planting is required by this division is too small to accommodate the required planting without damage to existing utilities, curbs, sidewalks, roadways, streetlights or drainage facilities, and the planting requirements of this division may not be otherwise satisfied pursuant to this division.
- (b) A waiver shall be granted where the Building Official finds the following:
 - (1) That a literal application of this division will result in damage to existing utilities, roadways, streetlights, curbs, sidewalks or drainage facilities;
 - (2) The waiver, if granted, will not be contrary to the public interest;
 - (3) The waiver, if granted, will not be detrimental to the public health, safety, or welfare; and

- (4) The waiver, if granted, will not result in a violation of any other applicable ordinance, regulation, or statute.
- (c) No later than the thirtieth (30th) calendar day following the filing of the required application for a waiver, the Building Official shall issue to applicant a written notice that the waiver has been granted or refused. Any notice of refusal of an application for a waiver must include a written report explaining in detail the reasons for such refusal. The issuance of a written notice to the applicant shall be complete upon deposit of such notice in the United States mail, first class postage paid, addressed to the applicant at address given on the application for the waiver.
- (d) The applicant may appeal the denial of a waiver to the Commission in the manner provided in section 3.1.2.13 of this Code.
- (e) Notwithstanding the provisions of this section, the Building Official and the City Engineer shall use their best efforts to resolve any disputes regarding the application of this division to city-funded projects that include the entire width of the pavement of a public street and are at least 30 feet in length. The City Engineer is authorized to promulgate guidelines for administration of this article, in consultation with the Building Official, that are consistent with this chapter.

Division 3 – Protection of Trees

Section 3.1.3.1. Removal of a Tree, Protected or Otherwise

- (a) Except as may otherwise be provided in this article, it shall be unlawful for any person to remove any tree or to cause, permit or suffer the removal of any tree that is situated in whole or in substantial part within a street or to perform any construction activity, including, without limitation, construction or repair of buildings or other structures, installation or repair of utilities, or installation or repair of streets or sidewalks within the dripline circle area of any tree that is situated in whole or in substantial part within a street. The determination of whether the tree is situated in whole or in substantial part in the street shall be based upon the location of the trunk of the tree at ground level. For purposes of the foregoing requirements, a tree shall be in substantial part within a street if one-half or more of the area of the trunk of the tree is situated in the street as determined at the point where the trunk intersects the ground.

Section 3.1.3.2. Affirmative Defenses

- (a) It is an affirmative defense to prosecution under section 3.1.3.1 of this Code that:

- (1) The person complied with the provisions of City of Iowa Colony Engineering Design Criteria Manual;
- (2) The person had the prior written permission of the Building Official for the action taken and that the action taken was consistent with the terms of the Building Official's written permission; or
- (3) The person reasonably removed the tree to conduct emergency repairs of utilities located on public or private property.

Section 3.1.3.3. Affirmative Defense; House Movers

- (a) It is an affirmative defense to prosecution under section 3.1.3.1 of this Code that the person is an established commercial house mover and that the person removed a tree in order to move a house, provided that the house was being moved in accordance with all applicable requirements of the said article upon a route authorized in a permit issued by the Building Official thereunder, and further provided, with respect to any tree that is removed, that the person had the prior written permission of Building Official for the action taken and that the action taken was consistent with the terms of the Building Official's written permission. This defense shall extend to agents and employees of the house mover.

Section 3.1.3.4. Procedure for Permission

- (a) For purposes of sections 3.1.3.2 or 3.1.3.3 of this Code a person may obtain the Building Official's permission by making written application. The application shall be made in accordance with regulations promulgated for that purpose by the Building Official and in a form provided in the regulations. In considering whether to grant the approval, the Building Official shall consider the age and condition of the tree. The Building Official shall consult with the City Engineer and shall also consider whether the requested action is reasonably required, considering other alternatives that may exist, if the request is for the purpose of installing or maintaining public utilities and access lines thereto, constructing or maintaining driveways, alleys, or streets, constructing or maintaining sidewalks or preventing visual obstruction of a street or driveway intersection. The Building Official, in consultation with the City Engineer, may also authorize the removal of a tree to facilitate development of the abutting property if the tree extends in part beyond the building set back line established by law or deed restriction and the Building Official and the City Engineer determine that the requested action is reasonably required to make beneficial use of the property. If the Building Official proposes to deny an application, then the Building Official shall ensure that the applicant is afforded the opportunity for an informal hearing to be conducted as provided in the Building Official's regulations before the decision to deny the application is made final.

Section 3.1.3.5 Educational Intent

- (a) The intent of this article is to result in compliance through public assistance and education. Upon request, the Building Official or an assign shall, without charge therefor, help in identifying tree species, training and/or instructional materials with respect to proper practices for tree pruning and other reasonable assistance for the purpose of ensuring compliance with this article.

Section 3.1.3.6. Provisions Cumulative

- (a) The provisions of this article are cumulative of state laws and are also expressly made cumulative of any other provisions of this chapter. To the extent that any tree governed by this section is also subject to other regulations, then both the provisions of this article and any other regulation shall be applicable. The Building Official and the City Engineer shall establish procedures under which removal notices and landscape plans that are required to be filed may be combined with or jointly filed with applications filed under section 3.1.3.4 of this Code, above.

Section 3.1.3.7. Fines and Penalties; Civil Remedies.

- (a) See Chapter 1 (b) Additionally, each tree that is unlawfully removed shall constitute a separate offense. Criminal prosecution shall not preclude civil action by the City to recover for the damage to or loss of the tree, and the City Attorney is hereby authorized, without further authorization from City Council to institute and prosecute a lawsuit for an injunction against the imminent unlawful removal of a tree and/or a lawsuit against any person who removes a tree without permission or authorization as required under this section and to recover the reasonable value of the tree or damage thereto and all other remedies.

Section 3.1.3.8 Deferred Disposition

- (a) In keeping with the policy of education and street tree protection that is the purpose of this article, the municipal courts are urged to consider deferred dispositions under article 45.54 of the Texas Code of Criminal Procedure whenever the circumstances warrant deferred dispositions. Conditions of deferral may include the defendants' replacing or repairing damaged trees wherever practicable and participating in community service programs for the planting and care of trees.

Section 3.1.3.9 Tree Replacement Requirement

(a) Notwithstanding anything to the contrary in this article, no person shall cause a tree that is situated in whole or in substantial part within a street to be removed without complying with a tree replacement requirement, which may be satisfied as follows:

- (1) By the planting in the area adjacent to the street of additional trees from the Large or Small Tree list on the basis of one caliper inch of tree planted for one caliper inch of tree removed;
- (2) By contributing to the fund created under section 3.1.2.3 (a) (2) of this Code an amount equal to \$225.00 per caliper inch of tree removed for a six-inch (6") caliper trees and smaller, \$375.00 per caliper inch of tree removed for over six inch (6") diameter and up to 12 inch (12") caliper trees, and \$500.00 per caliper inch of tree removed for over 12 inch (12") caliper trees; or
- (3) By a combination of the foregoing.

Installation of trees provided shall be subject to the planting standards established in Division 2 of this Article, and the trees shall be planted within thirty (30) days following the removal of the tree unless a documented assurance of planting is provided to the Building Official with the notice, in which case the trees shall be placed within six (6) months of the removal of the trees. A documented assurance may be provided in the same manner as under section 3.1.2.12 (b) of this Code. A variance may be requested in the same manner provided in sections 3.1.2.14 through 3.1.2.16 of this Code. Additionally, the mitigation provisions of section 3.1.2.17 of this Code shall be applicable to trees that are provided to satisfy a protected tree replacement requirement.

- (b) No person shall cause a tree to be removed without first filing with Building Official, a written notice of removal of the tree, which must be filed at least twenty (20) days prior to the removal. The notice shall include a map depicting the tract or parcel of land upon which the tree or trees to be removed are situated and shall demonstrate the way the tree replacement requirement will be provided.
- (c) It is an affirmative defense to prosecution under this section that the tree sustained damage from fire, windstorm, accident, or other natural cause such that the tree became an immediate threat to persons or property, provided that the owner of the tree caused the circumstances to be documented and filed written notice of the removal with the Building Official within ten days following the removal of the tree.
- (d) It is a defense to prosecution under this section that the tree was removed by or on behalf of a public utility or a governmental entity and that its removal without notice was reasonably required for the maintenance or installation of public facilities or utility systems.
- (e) The City Engineer shall promulgate forms of notices and procedures under this section. A map need not be prepared in the form of a survey map, if it shall provide sufficient information to unmistakably identify the tree that is to be removed and the location of any tree that is to be planted to provide the tree replacement requirement, as well as the species and caliper of each tree. If the owner elects to contribute to the fund created under section 3.1.2.3.(a) (2) of this Code, then the contribution shall be tendered with the notice.

No provision of this section shall be construed to require City personnel to review any notice filed under this section for accuracy or sufficiency or to perform any site inspection of trees for which notices are filed.

Section 3.1.3.10 Landscape Planting Appendix

Appendix 3.1.3.11. Tree Planting

(a) Tree Selection

Trees planted under section 3.1.1.7 must be selected from the Large Tree list. All plant stock shall meet the Standard for Nursery Stock Specifications, as established by the American Association of Nurserymen (1986 ed.)

The following factors shall be considered in the selection of trees from the tree and shrub lists indicated in this Division:

1. Hardiness of trees for the specific site, i.e., soil conditions, pH, drainage.
2. Mature plant size, form, and growth rates, i.e., proximity to overhead utility lines.
3. Drought tolerance.
4. Pest and insect resistance.

(b) Tree Planting:

1. Holes for the trees shall be excavated one and one-half to two (1½ to 2) feet greater in width than the diameter of the soil ball. The sides of the hole shall be vertical and the bottom horizontal. Trees shall be planted with the top of the root ball two inches above existing grade. No holes shall be left uncovered overnight.
2. Trees shall be set in an upright plumb position at depth two (2) inches higher than grown in the container. Care shall be taken so as not to injure the root system, trunk, or foliage. The trunk shall not be used as a level in positioning or moving the tree in the planting hole.
3. The backfill shall consist of topsoil excavated from the planting hole. If there is not enough topsoil, a supplement of similar topsoil shall be furnished. Each planting hole shall be backfilled and tamped lightly so as not to damage roots. A saucer shall be constructed six (6) to eight (8) inches above soil grade around the planting hole and shall be a minimum of six (6) feet in diameter, free of weeds and grass.
4. Any pruning shall be done according to the standards of the National Arborist Association (rev. 1988) (The Meeting Place Mall, Route 101, P.O. box 1094, Amherst, NH 03031), on file in the office of the city secretary. All damaged limbs shall be removed. The tree shall be maintained in a shape appropriate to its species. Street trees shall be pruned in accordance with the standards for hazard pruning contained in Class III.
5. Trees planted hereunder shall be staked with a minimum of two (2) stakes, eight (8) feet long, attached to the tree with plastic tree chain, one (1) inch in size, or

equivalent, in a manner that is secure and will not injure the tree. Any 100-gallon trees shall be tri-staked (three stakes). Other types of securing ties or devices may be used if designed for that purpose.

6. Mulch shall be placed loosely around trees planted hereunder within twenty-four (24) hours after planting to a uniform depth of three (3) to four (4) inches and to a diameter of six (6) feet. No leaves, branches, roots or other foreign material may be used as a mulch. This area shall be maintained free of weeds and grass vegetation with a three (3) to four (4) inch mulch cover for a minimum period of one (1) year.

(c) Watering

1. The following watering schedule may be utilized and revised during prolonged periods of rain or drought.

Initial Watering After Planting	Root zones shall be slow-soaked every seven days for four weeks.
November December January February	In the absence of sufficient rainfall, root zones shall be slow-soaked on a twenty-one-day water schedule.
October March April	In the absence of sufficient rainfall, root zones shall be slow-soaked on a fourteen-day water schedule.
May June July August September	In the absence of sufficient rainfall, root zones shall be slow-soaked on a seven-day watering schedule.

Appendix 3.1.3.12 Large Tree Plant List

Large Tree List

Botanical Name	Common Name*	Comments
Acer rubrum var drummondii	D Drummon Red Maple	Wet sites
Acer rubrum var tridens	D Trident Red Maple	Wet sites
Acer barbatum	D Southern or Texas Sugar Maple	
Betula nigra	D River Birch	Wet sites
Bumelia lanuginosa	D Chittamwood, Gum bumelia or Wooly Bucket	Drought-tolerant/Attracts birds
Carya cordiformis	D Bitternut Hickory	
Carya illinoenses	D Pecan	Nut
Carya texana	D Black Hickory	Drought-tolerant
Carya tomentosa	D Mockery Nut Hickory	Fruit
Diospyros virginiana	D Persimmon, eastern	Fruit

Botanical Name	Common Name*	Comments
Ehretia anacua	D Anacua	Flowering/Fruit/Drought-tolerant
Fraxinus americana	D White Ash	
Fraxinus Pennsylvanica	D Green Ash	
Ginkgo biloba	D Ginkgo	Male only
Ilex opaca (and cultivars)	E American Holly	Female/Fruit
Juglans nigra	D Black Walnut	
Juniperus virginiana	Eastern Red Cedar	
Liquidambar styraciflua	D Sweetgum	Fall color
Liriodendron tulipifera	D Tulip tree or Yellow Poplar	Flowering/Wet sites
Magnolia grandiflora	E Southern Magnolia	Flowering
Magnolia virginiana	E Sweet Bay Magnolia	Flowering/Wet sites
Metasequoia glyptostroboides	D Dawn Redwood	
Nyssa aquatica	D Water tupelo	Wet sites
Nyssa sylvatica var biflora	D Swamp tupelo or Black Gum	Wet sites
Nyssa sylvatica var sylvatica	D Black Gum	Fruit/Fall color
Pinus palustris	E Longleaf Pine	
Pinus taeda	E Loblolly Pine	
Pinus glabra	E Spruce Pine	
Plantanus mexicana	D Mexican Sycamore	Wet sites
Plantanus occientalis	D Sycamore	
Prunus serotina	D Black Cherry	Flowering/Fruit
Quercus acutissima	D Sawtooth Oak	
Quercus alba	D Oaks, white	Fall color
Quercus canbii	D Canby Oak	
Quercus falcata	D Southern Red Oak	
Quercus laurifolia	D Laurel Oak	
Quercus lyrata	D Overcup Oak	Wet sites
Quercus macrocarpa	D Bur Oak	Wet sites/Drought-tolerant
Quercus michauxii	D Swamp Chestnut Oak	Fall color
Quercus muehlenbergii	D Chinkapin Oak	Drought-tolerant
Quercus nutallii	D Nutall Oak	Fall color/Wet sites
Quercus palustris	D Pin Oak	Fall color
Quercus phellos	D Willow Oak	
Quercus polymorpha	D Monterrey Oak	
Quercus rizophyllia	D Loquat Leaf Oak	
Quercus shumardii	D Shumard Oak	Fall color
Quercus stellata	D Post Oak	
Quercus virginiana	D Live Oak	
Sassafras albidum	D Sassafras	Fall color/Attracts birds
Taxodium distichum var distichum	D Bald Cypress	Wet sites/Drought-tolerant
Taxodium distichum var nutans	D Pond Cypress	

Botanical Name	Common Name*	Comments
Taxodium mucronatum	D Montezuma Bald Cypress	
Tilia caroliniana	D Carolina Basswood	
Ulmus americana	D American Elm	
Ulmus alata	D Winged Elm	
Ulmus crassifolia	D Cedar Elm	Drought-tolerant
Ulmus parvifolia var drakii	D Drake Elm	
Vitex agnus-castus	Vitex	
Zelkova serrata	D Japanese Zelkova	

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Appendix 3.1.3.13 Small Tree List

Small Tree List

Botanical Name	Common Name*	Comments
<i>Acer leucoderme</i>	D Chalk Maple	Fall color
<i>Acacia wrightii</i>	D Wright Acacia	Flowering/Drought-tolerant
<i>Aesculus pavia</i> var <i>pavia</i>	D Red Buckeye	Flowering
<i>Aesculus pavia</i> var <i>flavescens</i>	D Red Buckeye	Yellow flowers
<i>Aesculus glabra</i> var <i>arguta</i>	D White Buckeye	Flowering/Drought-tolerant
<i>Asimina triloba</i>	D Pawpaw	Flowering/Fruit
<i>Bauhinia congesta</i>	D Anacacho Orchid Tree	Flowering/Drought-tolerant
<i>Carpinus caroliniana</i>	D American Hornbeam, Ironwood or Blue Beech	Wet sites/Fall color
<i>Cercis canadensis</i>	D Eastern Redbud	Flowering
<i>Cercis canadensis</i> var <i>texensis</i> cultivars	D Texas Redbud	Flowering/Drought-tolerant
<i>Cercis canadensis</i> var <i>mexicana</i>	D Mexican Redbud	Flowering/Drought-tolerant
<i>Chionanthus virginicus</i>	D Fringe Tree	Flowering/Attracts birds
<i>Chionanthus retusus</i>	D Chinese Fringe Tree	Flowering/Drought-tolerant
<i>Cornus florida</i>	D Flowering Dogwood	Flowering/Attracts birds
<i>Cotinus obovatus</i>	D American Smoke Tree	Fall color/Drought-tolerant
<i>Crataegus marshallii</i>	D Parsley Leaf Hawthorn	Flowering/Attracts birds
<i>Crataegus opaca</i>	D May Haw	Flowering/Fruit/Attracts birds
<i>Crataegus spathulata</i>	D Little Hip Hawthorn	Flowering/Attracts birds
<i>Crataegus viridis</i>	D Green Hawthorn	Flowering/Attracts birds
<i>Crataegus texana</i>	D Texas Hawthorn	Flowering
<i>Crataegus reverchonii</i>	D Reverchon Hawthorn	Flowering
<i>Cyrilla racemiflora</i>	D Titi	Wet sites
<i>Diospyros texana</i>	D Texas Persimmon	Fruit/Drought-tolerant
<i>Eysenhardtia texana</i>	D Texas Kidneywood	Flowering/Drought-tolerant
<i>Halesia diptera</i>	D Two-winged Silverbell	Flowering
<i>Ilex x attenuate</i> 'Eagleton'	Eagleton Holly	
<i>Ilex cassine</i>	E Dahoon Holly	Female-Fruit/Attracts birds
<i>Ilex decidua</i>	D Possum Haw	Female-Fruit/Attracts birds
<i>Ilex vomitoria</i>	E Yaupon	Female-Fruit/Attracts birds
<i>Magnolia x Soulangeana</i>	Saucer Magnolia	Flowering
<i>Malus angustifolia</i>	D Southern Crabapple	Flowering/Fruit
<i>Myrica cerifera</i>	E Southern Wax Myrtle	Wet sites/Attracts birds
<i>Ostrya virginiana</i>	D Eastern Hop Hornbeam	
<i>Parkinsonia aculeata</i>	D Retama	Flowering/Drought-tolerant
<i>Pistacia texana</i>	D Texas Pistache	Drought-tolerant
<i>Prosopis glandulosa</i> var <i>glandulosa</i>	D Mesquite	Drought-tolerant
<i>Prunus mexicana</i>	D Mexican Plum	Flowering/Fruit/Drought-tolerant
<i>Prunus umbellata</i>	D Flatwoods Plum	Flowering/Fruit

Botanical Name	Common Name*	Comments
<i>Prunus augustifolia</i>	D Creek Plum	Flowering/Fruit
<i>Rhamnus caroliniana</i>	D Carolina Buckthorn	Fall color/Fruit/Attracts birds/Drought-tolerant
<i>Rhus copallina</i>	D Sumac	Fall color
<i>Sophoria secundiflora</i>	E Texas Mountain Laurel	Flowering/Drought-tolerant
<i>Sophora affinis</i>	D Eve's Necklace	Flowering
<i>Ungnadia speciosa</i>	D Mexican Buckeye	Flowering/Drought-tolerant
<i>Viburnum rufidulum</i>	D Rusty Black Haw Viburnum	Flowering/Fall color/Drought-tolerant/Attracts birds

Appendix 3.1.3.14. Shrub Planting

a) Shrub selection.

Shrubs planted in public rights-of-way shall be selected from the Shrub list (Appendix 3.1.3.15). Shrubs planted in other areas may also be selected from that list. The following factors shall be considered when selecting from the shrub list for planting:

1. Hardiness for the specific site selected.
2. Present and ultimate size, branching habits, and growth rate. The plant shall be at least eighteen (18) inches in height as measured from the surrounding soil line, shall have a minimum eighteen (18) inch width at the widest portion when planted and shall be capable of growth to not less than thirty (30) inches in height as measured from the surrounding soil line within three (3) annual growing seasons.
3. Resistance to pests.

(b) Shrub planting.

1. Holes for shrubs shall be excavated six inches greater in width than the diameter of the soil ball. The sides of the hole shall be vertical and the bottom horizontal. Shrubs shall be planted with top of root ball slightly above existing grade. No holes shall be left uncovered overnight.
2. Shrubs shall be set in an upright plumb position at a depth slightly higher than grown in the container. Care shall be taken not to injure the root system, trunk, or foliage. The trunk shall not be used as a lever in positioning or moving the shrub in the planting hole.
3. Holes shall be backfilled with soil and tamped lightly and carefully so as not to damage roots. The shrub shall be watered to settle soil around the roots and remove air pockets.
4. All damaged branches shall be removed.
5. A minimum three-inch layer of mulch shall be placed loosely at the base to retard weed growth and conserve moisture.

(c) Watering

The following water schedule may be utilized and revised during prolonged periods of rain or drought.

Initial Watering After Planting	Root zones shall be drenched every seven days for four weeks.
November December January February	In the absence of sufficient rainfall, root zones shall be drenched on a twenty-one-day watering schedule.
October March April	In the absence of sufficient rainfall, root zones shall be drenched on a fourteen-day watering schedule.
May June July August September	In the absence of sufficient rainfall, root zones shall be drenched on a seven-day watering schedule.

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Appendix 3.1.3.15 Shrub List

Expected Height After 3 Years (in feet)	Common Name	Botanical Name
	Evergreens	
1—3	Japanese Boxwood	Buxus microphylla japonica
1	Dwarf Euonymus	Euonymus japonica "Microphylla"
2—3	Silver King Euonymus	Euonymus japonica "Silver King"
1—2	Dwarf Gardenia	Gardenia jasminoides "Radicans"
2—3	Dwarf Burford Holly	Ilex cornuta "Burfordii Nana"
2—3	Dwarf Chinese Holly	Ilex cornuta "Rotunda"
1—2	Compact Japanese Holly	Ilex crenata "Compacta"
1—3	Dwarf Yaupon Holly	Ilex vomitoria "Nana"
1—2	Primrose Jasmine	Jasminum mesnyi
3—4	Texas Sage	Leucophyllum Frutescens
3—4	Dwarf Wax Myrtle	Myrica cerifera
1	Dwarf Purply Nandina	Nandina domestica nana "Purpurea"
2—3	Harbor Dwarf Nandina	Nandina domestica nana "Harbor Dwarf"
2—3	Dwarf Oleander	Nerium oleander
1—2	Turner's Dwarf Pittosporum	Pittosporum tobira "Turner's Dwarf"
1—2	Wheeler's Dwarf Pittosporum	Pittosporum tobira "Wheeler's Dwarf"
3—4	Fraser's Photinia	Photinia x fraseri
2—3	Red Elf Pyracantha	Pyracantha "Red Elf"
2—4	Indian Hawthorne	Raphiolepis indica
2—3	Red Spirea	Spiraea x bumalda "Anthony Waterer"
3—4	Spring Bouquet Vib	Viburnum tinus "Spring Bouquet"
6	Red Tip Photina	Photinia glabra
6	Chinese Photina	Photinia serrulata
6	Waxleaf Ligustrum	Ligustrum japonicum
6	Southern Wax Myrtle	Myrica cerifera

Article 2 –Parkland

Division 1 – Parks and Private Parks

Section 3.2.1.1. Purpose

- (a) The purpose of this Article is to provide recreational areas in the form of neighborhood parks, regional parks, and trail systems linking public areas and subdivisions, as a function of subdivision development within the City and the City's extraterritorial jurisdiction. It is hereby declared that recreational areas in the form of neighborhood parks, regional parks, and trail systems are necessary and in the public welfare, and that the only adequate procedure to provide for same is by integrating such a requirement into the procedure for planning and development property or subdivisions within the City and the City's extraterritorial jurisdiction.
- (b) Neighborhood parks are those parks providing for a variety of outdoor recreational opportunities and within convenient distances from a majority of the residences to be served thereby. The City Council may adopt park zones, which shall be shown on a future official parks and recreation map for the City. If adopted, such park zones shall be prima facie proof that any park located therein is within such a convenient distance from any residence located therein. The primary cost of neighborhood 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.
- (c) Regional parks are those parks not primarily serving a specific neighborhood, but rather designed to serve the entire City and the City's extraterritorial jurisdiction, such as ballparks, soccer fields, and trail systems which connect various neighborhoods.
- (d) Parks dedicated to a municipal utility district or dedicated to the City shall be considered public parks.
- (e) The maintenance of a public park shall be the responsibility of the Municipal Utility District, if so dedicated, or the Homeowners Association of the development, unless the City expressly agrees to maintenance.

Section 3.2.1.2. Applicability

- (a) The regulations contained in this Article shall be applicable to all property within the city limits and the City's extraterritorial jurisdiction proposed to be developed in whole or in part for single-family or duplex residential or multi-family residential or any other residential or partial residential purposes for which a subdivision plat is required, unless otherwise noted herein.

- (b) These regulations do not apply to replats of land owned by the State of Texas or the United States of America.

Section 3.2.1.3. Land to be Used for Single-family, Duplex, or Multifamily Residential Purposes

- (a) Whenever a final plat is filed in the county real property records for development of a residential area in accordance with this Article, such plat shall contain a clear fee-simple dedication of an area of land, as a restricted reserve, to the City (or to a municipal utility district) for neighborhood park purposes, which area shall equal one (1) acre for each fifty-four (54) proposed dwelling units. Any proposed plat submitted to the City for approval shall show the area proposed to be dedicated under this Section, either within the platted residential area or within one-fourth (1/4) mile of the boundary of the platted residential area and directly connected by a permanent accessible route. The required dedication of this Section may be met by a payment of money in lieu of land as indicated in Section 3.2.1.4, the pledge of security guaranteeing a future dedication of park land before the subdivision plat is recorded, or the provision of private neighborhood park land when permitted or required by the other provisions of this Article.
- (b) In instances where an area of less than five (5) acres is required to be dedicated, the City shall accept or reject the dedication of such public park within sixty (60) days following approval of the preliminary plat after consideration by the Planning and Zoning Commission and the City Council. In the event the City determines that sufficient park area already is in the public domain in the proposed development, or if the recreation potential for that zone would be better served by expanding or improving existing parks, then the proposed dedication will be disallowed and the developer shall be required to make payment of cash in lieu of land, as provided by Section 3.2.1.4.
- (c) If the actual number of completed dwelling units exceeds, by less than 10% of the total original dedication, the figure upon which the original dedication was based, such additional dedication shall be required, and shall be made by payment of the cash in lieu of land amount provided by Section 3.2.1.4. If the actual number of completed dwelling units exceeds the total original dedication by more than 10% of the total original dedication, such additional dedication shall be required, and may be made, at the sole option of the City, either by land dedication or by the payment of cash in lieu of land as provided in Section 3.2.1.4.
- (d) For land dedicated for park purposes, evidence of recording in the appropriate real property records of a general warranty deed of the required park land as approved by the City Engineer and the City Attorney.
- (e) Identification of the required amount of parkland is to be indicated on an approved subdivision plat.
- (f) Parkland dedication does not qualify for, remove, or reduce the amount of any other required compensating open space that is provided for lot size reduction compensation.

- (g) Parkland dedication can be provided for a phased development, not within the subdivision section that requires the dedication, subject to location criteria indicated elsewhere in this Article or where funds have been paid for a phased development, and the original developer does not complete all phases of the development, credit for any prior dedication or payment shall be applied to subsequent subdivision plats for the same land on a pro-rata basis by dwelling unit. Increased density by the increase in the number of dwelling units shall require the dedication of additional parkland or payment of additional fees.
- (h) Unless provided elsewhere in rules promulgated by the City Engineer, the dedicated land shall be reasonably free of recognized environmental conditions. If land is proposed to be dedicated by subdivision plat, prior to the submission of an application for final subdivision plat approval, the applicant shall submit either a Phase 1 environmental assessment that shows no environmental conditions exist on the property or a Phase 2 environmental assessment that shows no remediation is required.
- (i) Land in a federally designated floodplain or floodway may not be dedicated as park land unless the dedicated land would be available for active recreational uses for a minimum annual timeframe as determined by the City Engineer.

Section 3.2.1.4. Money in Lieu of Land Dedication for Neighborhood Parks

- (a) Subject to approval of the City Council and the provisions of Section 3.1.2.3 above, a developer responsible for dedication of neighborhood parkland under this Section may elect to meet the requirements of Section 3.1.2.3, in whole or in part, by a cash payment in lieu of land, in the amount of three-hundred and fifty dollars (\$350.00) per dwelling unit. Such payment in lieu of land shall be made at or prior to the time of final plat recordation. The City shall not issue any permits for construction within the subdivision, except permits to construct public improvements, until such time as the payment of money in lieu of park land required by this Article is submitted to and accepted by the City. The City may annually review the fee per dwelling unit and may increase the fee, if approved by the City Council, up to a combination of the annual Consumer Price Index plus the percent of annual population increase within the City limit and the extra-territorial jurisdiction or a City Engineer report indicating the percentage increase of taxable value of property within the City limit and the City extra-territorial jurisdiction, whichever is greater. The fee amount will be the adjusted fee per dwelling unit at the time of plat recordation.
- (b) The City may, from time to time, decide to purchase land for parks in or near the area of actual or potential development. If the City does purchase park land within a designated park zone, subsequent park land dedications for that zone shall be in cash only and calculated to reimburse the City's actual cost of acquisition and development of such land for parks. The cash amount shall be equal to the sum of (1) the average price per acre of such land, and (2) the actual cost of adjacent streets and on-site utilities, or an estimate of such actual cost provided by the City Engineer. Once the City has been reimbursed entirely for all such City-purchased park lands within a park zone, this paragraph shall cease to apply, and the other paragraphs of this Article shall again be applicable.
- (c) To the extent that the required cash amount of Section 3.2.1.4 (b) cannot be determined, the

dedication requirement shall be met by a payment in lieu of land computed based on four hundred fifty dollars (\$450.00) per dwelling unit.

Section 3.2.1.5. Private Neighborhood Park Land In lieu of Public Dedicated Park Land

- (a) A developer responsible for dedication under this Article may elect to meet up to fifty percent (50%) of the requirements of Section 3.2.1.3 by the provision of private neighborhood park land. Credit for private park land will be governed by the following criteria:
- (1) The land offered as private neighborhood park land must be open and accessible to all residents of the platted subdivision. Land or facilities that are excluded to a portion of the subdivision residents will not be considered as private neighborhood park land.
 - (2) Land which is unencumbered by easements, detention areas, lake and drainage channel borders, or other similar characteristics will qualify for private neighborhood park land at full credit. Land that has recreation facilities on it such as tennis courts, swimming pools, playing fields, recreation buildings, and any other similar facility also will qualify for full credit.
 - (3) Land which is encumbered by easements, detention areas, lake and drainage channel borders, or other similar characteristics shall qualify at a 50% credit but only if it complies with criteria (A) (1), (2), and (3) below.
 - a. Pipeline or utility easements, or areas along lake borders and drainage ditches shall have:
 1. Hike, bike, and all-weather paths, landscaping, and sodding installed according to the construction standards of the City. Paths must also be connected to recreational areas as part of an open space system;
 2. An average minimum width of thirty feet (30') and a minimum width of twenty feet (20'); and
 3. Side slopes for areas used in the credit not to exceed a five to one (5:1) ratio, unless otherwise approved by the city.
- (b) Maintenance responsibility for areas offered as private neighborhood park land must be identified with the submission of a preliminary plat.
- (c) Land offered for private neighborhood park land credit, which is less than three (3) acres in size is generally discouraged unless it is an integral part of the private park and open space provisions of the subdivision. A list of landscaping and other improvements of special uses planned for areas of land less than one-half (1/2) acre in size shall be submitted with the preliminary plat.
- (d) For land established as a private park, identification of the required amount of private park area as one or more restricted reserves with the following notation on each private reserve within the subdivision plat:

'RESERVE RESTRICTED TO PRIVATE PARK PURSUANT TO THE UNIFIED DEVELOPMENT CODE OF THE SODE OF ORDINANCES, CITY OF IOWA COLONY, TEXAS. THIS PRIVATE PARK DESIGNATION MAY NOT BE CHANGED WITHOUT APPROVAL OF THE CITY COUNCIL OF THE CITY OF IOWA COLONY, TEXAS'

Land that is established as a private park for the purposes of this Article may not be replatted to change this designation pursuant to section 212.0146 of Chapter 212 (Texas Local Government Code) without the recommendation of the Planning and Zoning Commission and the approval of the City Council. The Planning and Zoning Commission shall not recommend approval of a replat that would change the private park designation unless the Planning and Zoning Commission determines that alternative private park space that satisfies the requirements of this section is available within the original subdivision generating the dedication requirement.

Section 3.2.1.6. Contribution for Regional Parks

- (a) In addition to the provisions for neighborhood parks by dedication of land (public or private) or the payment of fees in lieu thereof as described above, a developer shall contribute an additional four hundred fifty dollars (\$450.00) per dwelling unit for the development of regional parks.

Section 3.2.1.7. Special Funds, Right to Refund

- (a) There is established a special fund within the City General Fund for the deposit of all sums paid in lieu of park land dedication, which funds shall be known as the "Park Land Dedication Fund" and the "Regional Park Fund." The City may establish additional sub-funds as it deems appropriate to track funds for different zones or different regional parks.
- (b) The City shall account for all sums paid in lieu of park land dedication under this Article with reference to the individual plats involved. Any funds paid for such purposes must be expended by the City for acquisition and development of parks. Such funds shall be spent on a first in, first out basis for each park zone.

Section 3.2.1.8. Additional Requirements

- (a) Any land dedicated to the City or provided as private neighborhood park land under this Article must be appropriate for park and recreation purposes. The City reserves the right to reject any land that it deems as unsuitable for such purposes.
- (b) Drainage areas may be accepted as part of a park if the channel is constructed in accordance with City standards, the land is appropriate for park use, and if no significant area of a park is cut off from access by such channel.

(c) Each park area must have ready access to a public street.

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Article 3 – Screening and Fencing

Division 1 – Screening

Section 3.3.1.1. Screening – New Construction Non-Residential and Multi-Family

(a) Non-residential and Multi-Family Screening Required.

(1) Requirement Criteria. This section shall apply to the following:

- a. Any new or re-developed non-residential or multi-family use that has a side or rear contiguous to any single-family residential use, existing or proposed on a general plan adopted by the City of Iowa Colony, or residential zoning district other than multi-family.

(2) The following shall apply:

- a. The nonresidential or multi-family use shall provide the following:
 - 1. An opaque masonry screening wall eight feet (8') in height. The screen wall shall be located no closer to the street than the street right-of-way line. Such screening fence shall be maintained in good condition by the non-residential or multi-family use. Any sections of this Code concerning sight obstructions of intersections shall be applicable to the screen where it is intersected by a street or thoroughway.
 - 2. In addition to an opaque masonry screening wall, there shall be a minimum 25-foot-wide landscape buffer between nonresidential or multi-family and all single-family uses. The buffer, located on the non-residential or multi-family property, shall also include Large Trees (from the Large Tree Plant list in UDC Section 3.1.3.31) with a minimum two-inch (2") caliper measured at twelve inches (12") above the root ball shall be provided, with the total caliper inches equal to at least one inch (1") for each ten feet (10') of landscape buffer length with a maximum spacing of twenty (20) feet between required trees. No paving or structures are allowed within the landscape buffer.
 - 3. In situations where a fence already exists along the property line between the non-residential or multiple-family use and the residential use, the screening required by this section shall be in addition to the existing fence unless the nonresidential or multiple-family use obtains permission from the owner(s) of the existing

fence to replace said fence with the opaque screening wall and twenty-five feet (25') buffer described above.

4. In situations where a utility easement for underground or above ground utilities exists or is proposed within the landscape buffer, the width of the utility easement, up to a maximum width of ten (10) feet, may be included within the minimum twenty-five (25) feet wide landscape buffer. When the proposed or existing utility easement is greater than ten (10) feet in width, the width of the utility easement shall be added to a minimum of fifteen (15) feet of un-incumbered landscape buffer width.
5. Prior to construction of buffers, complete plans showing type of material, depth of beam and structural support shall be submitted to the Building Official or an assign for analysis to determine whether:
 - i. The screen will withstand the pressures of time and nature; and
 - ii. The screen adequately accomplishes the purpose for which it was intended.
6. The Building Official or an assign shall determine if the buffer meets the requirements of this section.

Section 3.3.1.2. Screening – Parking Area Screening Along Major and Minor Arterials

- (a) Landscaping shall be required for the screening of parking areas along major or minor arterials when nonresidential parking areas are located on the nonresidential lot such that they are adjacent to such roadways (i.e., there is no building between the parking area and the lot line adjacent to the roadway). In such case, parking areas shall be screened by a continuous hedge of shrubs (from Section 3.1.3.34 Shrub List) that are maintained at a height of no more than thirty-six inches (36") nor less than twenty-four inches (24") as measured from the surrounding soil line and at a minimum thirty-six (36") plant spacing.

Section 3.3.1.3. Screening – Residential Screening Along Major Thoroughfares and Collectors (Applies to the City & ETJ)

- (a) Requirement Criteria:

1. Residential Screening Along Major Thoroughfares - Where residential subdivisions adjacent to a super arterial, major or minor arterial are platted so that the rear or side yards of single-family or two-family residential lots therein are within two-

hundred feet (200') of a right-of-way line of said major thoroughfare, or are separated from such thoroughfare by an alley, landscape, or open space area/detention facility and utility easements, or back up to such thoroughfare, the developer shall provide, at its sole expense, a minimum six-foot (6') tall masonry screening wall (also see Subsection (b) below), or some other alternative form of screening, if approved by the Building Official or an assign, according to the following alternatives and standards. All screening shall be adjacent to the right-of-way or property line and fully located on the private lot(s) or reserves, including columns and decorative features. All forms of screening shall conform to the requirements of City ordinances and policies that govern sight distance for traffic safety.

2. Residential Screening Along Collectors – Where residential subdivisions adjacent to a collector are platted so that the rear or side yards of single-family or two-family residential lots therein are within two-hundred feet (200') of a right-of-way line of said collector, or are separated from such collector by an alley, landscape, or open space area/detention facility and utility easements, or back up to such collector, the developer shall provide, at its sole expense, a minimum seven-foot (7') tall opaque wood screening wall, consisting of six-feet (6') long vertical boards with a horizontal wood cap and a horizontal treated wood base board, or some other alternative form of screening, if approved by the Building Official or assign, according to the following alternatives and standards. All screening shall be adjacent to the right-of-way or property line and fully located on the private lot(s) or reserves, including columns and decorative features. All forms of screening shall conform to the requirements of City ordinances and policies that govern sight distance for traffic safety.

- (b) Screening Alternatives: Screening shall be provided in accordance with, and shall be constructed to, standards and criteria as set forth in the City's Engineering Design Criteria Manual.

An alternative form of screening, in lieu of the masonry wall or opaque wood fence, may be approved by the Building Official or an assign and the City Engineer with the Preliminary Subdivision Plat application. Alternatives that may considered include:

- (1) A living/landscaped screen in conjunction with decorative metal (e.g., wrought iron) fence sections with masonry columns;
- (2) A combination of berms and living/landscaped screening;
- (3) A combination of berms, decorative masonry walls and living/landscaped screening, either with or without a decorative metal or "WoodCrete" type of fence with masonry columns; or
- (4) Some other creative screening alternative may be approved if it meets the spirit and intent of this Section, if it is demonstrated to be long-lasting and generally maintenance-free, and if the Building Official or an assign and City Engineer

find it to be in the public interest to approve the alternative screening device.

- (c) Time Required for Opacity: Any required screening device shall be, or shall achieve, at least six feet (6') in height and at least ninety percent (90%) opacity within three (3) years of initial installation/planting. Any landscaping used to achieve the purpose of required screening shall be in conformance with other Divisions of this article and other Chapters of the Uniform Development Code.
- (d) Maintenance Easement: A wall/screening maintenance easement at least five feet (5') in width shall be dedicated to the City or to a property owners association on the private lot side and adjacent to the entire length of the screening wall or device.
- (e) Installation: The screening/wall/device shall be installed prior to final acceptance of the subdivision public improvements. All landscape materials, if utilized, shall be installed in accordance with other Divisions of this article and other Chapters of the Uniform Development Code. Failure to properly install all components of a required screening wall or device within the prescribed timeframe, shall constitute a violation of this Unified Development Code, and shall authorize the City Engineer to refuse acceptance of the subdivision public improvements.
- (f) Design of Walls: All masonry, wrought iron, steel or aluminum screening wall plans and details must be designed and sealed by a licensed professional engineer, and must be approved by the City Engineer. Use of chain-link, chicken-wire, hog-wire fencing, barb-wire fencing, and any other material similar in appearance and quality is expressly prohibited. The use of wood is prohibited.
- (g) Height of Screening: The height of required screening devices, including spans between columns, shall be a minimum of six feet (6') and shall be no more than eight feet (8'). Decorative columns, pilasters, stone caps, sculptural elements, and other similar features may exceed the maximum eight-foot (8') height by up to two feet (2') for a total maximum height of ten feet (10') for these features, provided that such taller elements comprise no more than ten percent (10%) of the total wall length in elevation view.
- (h) Other Easements: Screening fences, walls and devices shall not be constructed within any portion of a utility or drainage easement unless specifically authorized by the City Engineer and by any other applicable utility provider(s).

Section 3.3.1.4. General Screening

- (a) The following requirements shall be in addition to the foregoing landscaping and planting requirements:
 - (1) All loading spaces and docks, outside storage areas including open storage, storage in containers and boxes not designed to be permanently affixed to real property, refuse containers/areas, mechanical and electrical equipment, and the rear of nonresidential

uses/structures on double frontage lots, must be screened from view from the street or public rights-of-way and adjoining properties.

- (2) Approved screening techniques include masonry, evergreen vegetative screens, landscape berms, existing vegetation, or any combination thereof. In any case in which a fence/wall is constructed to provide screening, landscaping elements shall be incorporated along most of the fence/wall. Screening for ground mounted mechanical, electrical equipment in non-residential areas shall consist of a decorative wall or architectural element of the building that is one hundred percent (100%) opaque and equal to or exceeds the height of the area being screened. Shrubbery shall be a minimum of three feet (3') in height at the time of planting, planted every three feet (3') or less on center, and have year-round foliage. Also, in the case of roof-mounted mechanical equipment, parapet roof structures are approved for screening such equipment.
 - (3) If a nonresidential use is adjacent to a residential use other than multi-family, such nonresidential use shall be screened in accordance with Section 3.3.1.1 (a) and shall include a vegetative buffer.
- (b) If screening is required, it shall be of sufficient height and opacity to completely obscure the activity, structure, or use.

Section 3.3.1.5. Screening for Utility Support Structures and Stations

- (a) Applicability. This section shall apply to all utility support structures or stations located on private property regardless of an easement or other form of agreement between the utility company or property owner.
- (b) Support Structures and Stations Defined. These shall include, but not be limited to, any switching equipment, lift stations, pipe valves connected to pipes above ground, boxes, or cabinets, cabling equipment or wiring above ground, transmitting equipment, control rooms, control cabinets, etc. Utility poles and transformers and like appurtenances attached to utility poles more than ten feet (10') above the ground are not considered a support structure or station.
- (c) Regulations. A utility support structure or station located on private property or outside a public street right of way must have proper screening. The construction or modification of an existing utility support structure or station equal to more than fifty percent (50%) of its original or current economic value, whichever is higher, must provide screening meeting one of the following:
 - (1) Eight foot (8') high masonry fence with up to a maximum of four-foot (4') long sections of wrought iron (ornamental iron) or similar style fencing material to allow for security. For walls or sides that have over fifty percent (50%) masonry as a component (not counting the gate) no landscaping would be required on that side. The gate would need to be wrought iron (ornamental iron) or solid metal finished in a neutral or natural color

- not gray or steel color, unless otherwise approved by the City Engineer. All drives and work areas will be paved with concrete within the area under the utilities control.
- (2) Wrought iron (ornamental iron) fencing or substantially similar style, eight feet (8') high, with gate similar in style to the fencing, unless otherwise approved by the City Engineer, in combination with landscaping shall be permitted, but shall require a concrete slab over the entire area under the utilities control including the drive or access to the support structure or station.
- (3) Opaque or near-opaque live vegetative screening year-round from the ground to a height of at least eight feet (8') at installation along the boundary lines of the easement or area containing the utility facilities or apparatus. The screening shall provide a minimum of fifty percent (50%) screening during the growing season. The planting shall be a minimum of eight feet (8') in height at a spacing of at least four feet (4') on center.
- (4) A self-contained masonry building that houses the equipment, provided the structure is constructed consistent with the appearance of surrounding businesses or homes in the area in which it is located. Factors affecting appearance shall include, but not be limited to, pitched shingle roofs, façade articulations, color scheme, and architecture trim.
- (d) Alternative. If the utility company does not wish to install the screening as outlined, it may, in its application for a Special Use Permit (SUP), submit an alternative plan for providing proper screening. If the alternate screening plan is approved as a part of an approved Planned Unit Development District plan or with a SUP, the utility company may install screening pursuant thereto in lieu of screening that conforms with the requirements of this section.
- (e) Exceptions. The following two conditions exempt certain equipment from the above requirements or to obtain a SUP:
 - (1) Where no more than two support structures and/or stations as defined above are within fifty feet (50') of each other, are located within a common public utility easement, and each structure or station is located on a concrete pad with the dimensions of the structure being no larger than six feet (6') in height, four feet (4') deep, and seven feet (7') wide and is located at least fifty feet (50') from the ROW line of a public street.
 - (2) Pedestals, cabinets, or similar equipment structures when the structure is less than three feet (3') in height, covers less than six (6) square feet, and is in a common public utility easement, but is partially hidden from public view from a public street by landscaping, building, or fencing, as deemed appropriate by the Building Official or an assign.

Division 2 – Fencing

Section 3.3.2.1. Fencing Allowed

(a) Fences in Residential Areas/Districts, Except Multiple-Family.

- (1) Materials Permitted - Fences may be constructed of approved wood, decorative metal, chain link or woven wire mesh, and other materials traditionally used in private fence construction. New and innovative materials such as plastics, PVCs, metal panel or metal slat, "honeycomb", cementitious fiber board (e.g., "WoodCrete"), and other similar materials may be approved for use by the City's Building Official if the material is proven to be sturdy, durable, and relatively maintenance-free.

(b) Fences Permitted in Front Yard(s) Adjacent to a Public Street

- (1) Except as provided by Subsection 2 (Decorative Fences) below, no fence or wall shall be permitted within the required front yard of any single-family or duplex residential lot which is adjacent to a public street. No residential fence shall be closer than fifteen (15) feet to a public street; however, in cases where the side or rear building line of the yards on continuous corner lots adjoin (i.e., the side yard lot is not a key corner lot), the fence may be constructed out to the property line of the side yard, such that the street side yard may be included as part of the lot's rear yard area.
- (2) Decorative Fences - Decorative fences with openings not less than fifty percent (50%) of the fence area and not exceeding four (4) feet in height are permitted in front yards. Chain link, woven wire mesh metal panel, or similar materials are not considered decorative fencing, and are therefore not allowed in front yards.

Section 3.3.2.2. Fencing Not Allowed or Allowed with Conditions

(a) Perimeter Fencing in Residential Zoning Districts or Residential Use

- (1) Above-ground electrical fencing (does not include underground "virtual fencing", which is allowed), wire mesh (such as hog wire, chicken wire) and barbed wire are prohibited as perimeter fencing except on parcels or lots of two (2) acres or greater in size in the Residential Single-Family Units/Agriculture zoning district.

(b) Fences Within Public Easements

- (1) Fences are allowed within public easements with the approval of the Building Official or an assign and the City Engineer, but any allowed fence must have a gate or removable panel to allow for maintenance access to such easement.

(c) Fences Within Drainage Easements

- (1) No fences or structures of any kind that restrict the flow of drainage water will be allowed within drainage easements. Non-restrictive fences or structures within drainage easements must be specifically approved by the City Engineer.

(d) Fences within Side/Rear Yards

- (1) Fences located within side or rear yards shall not exceed eight (8) feet in height.

Section 3.3.2.3. Fencing Required

(a) Around Single-Family Residential Developments

- (1) Single-family residential use existing at the effective date of this Article is exempt from any requirement to provide any perimeter fencing.
- (2) Single-family residential use, if only a single tract or lot greater than two (2) acres in size or part of a multi-lot residential subdivision which has all lots greater than two (2) acres in size, if constructed or permitted after the effective date of this Article is exempt from any requirements to provide any perimeter fencing.
- (3) Single-family residential use, if a part of a multi-lot (more than 1 lot) residential subdivision with any lot less than two (2) acres in size, and not a part of an approved Planned Unit Development District, shall provide an eight (8) feet high approved opaque wood or masonry or combination masonry/wood materials fence around the outside single-family residential perimeter boundary of the subdivision section unless a portion of the outside perimeter boundary of the section is a part of an approved general plan. In which case, that part of the outside single-family residential perimeter boundary of the subdivision adjacent to future sections of the development shall not be required to provide a perimeter fence.
- (4) Gates used for access control within private street single-family residential developments must be set back a minimum of twenty-four (24) feet from the intersecting public street right-of-way to allow for vehicular stacking to occur outside the public street right-of-way.
- (5) Any fence provided within a single-family residential development that exceeds eight (8) feet in height will require construction plans approved by a civil engineer registered to practice in the State of Texas and will require a building permit.
- (6) If a owner of land proposed for a single-family use with lots less than two (2) acres in size obtains a notarized agreement from all existing land owners of adjacent land to the rear and side of the proposed single-family use indicating agreement to not require the fence around the perimeter boundary of the subdivision, the proposed land having lots less than two (2) acres in size will be exempt from providing a fence around the perimeter boundary of the subdivision.

(b) Around Non-Single-Family Residential Developments

- (1) Single tract/lot or multi-tract/lot non-single-family developments are not required to provide boundary perimeter fencing when the new development is adjacent to other existing non-single-family development.
- (2) The owner of a building site included under section 3.1.2.1 and which is to be developed or expanded for a non-single-family residential or a multi-family residential use adjacent

to any existing single-family residential property shall provide a landscape buffer adhering to at least one of the following buffer type:

- a. A wood, concrete or masonry opaque screening fence with a height of eight feet (8') along the entire property line or entire artificial lot line, if any, adjacent to the single-family residential property
- (3) A building permit must be obtained to construct any type of new fence where the market value of the work (materials and labor) exceeds three hundred (300) dollars. A building permit is not required for the repair or replacement of existing fences if the repair or replacement does not exceed the original fence criteria.

Article 4 - Exterior Environmental Lighting

Division 1 – General

Section 3.4.1.1. Purpose and Applicability

- (a) The purpose of this division is to establish standards for outdoor lighting in order to:
 - (1) Minimize adverse off-site effects from glare and light trespass or obtrusive light;
 - (2) Maintain adequate, appropriate lighting fixtures and practices that do not exceed the IES recommended practices for night-time safety, utility, productivity, enjoyment, and commerce while curtailing light pollution, skyglow, and the adverse effects of night lighting from gas or electric sources;
 - (3) Promote efficient lighting design and operation by conserving energy and resources to the greatest extent possible; and
 - (4) Protect residential uses from light sources from non-residential uses that are improperly selected, placed, aimed, maintained, or shielded.
 - (b) See Section 0.1.1.2 concerning the geographical scope of this ordinance. Except as described below, all outdoor lighting shall comply with these requirements. This includes, but is not limited to, existing lighting that has been amortized per amortization regulations contained in this Article, new lighting, replacement lighting, or any other lighting whether attached to structures, poles, the earth, or any other location, including lighting installed by any third party. Submission and approval of a Site Plan shall be required for all nonresidential (including churches, schools, etc. within residential areas), mixed-use, townhouse, single-family attached, and multi-family residential projects. The Building Official or an assign shall be the responsible official for processing of a Site Plan.
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- (1) Building Permit Issuance: Site plans shall be submitted prior to or in conjunction with a building permit application. No building permit shall be issued until a Site Plan, if required, and all other required engineering/construction plans are first approved by

the City. No certificate of occupancy shall be issued until all construction and development conforms to the Site Plan and engineering/construction plans, as approved by the City. A Lighting Plan shall be included for review and approval with submittal of a Site Plan.

(2) Exemptions: The following are not regulated by this Ordinance

- a. Lighting within the public right-of-way or easement for the principal purpose of illuminating roads and highways. No exemption shall apply to any street lighting and to any lighting within the public right-of-way or easement when the purpose of the luminaire is to illuminate areas outside of the public right-of-way or easement.
- b. Lighting for public monuments and statuary
- c. Lighting solely for signs if regulated by another Ordinance
- d. Repairs to existing luminaires not exceeding 25% of total installed luminaires
- e. Temporary lighting for theatrical, television, performance areas and construction sites
- f. Underwater lighting in swimming pools and other water features
- g. Temporary lighting and seasonal lighting provided that individual lamps are less than 10 watts and 70 lumens
- h. Lighting that is used under emergency conditions
- i. In Ambient Lighting Level areas 1 and 2, low voltage landscape lighting controlled by an automatic device that is set to turn the lights off at one hour after the site is closed to the public or at a time established by City Council.
- j. Temporary use of security lighting for no longer than necessary to prevent imminent or occurring harm to any person or property, due to a sudden emergency.

Section 3.4.1.2. Review and Approval Authority

- (a) An exterior light plan shall be required for all proposed or modified lighting that includes:
 1. Description of light fixtures including component specifications such as associated with a non-residential or multifamily site plan. Lighting plans shall include the following: lamps, reflectors, optics, angle of cutoff, supports, poles, and include manufacturer's catalog cuts.
 2. Location and description of every outdoor light fixture and hours of operation.
 3. Maintained horizontal illumination levels shown as foot candles and lumens.

Section 3.4.1.3. General Standards

- (a) Shielding shall be required in all installations except as specified herein. The lower edge of the shield shall be at or below the lowest point of the light source the light source or lamp to minimize the light transmission above the horizontal plane, or at least ninety (90) percent of the emitted light projects below the horizontal plane as evidenced by the manufacturer's photometric data. Shielding requirements may be reduced for architecturally decorative light fixtures in consideration of aesthetics and theme style lighting.
- (b) Any use is prohibited from operating in a manner so that the intensity of its glare or direct illumination projecting across the property boundary and onto another public or private property is a nuisance or detracts from the use or enjoyment of adjacent property.

- (c) Exterior lights shall be located to not produce direct illumination across the bounding property line. All outside lights shall be comprised of a light source and reflector selected so that acting together, the spillover is controlled and not directed across any bounding property line above a height of three (3) feet.
- (d) Outdoor advertising displays and signs not exclusively illuminated internally, may only utilize illuminating devices mounted on the top of the advertising display structure. All such fixtures shall comply with all other provisions of this section.
- (e) Outdoor advertising signs constructed of translucent materials and wholly illuminated from within do not require shielding
- (f) Light fixtures mounted on canopies or fueling station service islands shall be recessed so that the lens cover is recessed or flush with the bottom surface (ceiling) of the canopy.
- (g) IN ALL CASES, THE MAXIMUM CORRELATED COLOR TEMPERATURE FOR ALL NON-RESIDENTIAL LIGHTING AND ALL NON-RESIDENTIAL USES WITHIN RESIDENTIAL USE AREAS OR RESIDENTIAL ZONES IN THE CITY LIMIT SHALL NOT BE MORE THAN 3,000 DEGREES KELVIN AND A S/P (SCOTOPIC – NIGHTTIME LIGHT LEVEL, PHOTOPIC – DAYTIME LIGHT LEVEL) RATIO OF LESS THAN 1.2 TO MINIMIZE BLUE LIGHT EMISSION
- (h) The allowable ambient light source intensity and the requirements for shielding light emissions for outdoor lighting fixtures shall be as set forth in the following table:

Ambient Light Level	Zoning/Use	Recommended Uses or Areas
ALL-0	Wilderness areas, parks and preserves, and undeveloped rural areas	No Ambient Lighting – Areas where the natural environment will be seriously and adversely affected by lighting. Impacts include disturbing the biological cycles of flora and fauna and/or detracting from human enjoyment and appreciation of the natural environment. Human activity is subordinate in importance to nature. The vision of human residents and users is adapted to the darkness, and they expect to see little or no lighting. When not needed, lighting should be extinguished.
ALL-1	Rural and low-density residential areas	Low Ambient Lighting – Areas where lighting might adversely affect flora and fauna or disturb the character of the area. The vision of human residents and users is adapted to low light levels. Lighting may be used for safety and convenience, but it is not necessarily uniform or continuous. After midnight, most lighting should be extinguished or reduced as activity levels decline.

ALL-2	Light commercial business and high density or mixed-use residential areas	Moderate Ambient Lighting - Areas of human activity where the vision of human residents and users is adapted to moderate light levels. Lighting may be typically used for safety and convenience, but it is not necessarily uniform or continuous. After midnight, lighting may be extinguished or reduced as activity levels decline.
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(i) Lighting Control Requirements

1. Automatic Switching Requirements:
Controls shall be provided that automatically extinguish all outdoor lighting when sufficient daylight is available using a control device or system such as a photoelectric switch, astronomic time switch or equivalent functions from a programmable lighting controller, building automation system or lighting energy management system, all with battery or similar backup power or device. Exceptions include automatic lighting controls are not required for the following:
 - a. Lighting under canopies
 - b. Lighting for tunnels, parking garages, garage entrances and similar conditions
2. Automatic Lighting Reduction Requirements:
After the midnight hour (12:00 AM), total outdoor lighting lumens shall be reduced by at least 30% or extinguished, except under any of the following:
 - a. Lighting for single family residential properties including multi-family residential properties not having common area.
 - b. When the outdoor lighting consists of only one luminaire.
 - c. Code required lighting for steps, stairs walkways, and building entrances.
 - d. When in the opinion of the City Engineer or Building Official, lighting levels must be maintained.
 - e. Motion activated lighting.
 - f. Lighting governed by special use permit in which times of operation are specifically identified.
 - g. Businesses that operate on a 24-hour basis and have obtained a special use permit (SUP).

Section 3.4.1.4 Non-residential Lighting

For all non-residential properties, and for multiple residential properties of two or more domiciles having common outdoor areas, all outdoor lighting shall comply either with Part A or Part B of this section.

(a) Part A – Prescriptive Method

- (1) Total Site Lumen Limit
The total installed initial luminaire lumens of all outdoor lighting shall not exceed the total site lumen limit. The total site lumen limit shall be determined using either the Parking Space Method (Table A) or the Hardscape Area Method (Table B). Only one

method shall be used per permit application, and for site with existing lighting, existing lighting shall be included in the calculation of total installed lumens.

The total installed initial luminaire lumens is calculated as the sum of the initial luminaire lumens for all luminaires.

(2) Limits to Off Site Impacts

All luminaires shall be rated and installed according to Table C

(3) Light Shielding for Parking Lot Illumination

All parking lot lighting shall have no light emitting above 90 degrees.

- a. Exception: Ornamental parking lighting shall be permitted by special permit only and shall meet the requirements of Table C-1 for Backlight, Table C-2 for Up-light, and Table C-3 for Glare, without the need for external field-added modifications.

(b) Part B – Performance Method

(1) Total Site Lumen Limit

The total installed initial luminaire lumens of all lighting systems on the site shall not exceed the allowed total initial site lumens. The allowed total initial site lumens shall be determined using Tables D and E. For sites with existing lighting, existing lighting shall be included in the calculation of total installed lumens.

The total installed initial luminaire lumens of all is calculated as the sum of the initial luminaire lumens for all luminaires.

(2) Limits to Off Site Impacts

All luminaires shall be rated and installed using either Option A or Option B. Only one option may be used per permit application.

Option A: All luminaires shall be rated and installed according to Table C.

Option B: The entire outdoor lighting design shall be analyzed using industry standard lighting software including inter-reflections in the following manner:

1. Input data shall describe the lighting system including luminaire locations, mounting heights, aiming directions, and employing photometric data tested in accordance with IES guidelines. Buildings or other physical objects on the site within three object heights of the property line must be included in the calculations.
2. Analysis shall utilize an enclosure comprised of calculation planes with zero reflectance values around the perimeter of the site. The top of the enclosure shall be no less than thirty-three (33) feet (10 meters) above the tallest luminaire. Calculations shall include total lumens upon the inside surfaces of the box to and vertical sides and maximum vertical illuminance (foot-candles and/or lux) on the sided of the enclosure.

The design complies if:

- a. The total lumens on the inside surfaces of the vertical enclosure are less than 15% of the total site lumen limit; and
- b. The maximum vertical illuminance on any vertical surface is less than the allowed maximum illuminance per Table F.

Section 3.4.1.5 Residential Lighting

(a) General Requirements

For residential properties including multiple residential properties not having common areas, all outdoor luminaires shall be fully shielded and shall not exceed the allowed lumen output in Table G, column 2.

Exceptions:

- (1) One partly shielded or unshielded luminaire at the main entry not exceeding the allowed lumen output in Table G, column 1.
- (2) Any other partly shielded or unshielded luminaires not exceeding the allowed lumen output in Table G, column 3.
- (3) Low voltage landscape lighting aimed away from adjacent properties and not exceeding the allowed lumen output in Table G, column 6.
- (4) Shielded directional flood lighting aimed so that direct glare is not visible from adjacent properties and not exceeding the allowed lumen output in Table G, column 5.
- (5) Open flame gas lamps.
- (6) Lighting installed with a vacancy sensor, where the sensor extinguishes the lights no more than 15 minutes after the area is vacated.
- (7) Lighting exempt per section 3.4.1.1. (b) 2

(b) Requirements for Residential Landscape Lighting

- (1) Shall comply with Table G.
- (2) Shall not be aimed onto adjacent properties.

Section 3.4.1.6. Lighting By Special Permit Only

(a) High intensity and Special Purpose Lighting -

The following lighting systems are prohibited from being installed or used except by Special Use Permit:

- (1) Temporary lighting in which any single luminaire exceeds 20,000 initial luminaire lumens of the total lighting load exceeds 160,000 lumens.
- (2) Aerial Lasers
- (3) Searchlights
- (4) Other very intense lighting defined as having a light source exceeding 200,000 initial luminaire lumens or an intensity in any direction of more than 2,000,000 candelas.

(b) Complex and Non-Conforming Uses

Upon Special Use Permit issued by the City of Iowa Colony, lighting not complying with the technical requirements of this ordinance but consistent with its intent may be installed for complex sites or uses or special uses including, but not limited to, the following applications:

- (1) Sports facilities, including but not limited to unconditioned rinks, open courts, fields, and stadiums.
- (2) Construction lighting.
- (3) Lighting for industrial sites having special requirements, such as petrochemical manufacturing or storage, shipping piers, etc.
- (4) Parking structures.
- (5) Urban parks
- (6) Ornamental and architectural lighting of bridges, public monuments, statuary, and public buildings.
- (7) Theme and amusement parks.
- (8) Correctional facilities.

To obtain a Special Use Permit, applicants shall demonstrate that the proposed lighting installation:

- a. Has sustained every reasonable effort to mitigate the effects of light on the environment and surrounding properties, supported by a signed statement describing the mitigation measures. Such statements shall be accompanied by the calculations required for the Performance Method,
- b. Employs lighting controls to reduce lighting at a Project Specific Curfew "Curfew" time to be established in the Special Use Permit, and
- c. Complies with the Performance Method after Curfew.

The City of Iowa Colony Building Official or an assign and the City Engineer shall review each such application and make a recommendation to the City Council. The City Council will review the application and the recommendation of the Building Official and the City Engineer and may agree to grant a Special Use Permit if the City Council believes that the proposed lighting will not create unwarranted glare, sky glow, or light trespass.

Section 3.4.1.7. Existing Lighting

All lighting installed prior to the effective date of this ordinance shall comply with the following:

- (a) Amortization – All existing single family residential structures and developed tracts or lots shall be allowed to continue using existing exterior lighting but must comply with the requirements of this Article after a reasonable amortization period, which is presumed to end ten (10) years after the effective date of the adoption of this Article, including repair and comparable replacement.
- (b) New Uses or Structures, or Change of Use, after the effective date of this article – Whenever there is a new use of a property (zoning or variance change) or the use of the property is changed, all outdoor lighting on the property shall be brought into compliance with this Ordinance before the new or changed use commences.

(c) Additions or Alterations

- (1) Major Additions – If a major addition occurs on a property, lighting for the entire property shall comply with the requirements of this Article. The following are considered major additions:
 - a. Additions of twenty-five (25) percent or more in terms of additional dwelling units, gross floor area, seating capacity, or parking spaces, either with a single addition or with cumulative additions after the effective date of this Article.
 - b. Single or cumulative additions, modifications, or replacement of twenty-five (25) percent or more of installed outdoor lighting luminaires existing as of the effective date of this Ordinance.
- (2) Minor Modifications, Additions, or New Lighting Fixtures for Non-Residential and Multiple Dwellings – For non-residential and multiple dwellings, all additions, modifications, or replacement of more than twenty-five (25) percent of outdoor lighting fixtures existing as of the effective date of this Article shall require the submission of a complete inventory and site plan detailing all existing and any proposed new outdoor lighting. Any new lighting shall meet the requirements of this Article.
- (3) Resumption of Use after Abandonment – If a property with non-conforming lighting is abandoned for a period of six (6) months or more, then all outdoor lighting shall be brought into compliance with this Article before any further use of the property occurs.

Section 3.4.1.8. Tables

Table A – Allowed Total Initial Luminaire Lumens per Site for Non-Residential Outdoor Lighting, Per Parking Space Method.

May only be applied to properties up to 10 parking spaces (including handicapped accessible spaces).

Light Zone	Use/Zone	Allowed Luminaire Lumens per Parking Space (Lumens/Space)
ALL-0	Wilderness areas, parks and preserves, and undeveloped rural areas	350
ALL-1	Rural and low-density	490

	residential areas	
ALL-2	Light commercial business and high density or mixed-use residential areas	630

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Table B – Allowed Total Initial Lumens per Site for Non-Residential Outdoor Lighting, Hardscape Area Method.

May be used for any project. When lighting intersections of site drives and public streets or roads, a total of six hundred (600) square feet for each intersection may be added to the actual site hardscape area to provide for intersection lighting.

Base Allowance

Light Zone	Use/Zone	Base Allowance of Lumens per Square Foot of Hardscape
ALL-0	Wilderness areas, parks and preserves, and undeveloped rural areas	0.5
ALL-1	Rural and low-density residential areas	1.25
ALL-2	Light commercial business and high density or mixed-use residential areas	2.5

Lumen Allowances, in Addition to Base Allowance

Additional allowances for sales and service facilities. No more than two additional allowances per site. Use it or lose it.

Light Zone	Outdoor Sales Lots (1)	Outdoor Sales Frontage (2)	Drive Up Windows (3)	Vehicle Service Station (4)
ALL-0	0	0	0	0
ALL-1	4 Lumens/SF	0	2,000 Lumens/Drive Up Window	4,000 Lumens/Pump (based on 5 Foot-Candles horizontal)
ALL-2	8 Lumens /SF	1,000 Lumens/LF	4,000 Lumens/Drive Up Window	8,000 Lumens/Pump) (based on 10 Foot-Candles horizontal)

- (1) This allowance is lumens per square foot of un-covered sales lots used exclusively for the display of vehicles or merchandise for sale, and may not include driveways, parking, or other non-sales areas. To use this allowance, luminaires must be within two (2) mounting heights of sales lot area.
- (2) This allowance is for lineal feet of sales frontage immediately adjacent to the principal viewing location(s) and unobstructed for its viewing length. A corner sales lot may include two adjacent sides provided that a different principal viewing location exists for each side. To use this allowance, luminaires must be located between the principal viewing location and the frontage outdoor sales area.
- (3) In order to use this allowance, luminaires must be within twenty (20) feet horizontal distance of the center of the window.
- (4) This allowance is lumens per installed fuel pump.

Table C – Maximum Allowable Backlight, Uplight, and Glare (BUG) Ratings.

May be used for any project. A luminaire may be used if it is rated for the lighting zone of the site or lower in number for all ratings, B, U, and G. Luminaires equipped with adjustable mounting devices permitting alteration of luminaire aiming in the field shall not be permitted.

Table C-1 – Allowed Backlight Rating (1)

Light Zone	Greater Than 2 Mounting Heights from Property Line	1 to Less Than 2 Mounting Heights from Property Line and Ideally Oriented (2)	0.5 to 1 Mounting Heights from Property Line and Ideally Oriented (2)	Less Than 0.5 Mounting Height to Property Line and Properly Oriented (2)
ALL-0	B1	B1	B0	B0
ALL-1	B3	B2	B1	B0
ALL-2	B4	B3	B2	B0

- (1) For property lines that abut public walkways, bikeways, plazas, and parking lots, the property line may be five (5) feet beyond the actual property line for purposes of determining compliance with this section. For property lines that abut public roadways, the property line may be the centerline of the public roadway for the purpose of determining compliance with this section. NOTE: This adjustment is relative to Table C-1 and C-3 only and shall not be used to increase the lighting area of the site.

- (2) To be considered “ideally oriented”, the luminaire must be mounted with the backlight portion of the light output oriented perpendicular and towards the property line of concern.

Table C-2 – Maximum Allowable Uplight (BUG) Ratings – Continued

Light Zone	Allowable Uplight Rating	Allowed % Light Emission Above 90 Degrees for Street or Area Lighting
ALL-0	U0	0%
ALL-1	U1	0%
ALL-2	U2	0%

Table C-3 – Maximum Allowed Glare (BUG) Ratings – Continued

Light Zone	Allowed Glare Rating	Any Luminaire Not Ideally Oriented (3) With 1 to Less Than 2 Mounting Heights to Any Property Line of Concern	Any Luminaire Not Ideally Oriented (3) With 0.5 to 1 Mounting Heights to Any Property Line of Concern	Any Luminaire Not Ideally Oriented (3) With Less Than 0.5 Mounting Heights to Any Property Line of Concern
ALL-0	G0	G0	G0	G0
ALL-1	G1	G0	G0	G0
ALL-2	G2	G1	G0	G0

- (3) Any luminaire that cannot be mounted with its backlight perpendicular to any property line within 2X the mounting heights of the luminaire location shall meet the reduced Allowed Glare Rating in Table C-3

Table D – Performance Method Allowed Total Initial Site Lumens

May be used on any project.

Light Zone	Allowed Lumens Per SF	Allowed Base Lumens Per Site
ALL-0	0.5	0
ALL-1	1.25	3,500
ALL-2	2.5	7,000

Table E – Performance Method Additional Initial Luminaire Lumen Allowances

All of the following are “use it or lose it” allowances. All area and distance measurements in plan view unless otherwise noted.

Additional Lumens Allowances for All Buildings except service stations and outdoor sales facilities. A MAXIMUM OF THREE (3) ALLOWANCES ARE PERMITTED. THESE ALLOWANCES ARE “USE IT OR LOSE IT”

Light Zone	Principle Building Entrances or Exits (1)	Building Facades (2)	Sales or Non-Sales Canopies (3)	Guard Stations (4)	Outdoor Dining (5)	Drive Up Windows (6)
ALL-0	400	0	0	0	0	0
ALL-1	1,000	0	3/SF	6/SF	1/SF	2,000 Lumens/Drive Up Window
ALL-2	2,000	8/SF	6/SF	12/SF	5/SF	4,000 Lumens/Drive Up Window

- (1) This allowance is per door with a maximum of two (2) doors per building. To qualify for this allowance, luminaires must be within twenty (20) feet of the door.
- (2) This allowance is lumens per unit area of the building façade that are illuminated. To use this allowance, luminaires must be aimed at the façade and capable of illuminating it without obstruction.
- (3) This allowance is lumens per unit area for the total area within the drip line of the canopy. To qualify for this allowance, luminaires must be located under the canopy.
- (4) This allowance is lumens per unit of area of guardhouse plus 2000 SF per vehicle lane. To use this allowance, luminaires must be within two (2) mounting heights of a vehicle lane or the guardhouse.
- (5) This allowance is lumens per unit area for the total illuminated hardscape of outdoor dining. To use this allowance, luminaires must be within two (2) mounting heights of the hardscape area of outdoor dining.
- (6) This allowance is lumens per window with a maximum allowance of two (2) drive-up windows per building. To use this allowance, luminaires must be within twenty (20) feet of the center of the window.

Additional Lumens Allowances for Service Stations or Gas Dispensing Facilities in Combination with Other Non-gas Dispensing Uses Only. Service Stations or Gas Dispensing Facilities in Combination with Other Non-gas Dispensing Uses May Not Use Any Other Additional Allowances

Light Zone	Additional Allowance for Service Stations – Vehicle Service Station Hardscape (7)	Additional Allowance for Service Stations – Vehicle Service Station Canopies (8)
ALL-0	0	0
ALL-1	4/SF	8/SF
ALL-2	8/SF	16/SF

(7) This allowance is lumens per unit area for the total illuminated hardscape area less area of buildings, area under canopies, area off property, or areas obstructed by signs or structures. To use this allowance, luminaires must be illuminating the hardscape area and must not be within a building below a canopy, beyond property lines, or obstructed by a sign or other structure.

(8) This allowance is lumens per unit area for the total area within the drip line of the canopy. To use this allowance, luminaires must be located under the canopy.

Additional Lumens Allowances for Outdoor Sales Facilities Only. Outdoor Sales Facilities May Not Use Any Other Allowances. NOTICE: Lighting Permitted by These Allowances Shall Employ Controls Extinguishing This Lighting After a Curfew Time to be Determined by the City of Iowa Colony.

Light Zone	Outdoor Sales Lots (9)	Outdoor Sales Frontage (10)
ALL-0	0	0
ALL-1	4/SF	
ALL-2	8/SF	1,000/LF

(9) This allowance is lumens per square foot of uncovered sales lots used exclusively for the display of vehicles or other merchandise for sale, and may not include driveways, parking or other non-sales areas and shall not exceed twenty-five (25) percent of the total hardscape area. To use this allowance, luminaires must be within two (2) mounting heights of the sales lot area.

(10) This allowance is for lineal feet of sales frontage immediately adjacent to the principal viewing location(s) and unobstructed for its viewing length. A corner sales lot may include two (2) adjacent sides, provided a different principal viewing location exists for

each side. To use this allowance, luminaires must be located between the principal viewing location and the frontage outdoor sales area.

Table F – Maximum Vertical Illuminance at Any Point In the Plane of the Property Line

Light Zone	Maximum Vertical Illuminance
ALL-0	0.05 FC or 0.5 LUX
ALL-1	0.1 FC or 1.0 LUX
ALL-2	0.3 FC or 3.0 LUX

Table G – Residential Lighting Limits

Light Zone	Column 1 (1)	Column 2 (2)	Column 3 (3)	Column 4 (4)	Column 5 (5)	Column 6 (6)
ALL-0	Not Allowed	630 Lumens	Not Allowed	Not Allowed	Not Allowed	Not Allowed
ALL-1	420 Lumens	1,260 Lumens	315 Lumens	Not Allowed	Not Allowed	SFR Exempt Others Not Allowed
ALL-2	630 Lumens	1,260 Lumens	315 Lumens	1,050 Lumens	1,260 Lumens	525 Lumens

- (1) Maximum allowed luminaire lumens* for unshielded luminaires at one entry only.
- (2) Maximum allowed luminaire lumens* for each fully shielded luminaire
- (3) Maximum allowed luminaire lumens* for each unshielded luminaire excluding main entry.
- (4) Maximum allowed luminaire lumens* for each landscape lighting.
- (5) Maximum allowed luminaire lumens* for each shielded directional flood lighting.
- (6) Maximum allowed luminaire lumens* for each low voltage landscape lighting.

Article 5 – Commercial Buildings

Division 1 General

Section 3.5.1.1. Purpose

The purpose of this Article is to establish minimum standards for exterior building improvements for non-residential structures to protect and advance the general welfare of the community by:

- (a) Promoting economic development to ensure the community is a desirable place to shop and work;
- (b) Provide for the structural integrity, safety, durability, and improved maintenance of the façade of buildings;
- (c) Enhance and protect the aesthetic interests of the community; and
- (d) Protect property values and lessen the impact that commercial properties have on surrounding residential development.

Section 3.5.1.2. Applicability

- (a) This Article applies to all sides of all buildings that are:
 - (1) Non-residential;
 - (2) And either;
 - a. Constructed after the date of adoption of this Article, or
 - b. Repaired, added to, or altered as to more than fifty (50) percent of the exterior walls, after the date of adoption of this Article; and
 - (3) Located within one thousand (1,000) feet of a public street or highway.
- (b) However, this Article shall not apply to agricultural buildings, such as barns. This exception shall not apply to commercial businesses that are open to the public, even if they are agricultural.

Division 2 Types of Improvements

Section 3.5.2.1. Existing Buildings - Maintenance, Repair, Replacements

- (a) Maintenance. The exposed walls and roofs of buildings shall be maintained in a clean, orderly, and attractive condition, free of cracks, dents, punctures, breakage and other forms of visible marring. Materials that become excessively faded, chalked or otherwise deteriorated shall be refinished or repainted. "Excessively faded" shall be defined as a color change exceeding 7 Delta E (Hunter) units under ASTM D2244. "Excessively chalked" shall be defined as chalk more than ASTM D759 number 6 rating.
- (b) The maintenance, repair, or replacement of existing building elements shall be performed in the following order of priority:
 - (1) Maintaining the original materials, elements, and systems is the preferred and typically best method of preserving the character of existing buildings and shall be done except as otherwise authorized in (2) or (3) below.
 - (2) If maintaining the original as provided above is not economically or technically feasible, repairs shall be done so that the original materials and elements remain intact by replacing the deteriorated portion in-kind using the same material as the original for replacement.
 - (3) If, for technical or economic reasons, replacement in-kind as provided above also proves not to be feasible, the deteriorated material or element shall be replaced with a compatible substitute material which has the same appearance, size, shape, texture, color, and other defining characteristics as the original. The substitute material shall also be physically and chemically compatible with adjacent materials so that it does not cause future maintenance problems.

Section 3.5.2.2. Alterations

- (a) Exterior alterations to an existing building or to its site that affect appearance or landscape shall be done in a manner that does not detract from the character-defining features of the building, site, or the neighborhood.

Section 3.5.2.3. Additions

- (a) Additions to existing commercial buildings are sometimes necessary to extend their functional or economic life. Consideration shall be given to the effect the location, size, and exterior appearance of the addition will have on an existing building and its neighbors. Visibility from a public right-of-way and the character of the existing elevation to which the

addition is to be attached shall be evaluated including height, width, proportion, rhythm of windows and doors, roof shape, ornamentation, projections, and materials.

Section 3.5.2.4. New Construction

- (a) New construction shall follow the same general design principles as existing construction including particular attention to its setback from the street and its alignment with the front facades of neighboring buildings and landscape features. Achieving compatibility does not mean duplicating neighboring buildings or environment. A new building or addition shall be seen as a product of its own time. However, by effectively relating to the neighborhood, a new building shows the neighborhood's evolution just as the existing buildings show its past. By providing features or elements in the new building that support significant existing elements in the neighborhood, the new building will be a good neighbor, enhancing the character of the neighborhood.

Division 3 Character Defining Elements

Observing and understanding specific details of design is critical to preserving the character of a neighborhood. Character-defining features include setback, orientation, scale, proportion, rhythm, massing, height, materials, color, roof shape and details, ornamentation, landscape features, such as plants, trees, fences, sidewalks, and driveways, and the design and location of secondary buildings, such as garages.

Section 3.5.3.1. Setback, Driveways, Sidewalks, and Parking for Commercial/Retail/Office/Industrial Use Buildings

- (a) The City of Iowa Colony Unified Development Code is a part of the Iowa Colony Zoning Ordinance, Subdivision Ordinance, and Building Codes. Other parts of those ordinances currently indicate minimum building setbacks. Over time, those other regulations will be incorporated into the Unified Development Code. Until the incorporation is complete, there may be conflicts between regulations for the same condition in the Unified Development Code and in those other sources. In the case of conflict between a regulation in the Unified Development Code and a regulation for the same condition in other parts of the Zoning Ordinance, Subdivision Ordinance, or Building Codes, the regulation expressed in the Unified Development Code shall prevail and supersede all other regulations, but only to the extent necessary to resolve the conflict. Regulations for building setbacks for non-residential zoning districts and non-residential uses are as follows:

- (1) Front Building Setback for Commercial/Retail/Office Use Buildings– to encourage both pedestrian and vehicular building access and interior visibility, depending on the type of street frontage, at least fifty (50) percent of the total length of the front wall of a building facing a designated super arterial, major arterial, or collector shall be located at one of only three locations relative to the distance from the front property line, that property line that provides both legal and physical vehicular access to the property.
- a. If the property frontage is not on a designated super arterial or major arterial, the front wall of the building shall be located on a build-to building setback line located ten (10) feet from the ultimate right-of-way line of the street along the front of the property.
 - b. If property frontage is on a designated super arterial, the front wall of the building shall be located on a build-to building setback line of seventy-one (71) feet from the ultimate right-of-way line of the street along the front of the property.
 - c. If both (i) property frontage is on a designated major arterial; and (ii) either (a) the tract size is less than two (2) acres, or (b) the proposed building size is limited to a maximum of twenty-five thousand (25,000) square feet of Gross Leasable Area (GLA): then the front wall of the building shall be located on a build-to building setback line of fifty-three (53) feet from the ultimate right-of-way line of the street along the front of the property.
 - d. If both (i) property frontage is on a designated major arterial; and (ii) either (a) the tract size is two (2) acres or larger or (b) the proposed building size is greater than twenty-five thousand (25,000) square feet of Gross Leasable Area (GLA); then the front wall of the building shall be located on a build-to building setback line of seventy-one (71) feet from the ultimate right-of-way line of the street along the front of the property.
 - e. In the condition indicated in (a) above, the required street sidewalk may be replaced with a sidewalk between the building and the front property line within the ten (10) foot space between the building and the street right-of-way line if the relocated sidewalk is located adjacent to the building wall and if the sidewalk is at least six (6) feet wide and contains a minimum of a three (3) foot wide pedestrian clear zone and if a public access easement document is recorded for use of the sidewalk on private property. No fences, trees, shrubs taller than three (3) feet, or freestanding permanent signs shall be placed between the front of the building and the street curb, and no parking or driveway is allowed within the space between the building and the front property line.
 - f. In the condition indicated in (c) above, the space between the building and the front property line may be used for a private driveway with single-loaded (only on one side of the driveway) head-in, ninety (90) degree parking. A minimum six (6) feet wide sidewalk shall be located between the end of the parking spaces and the building wall, and the sidewalk shall be adjacent to the front wall of the building. A public sidewalk six (6) feet wide for arterials is also required within the street right-of-way along the front of the property. A front parking setback

of twenty-nine (29) feet is required between the front of the building and the front property line and no driveway access to the front public street is allowed between the front of the building and the front property line. No fences, ~~trees~~, or shrubs taller than three (3) feet, or freestanding permanent signs shall be placed between the front of the building and the street curb. Driveway access to the public street shall occur beyond the building end.

- g. In the condition indicated in (d) above, the space between the building and the front property line may be used for a private driveway with double-loaded (both sides of the driveway) head-in, ninety (90) degree parking. A minimum six (6) feet wide sidewalk shall be located between the end of the parking spaces and the building wall, and the sidewalk shall be adjacent to the front wall of the building. A public sidewalk six (6) feet wide for arterials is also required within the street right-of-way along the front of the property. A front parking setback of five (5) is required between the front of the building and the front property line. No fences, ~~trees~~, or shrubs taller than three (3) feet, or freestanding permanent signs shall be placed between the front of the building and the street curb.
 - h. In the condition indicated in (a), (b), (c), or (d) above, if a utility easement or pipeline easement is located adjacent to the public street right-of-way, the width of the distance required for the build-to line shall be increased equal to the width of the easement.
- (b) Front Building Setback for Industrial Use Buildings – All industrial use buildings, regardless of the type of street frontage, shall be set back to a build-to setback line of twenty-five (25) feet from the front property line but may be more than twenty-five (25) feet if the owner can provide evidence satisfactory to the City that a deeper setback is required for public safety.

Section 3.5.3.2. Orientation For Commercial/Retail/Office Use Buildings

- (a) Buildings shall squarely face the front street, with their principal façade and entrance in full view. Buildings shall also have rear building entrances to access the building from the on-site parking located behind the building unless a minimum five (5) feet wide sidewalk is provided from the parking area to the front entrance. This is not an exception to any entrance, exit, or access requirements of the Fire Code or any other ordinance or law.
- (b) Where on-site parking, not located in front of a building, is provided along street frontage, a minimum twenty (20) feet parking setback from the street right-of-way is required. Only perpendicular driveways accessing the public street, directional signs (i.e. enter, exit, additional parking, with or without arrows), in conformance with the Iowa Colony Sign Ordinance, and shrubs no taller than three (3) feet, will be allowed within this parking setback. Only a maximum of sixty-five (65) feet of parking lot width will be allowed per parking lot bay (a row of head-in parking on each side of a driveway) and a minimum of

twenty (20) feet between parking lot bays allowed along street frontage not located in front of a building.

Section 3.5.3.3. Scale For Commercial/Retail/Office Use Buildings

- (a) The overall scale of a building is its size relative to its neighbors and people. Other aspects of the scale of a building involve elements such as windows, doors, cornices, roofs, and architectural details. All non-governmental or non-religious buildings shall be scaled and designed to relate to the size of an average human being (typically a person of six (6) feet in height). Governmental and religious buildings may be designed to be monumental to give the building prominence or symbolic importance.
- (b) Scale can be achieved in a variety of ways. For example, the size of an element contributes to the scale of a building. Also, facades can be heavily rusticated, contributing to a sense of monumentality, or of plain materials and treatments, making the building appear to be more human in scale. The scale of a new building or addition shall respect and be compatible with the scale of its neighbors unless the building's use or symbolic importance, such as a church in a residential area, differs from that of its neighbors.

Section 3.5.3.4. Proportion For Commercial/Retail/Office Use Buildings

- (a) Proportion is the relationship of the size of building elements, such as windows and doors, to each other and to the building elevations. The design of an addition or a new building shall respect and be compatible with the existing proportions of neighboring buildings. Building proportions shall relate to the human form (i.e., vertical in stature, three main parts – base, trunk, head, etc.) and its proportional relationship.

Section 3.5.3.5. Rhythm For Commercial/Retail/Office Use Buildings

- (a) The spacing of repetitive façade elements, such as projecting bays, storefronts, windows, doors, masonry belt courses and the like, gives an elevation its rhythm. The space between these façade elements can also provide a rhythmic relationship. Also, the space between freestanding buildings, the repetition of the same building type, and the height of roofs, cornices, towers, and other roof projections establish the rhythm along a street. Any addition or new building shall be compatible with the rhythm established by its neighbors and on the street on which it is located.

Section 3.5.3.6. Massing For Commercial/Retail/Office Use Buildings

- (a) Massing typically involves the articulation of a façade using dormers, towers, and other roof projections, as well as façade projections such as bays, porches, and steps. This overall level of articulation visually emphasizes or de-emphasizes volumetric relationships which gives a building its perceived visual mass. The same volume building can appear larger in mass with less articulation and smaller in mass with more articulation as the articulation visually divides the façade into smaller visual parts. Any addition or new building shall be compatible with the massing established by its neighbors and on the street on which it is located.

Section 3.5.3.7. Height For All Buildings

- (a) Building height in Iowa Colony is restricted to a maximum of two (2) stories, but in no case more than thirty-five (35) feet from the natural ground elevation, as fire protection above that height is not now possible. This regulation may be changed after fire-fighting equipment is secured to allow taller construction.
- (b) Even in consideration of (a) above, should that height restriction be removed, a building still shall be designed to respect and be compatible with existing building heights. To be compatible, it does not necessarily have to be the same height as its neighbors but two similar elements at a different height shall not be directly adjacent to each other but have some gap space between to allow for the visual disparity. Visual height is determined by not only the height of walls, but also of cornices and roofs, as well as chimneys and towers, which contributes to the character of existing buildings, neighborhoods, and commercial areas. New in-fill construction must not be more or less than one (1) story different in height than the prevalent height of existing buildings on the same street that are all generally the same height.

Section 3.5.3.8. Materials

- (a) Exterior Materials for Office, Commercial/Retail, and Industrial Uses or as allowed by State of Texas law
 - (1) Office and Commercial/Retail Use Buildings.

Only the following building materials shall be used for all office and commercial/retail buildings located within the City of Iowa Colony jurisdiction:

- a. Masonry – brick, stone, concrete masonry units (CMU's) with split-face, fluted, scored or other rough texture finish. (Specifically excluding smooth finish CMU or concrete brick with the color and texture of clay brick.)
- b. Concrete – precast, cast in place, or tilt up panels provided a rough texture is present or to be added before the construction is substantially complete, and if the building is unoccupied, before it is occupied. Smooth finish concrete on vertical panels is not allowed.
- c. Stucco – true stucco consisting of multiple layers placed on an expanded metal lath base. Color shall be included in the final top layer integral with the mix. Painted stucco will not be allowed.
- d. Structural clay tile - excluding glazed surface finish.
- e. Glass – glass curtain walls or glass block, but mirror glass which reflects more than 40 percent of incident visible light shall not be used on more than twenty (20) percent of the exterior walls of any building.
- f. Metal – used only in incidental trim purposes except as allowed for roofing materials as indicated below. Metal, including coated metal, that is used for purposes other than incidental trim purposes is not allowed. All exterior metal must be coated with an opaque colored coating that is not clear.
- g. Roofing materials-standing seam metal, natural metal, uncolored, for projection canopies on walls over windows or other openings. No other roofing materials shall be visible from a public street at standing eye level.

(2) Industrial Use Buildings

Industrial buildings fronting on arterial streets or collector streets may utilize the following approved materials.

- a. Fronts of all industrial buildings located on streets classified as arterials or collectors, i.e., four (4) lanes or greater, shall utilize one hundred percent (100%) approved materials specified in (1) above.
- b. Sides of all industrial buildings facing or fronting on arterial streets or collector streets shall incorporate a minimum of fifty (50%) percent of the approved materials listed in (1) above. The other fifty (50%) of the sides shall use only the approved materials listed in (1) above or pre-engineered and pre-finished rough textured metal siding panels and/or pre-engineered and pre-finished rough textured metal siding panel systems, meeting adopted building codes.

(3) Industrial buildings fronting on other than arterial streets shall utilize only the following materials:

- a. Fronts of all industrial buildings facing a non-arterial or non-collector street shall incorporate a minimum of fifty (50%) percent of the approved materials listed in (1) above.
 - b. Sides of all industrial buildings facing or fronting on other than arterial streets or collector streets shall utilize only the same materials allowed in (1) or (2) above.
- (4) Industrial buildings located in areas behind industrial or other buildings that directly front on a public street shall utilize only the following materials:
- a. Fronts of all industrial buildings so located shall incorporate a minimum of fifty (50%) percent of either the approved materials listed in (1) or (2) above.
 - b. The other 50% of the front and all the remaining sides of all industrial buildings so located shall utilize only the approved materials listed in (1) or (2) above.
- (5) Conditional materials. However, the following materials may be used if a variance is granted.
- a. Wood - Only when used to provide compatibility to surrounding buildings or residential districts;
 - b. Vinyl – Only when used to provide compatibility to surrounding buildings; or
 - c. New materials not listed as approved, prohibited, or conditional, may be approved if a variance is granted. In addition to the other requirements for a variance, the variance shall not be granted unless the alternative finish is substantially equal to or better than an allowed or specified exterior finish in quality, durability, and unless the use of the material will not violate any other provision of this UDC.
- (6) Temporary materials. Materials for temporary use may only be allowed for a specific period of time as determined by the City Council on a case-by-case basis. Approval of temporary materials shall be noted on the building permit or development site plan and the specific period of time the temporary material is allowed.
- (7) Prohibited materials. Exterior building materials are intended to be long lasting and low maintenance. Exterior building materials not listed either as approved, conditional, or temporary materials as defined herein are prohibited. New materials may be considered as conditional materials and may be considered for approval or disapproved as in (5) above, otherwise, the following materials are prohibited on the exterior of a building:
- a. Vinyl siding, wood fiber hardboard siding, oriented strand board siding, plastic or fiberglass panels, corrugated or ribbed panels, of any thickness, or any flat metal panel less than 26 gauge thick;

- b. Galvanized, aluminum coated, zinc-aluminum coated or unpainted exterior metal finishes, except for trim purposes around door, window, and other openings, which cannot exceed five (5) percent of the total façade area per wall;
- c. Unfired or underfired clay, sand or shale brick, or concrete masonry units (CMUs) when used as more than trim or ornamentation, or smooth or un-textured concrete finishes including cement panels without a top-coat material of true stucco;
- d. Concrete finish or precast concrete panel (tilt wall) without a profiled finish of exposed aggregate, hammered, sandblasted, sculptured, fluted, or other architectural concrete finish;
- e. Mirrored glass with a reflectance greater than forty (40) percent shall not be permitted on more than twenty (20) percent of the exterior walls of any building;
- f. Exterior Insulation Finishing System (EFIS);
- g. Painted materials including brick, thin brick, naturally occurring stone, concrete masonry units or cementitious stucco.

Section 3.5.3.9. Colors

- (a) The only permitted colors are those colors that are derived from the materials used in construction, for example, brick, stone, terra cotta, slate, asphalt shingle, copper, lead, and other materials that are typically left unpainted and would give color to a building. Color may be applied to wood as a stain that also helps protect the building material. Color that is an inherent internal part of the final product may also be an admixture to stucco and concrete during the initial placement or forming. No more than three (3) distinct colors shall be used on a building.

Section 3.5.3.10. Roofs

- (a) Roof Shape – The shape of a roof and its details are character defining elements. An addition or new building shall have a roof shape that is compatible with the existing roof shapes along the street. In a street with flat roofs, an addition or new building shall also have a flat roof (not truly flat as a slight grade is required for drainage) or a sloped roof may be provided behind a visually flat parapet wall. Conversely, if an existing street has buildings with sloped roofs, then an addition or new building shall have a roof shape that is compatible with the existing roof shapes along the street. Introducing a different roof shape, such as a flat roof within an area that has sloped roofs, would not be in keeping with the existing character of the street.

- (b) Roof Elements and Details - Roof elements and details allowed include only: cornices, parapets, eaves, dormers, towers, finials, cresting, gutters, and down-spouts. Parapets must have a cap or coping made of metal, tile, stone, or precast concrete.
- (c) Gutters and Down Spouts – If exterior gutters and down spouts are used, they must be made of galvanized steel or copper. If not the natural metal or galvanized, the color of the gutters and down spouts must match the building trim color. Down spouts shall be connected directly to the underground storm sewer system or connected to a rain-water retention system or a natural green space bio-swale for ground absorption of the storm water.
- (d) Sloped Roofs – If slope roofs are used, they shall be covered with metal, either panels (standing seam) or shingles, slate, or clay tile. Asphalt shingles, wood shingles or wood shakes are not allowed.
- (e) Roof Appurtenances – Satellite dishes, communication towers, solar panels or other roof additions shall be located so that they are not visible from a public street.
- (f) HVAC Equipment – Heating, ventilating and air conditioning (HVAC) equipment shall be located to not be visible from a public street or shall be screened from view. Screens shall be designed to be compatible with the proportion, scale, materials, color and other character defining elements of the building. Mechanical penthouses, if required, shall be compatible with the building design if they can be seen from a street.

Section 3.5.3.11. Offsets

- (a) Vertical breaks shall be provided on all sides of buildings to provide architectural relief and may include bands of accent color, brick course variances in color or placement, i.e., soldier course bricks for bands of different texture, windows, cornices, wall protrusions, horizontal belt courses, etc. The maximum horizontal distance without a vertical break shall be twenty-five (25) feet.
- (b) Horizontal breaks, for buildings greater than one (1) story, that delineate each story shall be provided on all sides of buildings to provide architectural relief as in (a) above. The maximum vertical distance without a horizontal break, including one (1) story buildings greater than twenty (20) feet in height shall be twenty (20) feet.
- (c) Articulation - Not less than fifteen percent (15%) of the area of each front exterior façade, and of each street sidewall where a building is located on a corner lot, excluding windows, doors, or overhead doors, shall be recessed, projected or alternately staggered from the primary plane of the wall. For purposes of this Section, fascia or mansards shall not be counted as a projection from the primary plane. Recess shall mean a minimum of four (4) inches from the primary wall plane and projection shall mean a minimum of six (6) inches from the primary wall plane.

Section 3.5.3.12. Storefronts

The primary purpose of a storefront is to display merchandise or market services to the public, both pedestrian and vehicular. Modern storefronts often consist of simple metal tubing and glass. Storefronts shall either align with the building wall or be slightly inset behind the building wall but not project from the building wall into the pedestrian space.

- (a) Primary Entrance Treatment – Each building shall have at least one visually identifiable building entrance on the facing street side that will be the primary building entrance. The primary building entrance is generally near provided handi-capped parking spaces and may be the building entrance for an anchor tenant. Up to two (2) building entrances may be designated as primary building entrances if they are located on opposite ends of the building. Additional building entrances are possible but all other building entrances shall be visually secondary to the primary building entrance(s). The primary building entrance shall have unique ornamentation and/or be larger in area than any other building entrance visible from a public street. Multiple tenants in the same building that are located adjacent to the exterior street facing wall may have individual tenant entrances, but these tenant entrances will not be considered as a primary building entrance.
- (b) Transparency – To allow visibility of building interior activity, each exterior wall of a commercial/retail/office building facing a public street must contain at least sixty-five (65) percent transparent material to allow visual penetration of at least three (3) feet into the building. For one (1) story buildings, this sixty-five (65) percent can be measured in either of two (2) ways: Either sixty-five (65) percent of the total wall area, regardless of the minimum dimension of the transparent area or sixty-five (65) percent of the total length of the wall frontage when the transparent area is a minimum of eight (8) feet high measured from the floor. Transparency includes stationary glass, windows, and the glass area of doors.
- (c) Canopies/Overhang – All glass display areas and entrances shall have an overhead canopy or permanent overhang at least four (4) feet projecting from the building wall and extending at least the entire length of the display area or entrance. Building entrances inset at least four (4) feet into the building from the exterior wall plane do not require a canopy or overhang.
- (d) Street Furniture – All new buildings and all new additions with a new primary building entrance shall provide at least one (1) two-person metal bench, at least one (1) metal litter container, and at least one (1) two-bike, two-point-of-contact metal bicycle rack, all located within twenty-five (25) feet of the primary building entrance.

Section 3.5.3.13. Details and Ornamentation

- (a) The general degree of detail and ornamentation provided in new buildings and additions to existing buildings shall be compatible with that found on the existing building(s) adjacent on the street. A contemporary interpretation of details found on older, existing buildings can

be an effective way to differentiate a new building, or addition to an older building, from an existing building.

Section 3.5.3.14. Landscape Features

- (a) Plants, trees, fences, retaining walls, sidewalks, driveways, decorative retaining walls and fences are important character-defining elements. When possible, existing plant material shall be maintained, especially mature trees and shrubs. However, new landscaping with flowers and shrubs can complement the entire area, enhance the structure itself, and improve the appearance of the neighborhood. New fencing and/or new or repaired retaining walls shall match or complement the existing styles of neighborhoods. All natural site areas or vegetated area shall be irrigated by automatic irrigation systems. Non-spray heads are to be used on all trees, shrubs, and flowerbed areas.

Section 3.5.3.15. Secondary Buildings

- (a) Secondary buildings include structures such as garages, sheds, and other outbuildings. They often impact the scale and texture of the property and present a contrast to the primary structure. The design of new secondary buildings shall be compatible with the location, size, materials, and other defining characteristics of the main building. Prefabricated sheds and structures shall be used with reservation and if used, should complement the primary structure in color and design. Metal shipping containers and other metal storage containers are not allowed on commercial/retail/office sites for a continuous period beyond three (3) days except during periods of initial construction or renovation.

Section 3.5.3.16. Lighting

Exterior site lighting is regulated by Article 4 – Exterior Environmental Lighting in this UDC. Additionally, exterior lighting fixtures shall be in harmony with the character of the buildings. Visible lighting fixtures shall be mounted in entrance ways and on the front façade of the building. Concealed flood lighting may be used to light facades. Lighting fixtures shall be inconspicuous. Electrical elements such as wires, conduits, junction boxes, transformers, ballasts, switched, and panel boxes shall be concealed. Lighting shall comply with any criteria in the Engineering Design Criteria Manual.

- (a) Allowed lighting methods:
 - (1) Fully recessed downlights or wall washers
 - (2) Shielded lamps with diffusers

(3) Gooseneck or bent tube arm to prevent glare at pedestrian level

(b) Prohibited lighting methods:

(1) Exposed lamp lighting

(2) Exposed high power lamps that cause “over lighting” and excessive glare on the street

(3) Exposed bulbs

(4) Lights that blink, black out, flash, or have mechanical motion

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Chapter 4: Subdivision Design and Improvements

Article 1 – Subdivision Platting - Reserved

Chapter 5: Definitions

Article 1 – Generally Applicable Definitions

Division 1 – General Definitions

Section 5.1.1.1. General Definitions

- (a) The following definitions are intended to provide descriptions for words and terms used within this UDC. Absent any conflict, words and terms used in this UDC shall have the meanings ascribed thereto in this Chapter 5. When words and terms are defined herein and are also defined in other ordinance(s) of the City, shall be read in harmony unless there exists an irreconcilable conflict, in which case the definition contained in this Chapter 5 shall control. For any definition not listed in this Chapter 5 of this UDC, the definition found within the latest edition of Webster's Dictionary shall be used.

ABANDONMENT: As related to nonconforming uses and structures, having been abandoned as described in this UDC.

ABSOLUTE PHOTOMETRY: Photometric measurements (usually of a solid-state luminaire) that directly measures the footprint of the luminaire. Reference Standard IES LM-79

ABUTTING: Having property or district lines in common, or two objects in immediate contact.

ACCESS: Means of approaching or entering a property. Includes a right of passage to and from an adjacent street, alley, or property.

ACCESSORY: Being secondary or subordinate to something else.

ACCESSORY DWELLING: A subordinate building that is detached from the primary on-site structure, is used as a residence, is incidental to the main structure (i.e., the building area must be significantly less than that of the main structure) and is not involved in the conduct of a business.

ACCESSORY STRUCTURE (BUSINESS OR INDUSTRY): A subordinate building to a building used for nonresidential purposes that does not exceed the height of the main building and does not exceed thirty percent (30%) of the floor area of the main building, and that is used for purposes accessory and incidental to the main nonresidential use (also see *Accessory Use*).

ACCESSORY STRUCTURE (RESIDENTIAL): A subordinate building that is either detached from or attached by only a breezeway to the primary on-site structure, and that is clearly incidental and secondary to the permitted on-site use, and which does not change the character thereof, including, but not limited to, garages, bathhouses, greenhouses, barns, tool sheds, or swimming pools.

ACCESSORY USE: A use that is clearly and customarily incidental and secondary to the permitted and/or principal use of land or building(s), and that is located upon the same lot therewith, and which does not change the character thereof, including garages, living quarters for servants, greenhouses, or tool sheds. The land/building area that is used for the accessory use is significantly less than that used for the primary use.

ADDITION: An extension or increase in floor area or height of an existing building or structure.

ADULT DAY CARE CENTER: Community-based group program which is licensed by the State of Texas and designed to meet the needs of functionally and/or cognitively impaired adults through an individual plan of care. These structured, comprehensive programs provide a variety of health, social, and other related support services in a protective setting during any part of a day, but less than 24-hour care. Adult day care services are dedicated to keeping adults needing assistance healthy, independent, and non-institutionalized. Adult day centers generally operate programs during normal business hours five days a week. Some programs offer services in the evenings and on weekends.

AGRICULTURAL ANIMAL HUSBANDRY: The breeding, judging, care and/or production of farm animals.

AIRPORT: An area reserved or improved for the landing or take-off of aircraft other than rotary wing aircraft.

ALLEY: A public way which is used primarily for vehicular access to the back or side of properties.

ALTERED or ALTERATION: Any change, modification, or transformation.

AMBULANCE SERVICE: Provision of private (not operated by the City of Pearland) emergency transportation which may include mobile medical care, and the storage and maintenance of vehicles.

AMENITIZED DETENTION/RETENTION POND: An area that is designed to capture, store and release stormwater and that is designed as a site amenity by being aesthetically pleasing, by meeting the definition of "open space" herein, and by being constructed to seem natural (i.e., without visible concrete). Such areas have a natural edge and are constructed to resemble a naturally created lake or pond. Also refer to the definition of "amenity" below.

AMENITY: Aesthetic or other characteristics of a development that increase its desirability visually, desirability to the City of Iowa Colony, and/or its marketability to the public. Amenities may vary according to the type and nature of development, but examples include a naturalized retention/detention pond (refer to definition herein), a recreational facility, landscaping, or large trees.

ANIMAL HOSPITAL: An institution where the sick or injured animals are given medical or surgical care.

ANNUAL BEDS: Any landscape where the majority of plants are intended to be replaced yearly or more frequently.

ANTENNA: An antenna or antenna support structure used for the purpose of transmission, retransmission, and/or reception of radio, television, electromagnetic, or microwave signals primarily for the purpose of operating a business and/or for financial gain (e.g., commercial broadcasting, cellular/wireless telecommunications, etc.). A receive-only television antenna or satellite dish antenna that exceeds four feet (4') in diameter shall also be within this definition.

ANTIQUÉ SHOP: A business which sells items whose value is greater than original purchase price because of age or extrinsic value.

APARTMENT: See *Dwelling - Multi-Family*.

APPEAL: A request for review of and relief from any decision applying a provision of this Code and which is authorized.

APPLIANCE REPAIR: The maintenance and rehabilitation of appliances that are customarily used in the home including, but not limited to, washing and drying machines, refrigerators, dishwashers, trash compactors, ovens and ranges, countertop kitchen appliances, vacuum cleaners, etc., but not including appliances/equipment which have internal combustion engines.

ARCADE: A series of piers topped by arches that support a permanent roof over a sidewalk.

ARCHITECTURAL LIGHTING: Lighting designed to reveal architectural beauty, shape and/or form for which lighting for any other purpose is incidental.

ARCHITECTURAL METAL: Metal products used for window and door trim, fascia, or soffit.

ART STUDIO AND/OR GALLERY: Where objects of art are created or displayed for the public enrichment or where said objects of art are displayed for sale (including the teaching of both painting and sculpting).

ARTICULATION: An interruption/differentiation of the building wall plane with either a recess (concavity) or an offset (convexity) that projects away from the building wall plane by a measurable distance.

ARTIFICIAL LOT: An area within the contiguous tract(s) or parcel(s) held under common ownership and designated on the building permit application that is delineated by the Building Official for the sole purpose of satisfying the requirements of this article.

AS-BUILT/RECORD DRAWINGS: A group of drawings that depicts the final configuration of the installed or constructed improvements of a development, improvements which have been verified by the contractor as their installation or construction occurs during development. The as-built or record drawings should reflect the construction plans (or working drawings) used, corrected, and/or clarified in the field. For the purposes of this UDC, the terms "as-built drawing" and "record drawing" shall be interchangeable.

ASPHALT BATCHING PLANT: A permanent manufacturing facility engaged in the production of asphalt.

ASSISTED LIVING FACILITY: A congregate residence facility for four (4) or more elderly (over 55 years of age) persons, regardless of legal relationship, who need limited assistance with daily living activities. A limited number of support services such as meals, laundry, housekeeping, transportation, social/recreational activities, hairdressing, etc. may be provided or associated with the assisted living facility. Units may be attached or detached, single- or double-occupancy, and may include limited or full kitchen facilities. Full-time medical or nursing care is not typically provided by the facility but may be privately arranged for by individual residents on a part-time or temporary basis (e.g., visiting nurses, etc.).

ASSOCIATION: When related to plants, a natural unit of vegetation characterized by a relatively uniform species composition and often dominated by a particular species.

ASTRONOMIC TIME SWITCH: An automatic lighting control device that switches outdoor lighting relative to time of solar day with time of year correction.

AUTO ACCESSORIES AND/OR PARTS (RETAIL SALES ONLY): The use of any building or other premises for the primary inside display and sale of new or used accessories and/or parts for automobiles, panel trucks or vans, trailers, or recreation vehicles. This definition expressly does not include a "Wrecking or Salvage Yard"; this is separately defined herein.

AUTO RENTAL: A business establishment that provides for the renting of automobiles and light trucks on a short-term basis (differentiated from leasing, which is on a long-term basis). This may also involve the incidental storage of the automobiles and light trucks being rented.

AUTO REPAIR (MAJOR): General repair or reconditioning of engines, air-conditioning systems and transmissions for motor vehicles; wrecker service; collision repair services including body, frame or fender straightening or repair; customizing; painting; vehicle steam cleaning; undercoating and rustproofing; those uses listed under *Auto Repair (Minor)*; and other similar uses.

AUTO REPAIR (MINOR): Minor repair or replacement of parts, tires, tubes and batteries; diagnostic services; minor maintenance services such as grease, oil, spark plug and filter changing; tune-ups; emergency road service; replacement of starters, mufflers, alternators, hoses and brake parts; automobile washing and polishing; performing state inspections and making minor repairs necessary to pass said inspection; normal servicing of air-conditioning systems; and other similar minor services for motor vehicles except heavy load vehicles, but not including any operation named under *Auto Repair (Major)* or any other similar use.

AUTO SALES/DEALER or LOT: A paved area for the display for sale of motorized and non-motorized vehicles accompanied by an on-site office with staffing during normal business hours.

AUTO WASH (FULL-SERVICE/DETAIL SHOP): Washing, waxing, or cleaning of automobiles or light duty trucks where the owner of the vehicle does not actually wash the vehicle. The owner either leaves the vehicle and comes back to retrieve it later, or the owner waits in a designated area while employees of the car wash facility vacuum, wash, dry, wax and/or detail the vehicle for a fee.

AUTO WASH (SELF-SERVICE): Washing, waxing, or cleaning of automobiles or light duty trucks where the owner of the vehicle causes the vehicle to become washed. One type of unattended car wash facility utilizes automated self-service (drive-through/rollover) wash bays and apparatus in which the vehicle owner inserts money or tokens into a machine, drives the vehicle into

the wash bay, and waits in the vehicle while it is being washed. The other type of unattended facility is comprised of wand-type self-service (open) wash bays in which the vehicle owner drives the vehicle into the wash bay, gets out of the vehicle, and hand washes the vehicle with a wand-type apparatus by depositing coins or tokens into a machine.

AUTOMATIC IRRIGATION CONTROLLER: A timer capable of operating solenoid valves to set days and lengths of time for proper application of water, in each irrigation zone.

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AWNING: A flexible roof-like cover that extends out from an exterior wall and shields a window, doorway, sidewalk, or other space below from the elements.

BACKLIGHT: For an exterior luminaire, lumens emitted in the quarter sphere below horizontal and in the opposite direction of the intended orientation of the luminaire. For luminaires with symmetric distribution, backlight will be the same as front light.

BALCONY: An open portion of an upper floor extending beyond a building's exterior wall that is not supported from below by vertical columns or piers.

BAKERY OR CONFECTIONARY SHOP (RETAIL SALES): A retail facility that is used for the production and/or sale of baked goods and confectionaries to the general public.

BAKERY (WHOLESALE): A manufacturing facility that is used for the production and distribution of baked goods and confectioneries to retail outlets.

BARBER /COSMETOLOGY SCHOOL/COLLEGE: A for-profit business school that offers instruction and training in the barber, beauty, and/or cosmetology, but not including any other type of trade or commercial school.

BAY WINDOW: Generally, a U-shaped enclosure, extending the interior space of the building outward of the exterior building wall.

BED AND BREAKFAST INN: A dwelling occupied as a permanent residence by an owner or renter. Within the dwelling, sleeping accommodations in not more than five (5) rooms for transient guests are provided and breakfast is provided, both for compensation. The period during which accommodations and breakfast are provided generally does not exceed seven (7) days.

BEST MANAGEMENT PRACTICES (BMP'S): Irrigation, lawn, and landscape practices designed to reduce negative impacts on the environment and to promote water conservation.

BLOCK: An area bordered or enclosed by a street or streets.

BLOCK FACE: That portion of a block that abuts a street between two intersecting streets.

BLOCK LENGTH: The distance, as measured along the street centerline, from one end of a row or group of lots to the other end. A block is determined by the streets along its boundary which surround one or more lots. Such streets shall be through streets, not cul-de-sac streets. A block adjacent to a cul-de-sac shall not be counted as a block.

BOARD OF ADJUSTMENT: The Zoning Board of Adjustment of the City of Iowa Colony. Also, may be referred to with the acronym "ZBA".

BOARDING OR ROOMING HOUSE: Also referred to as *Boarding House*. A building built and/or used for residential purposes, where meals are served for compensation to a person or persons residing in the building, and where no cooking facilities are provided in individual living units.

BRACKETS: A simple rigid structure in the shape of an L, one arm of which is fixed to a vertical surface, the other projecting.

BREEZEWAY: A small corridor with a roof, with no structure above it, and that is a maximum of five feet (5') in width (but may be of any length and height). The corridor provides a walking path between a main building and an accessory building, usually a garage or carport, and is commonly unenclosed (i.e., is open to the outside).

BRICK: Kiln fired clay or shale material which meets the latest version of ASTM Standard C216, Standard Specification for Facing Brick (Solid Masonry Unit Made of Clay or Shale), is Severe Weather (SW) grade, that is made of or covered with masonry, flat panel concealed fastener metal system.

BUFFER: An area of land that is intended to mitigate negative impacts between land uses and/or along roadways. A buffer may be landscaped and may also include berms, walls, and/or fences.

BUG: A luminaire classification system that classifies backlight (B), uplight (U) and glare (G).

BUILD-TO-LINE: A build-to line identifies the precise horizontal distance from a street right-of-way that the building must be built to, to create a uniform line of buildings along the street.

BUILDING: A "building" is any structure built for the support, shelter, or enclosure of persons, chattels, or movable property of any kind and which is affixed to the land. This does not include any fence unless it is structurally a part of the building.

BUILDING - MAIN, PRIMARY, OR PRINCIPAL: A building in which the permitted and/or principal use of the lot on which such use is situated is conducted. In a residential district, any dwelling shall be deemed to be the main building on the lot on which it is situated.

BUILDING AREA: Area of the building site left to be built upon after the required setbacks and easements have been provided.

BUILDING ARTICULATION: See "Articulation".

BUILDING CODE: All building construction regulations adopted as a uniform code by the City of Iowa Colony Ordinances.

BUILDING DEPTH: The distance from the front edge of the building to the rear measuring along the secondary face of the building.

BUILDING HEIGHT: The vertical distance measured from grade at the front of the building to the highest point of a flat roof, to the deck line of a mansard roof, or to the mean height level between eaves and ridge for a gable, hip, or gambrel roof.

BUILDING LINE: See "Setback Line" definition herein.

BUILDING OFFICIAL: That individual designated by the City Council to ensure compliance with the Building Code of the City of Pearland, Texas, or the Building Official's designee.

BUILDING PERMIT: An instrument in writing signed by the Building Official or other designated responsible official authorizing described construction on a particular lot.

BUILDING SETBACK AREA: The area of building line restrictions along a street or alley as established by or pursuant to subdivision or zoning regulations adopted by the City of Iowa Colony.

BUILDING SETBACK LINE: A line defining an area on the lot between the property line and the building line within which no building shall be constructed, encroach or project, except as specifically authorized in an adopted City of Iowa Colony ordinance.

- (a) **Front Building Setback Line:** A line parallel to the street right-of-way line which the building faces and takes its primary access from.
- (b) **Side Building Setback Line:** A line parallel to an adjacent lot, property line, or street right-of-way on a corner lot, which the building sides up to.
- (c) **Rear Building Setback Line:** A line parallel to an adjacent lot, alley, or street, for double frontage lots, which the building backs up to and has its rear or secondary access.

BUILDING SITE:

- (1) The tract or parcel of land which is designated on the building permit application, together with all contiguous tracts or parcels of land held under common ownership and any existing buildings and appurtenant parking;
- (2) If designated, an artificial lot contained therein and delineated by the Building Official; or
- (3) A city-funded construction or reconstruction project that includes the entire width of the pavement of a public street and is at least 30 feet in length.

BUILDING, TEMPORARY: Any building or structure that is designed to be transportable in one or more sections on a temporary chassis. This definition does not include temporary construction trailers permitted as a *Contractor's Temporary On-Site Construction Office*, as defined in zoning regulations of the City of Iowa Colony unless associated with a Special Event permit and or permitted outdoor activity or use in applicable zoning district.

BUILDING WIDTH: The distance from one edge of the primary building face to the other.

CAFÉ OR CAFETERIA: An informal restaurant, not exceeding fifty (50) seats, outdoor and indoor, offering a range of food, snacks, meals, coffee, and/or other beverages. This definition is intended to exclude establishments with delivery offered to automobiles away from the main building. This definition does not prohibit take-out or drive-through windows.

CALIPER: The American Association of Nurserymen standard for trunk measurement of nursery stock, as measured six inches (6") above the ground or ambient grade for trees up to and including four inches (4") in diameter, and as measured at twelve inches (12") above the ground or ambient grade for trees having a diameter exceeding four inches (4") but not exceeding eight inches (8"), and fifty-four inches (54") above the ground or ambient grade for trees having a diameter greater than eight inches (8"). If the tree has been severed at less than twelve inches (12") above the soil line, then the caliper shall be measured across the stump.

CANOPY (NATURE): The outermost branchy layer of a tree or a stand of trees,

CANOPY (MAN-MADE): A covered, unconditioned structure (open to the elements and has no heat or air conditioning) with at least one side open for pedestrian and/or vehicular access or an

awning-like projection from a wall that is made of rigid materials and is permanently attached to a building's facade.

CERTIFICATE OF OCCUPANCY: A written instrument executed by the Building Official authorizing a described use of a lot or building as set forth in the Building Code, in this UDC, and other subdivision or zoning regulations of the City of Iowa Colony.

CHILD DAY CARE CENTER (BUSINESS): A licensed operation providing care for seven (7) or more children under fourteen (14) years of age for less than 24 hours a day at a location other than the permit holder's home. This definition is in conformance with Texas State law, Chapter 745, Licensing, Subchapter B, Child Day-Care Operations Chart.

CHILD DAY NURSERY: Also commonly referred to as a *Registered Family Home* or *Child Care in a Place of Residence*. A facility that regularly provides care in the caretaker's own residence for not more than six (6) children under thirteen (13) years of age, excluding the caretaker's own children. Child day care can be provided for six (6) additional children before and/or after the customary school day. However, the total number of children, including the caretaker's own, provided care at such facility does not exceed twelve (12) at any given time. This definition is in conformance with Texas State law, Chapter 745, Licensing, Subchapter B, Residential Child-Care Operations Chart.

CHURCH/TEMPLE/PLACE OF WORSHIP: A building for regular assembly for religious public worship which is used primarily for and designed for such purpose, along with accessory activities which are customarily associated therewith, such as a place of residence for ministers, priests, nuns or rabbis on the premises, and that is tax exempt as defined by State law. For the purposes of this ordinance, Bible study and other similar activities which occur in a person's primary residence shall not apply to this definition. Also see *Institution of Religious, Educational or Philanthropic Nature*.

CITY: The City of Iowa Colony, Texas, or any authorized or responsible person acting on the City's behalf.

CITY CODE: All ordinances of the City, as they may be amended from time to time.

CITY ENGINEER: The Iowa Colony City Engineer or an authorized representative.

CITY MANAGER: That person holding the office of Iowa Colony City Manager or an authorized representative.

CITY SECRETARY: That person holding the office of City Secretary or an authorized representative.

CITY STANDARDS: All the City's standards and specifications that apply to development, together with all tables, drawings, and other attachments. All City standards described or referred to in this Unified Development Code are adopted by referenced and are a part of this Unified Development Code in the same way as if they were set out at length herein.

CIVIC BUILDING: A building that is allowed greater design flexibility due the prominence of its public functions and often its location. Civic buildings include municipal buildings, faith-based institutions, churches, synagogues, libraries, schools, educational facilities, auditoriums, and public recreation facilities. Civic buildings do not include retail buildings, residential buildings, or privately owned office buildings.

CIVIC CENTER (MUNICIPAL): A building or complex of buildings that house municipal offices and services, and which may include cultural, recreational, athletic, food service, convention or entertainment facilities owned or operated by a municipality.

“CLASS A” OFFICE: An office building that is ten (10) years of age or less and that has amenities such as full-time administrative staff support, high-speed internet access, telecommunications access, conference rooms or suites, break rooms, copier services, etc. Such a facility generally serves as office space for professionals such as lawyers, financial planners, engineers, etc.

CLEANING, DYEING OR LAUNDRY PLANT, COMMERCIAL: An industrial facility where fabrics are cleaned with substantially non-aqueous organic solvents on a commercial or wholesale basis.

CLINIC, MEDICAL OR DENTAL: An institution, public or private, or a station for the examination and treatment of out-patients by an individual or group of doctors, dentists, or other licensed members of a human health care profession.

COLONNADE: Like an arcade except that it is supported by vertical columns without arches.

COLUMN FACE: The front edge of the supporting pillar or cylindrical shaft.

COMMENCE(ING) CONSTRUCTION: The initial disturbance of soils associated with clearing, grading, or excavating activities or other construction or development.

COMMERCIAL AMUSEMENT, INDOOR: An amusement enterprise offering entertainment or games of skill to the general public for a fee or charge, wherein all portions of the activity taking place indoors, including, but not limited to, a bowling alley, ice skating rink, racquetball/handball club, indoor tennis courts/club, indoor swimming pool or scuba diving facility, and billiard parlor.

COMMERCIAL AMUSEMENT, OUTDOOR: An amusement enterprise offering entertainment or games of skill to the general public for a fee or charge, wherein any portion of the activity takes place outdoors, including, but not limited to, a golf driving range, archery range, miniature golf course, batting cages, go-cart tracks, and amusement park.

COMMERCIAL AMUSEMENT, TEMPORARY: An amusement enterprise that is in operation on a temporary basis (i.e., one month or less) offering entertainment or games of skill to the general public for a fee or charge. Activity may take place in or out of doors. Examples include a carnival or haunted house.

COMMERCIAL or BUSINESS MESSAGE: A message contains or conveys commercial context or information or advertising for any business, commodity, service, entertainment, product or other attraction or event.

COMMERCIAL USE: A type of nonresidential land use that has one or more of the following characteristics: 1) the use is service-oriented; 2) the use does not primarily sell retail items; 3) the use sells goods or products on a wholesale basis; or 4) the use has or has the need for open storage areas or warehouses its products. Such uses include motels, auto dealerships, welding shops, manufactured home sales, mini-warehouses, funeral homes, auto body repair shops, and air conditioning and/or heating services.

COMMERCIAL VEHICLE/TRUCK: See Heavy Load Vehicle definition herein.

COMMISSION: The City of Iowa Colony Planning and Zoning Commission.

COMMON AREA (OUTDOORS): Land, not individually owned or dedicated for public use, within a development that is designed and intended for the common use and enjoyment of the residents of the development. May include complementary structures and improvements and is one or more of the following: a parking lot; a parking structure or covered vehicular entrance; a common entrance or public space shared by all occupants of the domiciles.

COMMON PROPERTY: A parcel or parcels of land, together with the improvements thereon, the use and enjoyment of which are shared by the owners and occupants of the individual building sites in a development.

COMMON WALL: An approved fire-rated wall separating two (2) dwelling units or businesses.

COMMUNITY HOME: A place where not more than six (6) physically or mentally impaired or handicapped persons are provided room and board, as well as supervised care and rehabilitation by not more than two (2) persons as licensed by the Texas Department of Mental Health and Mental Retardation (also see Chapter 123 of the Texas Local Government Code). The limitation on the number of persons with disabilities applies regardless of the legal relationship of those persons to one another.

COMMUNITY OR SOCIAL BUILDINGS: A building or complex of buildings that house cultural, recreational, athletic, food service or entertainment facilities owned or operated by a governmental agency or private nonprofit agency.

COMPATIBILITY: The characteristic of different land uses or activities that permit them to be located near each other in harmony and without conflict.

COMPLETE APPLICATION: An application that meets the standards of this UDC and has been deemed complete by the City in accordance with the Texas Local Government Code, Chapter 245, or successor statute.

COMPREHENSIVE PLAN: The Comprehensive Plan of the City of Iowa Colony, including any portion thereof that is separately adopted and any amendment to the Comprehensive Plan or portion thereof.

CONCEPT PLAN: A component of the regulations for a Planned Development District that complies with the requirements of this Unified Development Code that illustrates elements of the proposed Planned Development District, such as the proposed location and arrangement of uses, the relationship of such uses to base zoning districts, development phasing, planned public improvements, open space, proposed amenities and the overall design of the development.

CONCRETE BATCHING PLANT: A permanent manufacturing facility engaged in the production of concrete.

CONCRETE MASONRY UNIT: Plain, indented, hammered, or split face concrete blocks usually in eight (8) inch by eight (8) inch by sixteen (16) inch dimensions.

CONDITIONAL USE PERMIT (CUP): Also called a Special Use Permit, a permit authorizing the establishment of a use that may be suitable only in certain locations in a zoning district, or that is allowed only when subject to standards and conditions that assure compatibility with adjoining uses.

CONDOMINIUM: Two or more dwelling units on a lot with individual ownership of a unit rather than of a specific parcel of real property, together with common elements. See Article 1301a, Tex. Rev. Civ. Stat.

CONSTRUCTION: With respect to a building, construction is the assembly of materials into a structure, or the rehabilitation or replacement of a structure which has been damaged, altered or removed or which is proposed to be altered or removed to an extent exceeding fifty percent (50%) of the area of the structure at the time of the damage, alteration, or removal. For the purposes of this definition, *construction* includes the installation of a parking lot.

CONSTRUCTION PLANS: The drawings and technical specifications that conform to provisions of this UDC. Construction plans, including bid documents and contract conditions, where applicable, provide a graphic and written description of the character and scope of the work to be performed in construction of a development.

CONSUMER PRICE INDEX: The "Consumer Price Index for all Urban Consumers" as established by the Bureau of Labor Statistics for the Department of Labor.

CONTIGUOUS: Adjacent property whose property lines are shared (i.e., abutting property lines) or are separated by only a street, alley, easement, or right-of-way.

CONVENIENCE STORE WITH (OR WITHOUT) GASOLINE SALES: Retail establishment selling food for off-premises consumption and a limited selection of groceries and sundries, including possibly gasoline, if pumps are provided. Does not include or offer any automobile repair services.

CONVENT OR MONASTERY: A place of dwelling and/or study for persons under religious vows.

COPY/PRINTING SHOP: An establishment which primarily reproduces, in printed form, individual orders from a business, profession, service, industry or government organization. Off-set, letter press, and duplicating equipment are used, but no rotary presses or linotype equipment are used. Related services might include faxing, digitizing, graphic reproducing, and report assembling.

CORNER LOT: A lot abutting upon two (2) or more streets at their intersection(s).

CORNICE: A decorative horizontal feature that projects outward near the top of an exterior wall.

CORRIDOR TREE: A tree of a species listed on the Large Tree list or the Small Tree list that has a caliper of 20 inches (20") or more and is situated in the building setback area along a local street or along a major thoroughfare, other than a portion of a major thoroughfare that has been designated as a green corridor.

COST ADJUSTMENT: shall be the increase in any cost specified in this article as subject thereto and calculated by the percentage change in the Consumer Price Index for a base year period to a

recent year period. The cost is payable where the sum of money is computed to the nearest cent according to the following formula:

$(A/B-1) \times \text{Cost subject to adjustment}$

In the foregoing formula:

'A' is the index value of the 'Consumer Price Index for All Urban Consumers, U.S. city average, All Items for base year period =100,' as published in the Monthly Labor Review by the Bureau of Labor Statistics of the Department of Labor of the United States of America ('index') applicable to the third month immediately preceding the month during which the computation is required to be performed.

'B' is the index value of such Index applicable the desired updated cost.

COUNCIL: The City of Iowa Colony City Council.

COUNTRY CLUB: An area of twenty (20) acres or more containing a golf course and/or a clubhouse and available to a private specific membership, which club may also contain adjunct facilities such as a dining room, swimming pool, tennis courts or other recreational or service facilities.

COURTYARD: A roofed, or unroofed private open space surrounded by building walls on at least three sides.

CUL-DE-SAC: A local street having one (1) inlet/outlet to another street and terminated on the opposite end by a vehicular turnaround.

CURB: The edge of the vehicular pavement as a raised curb or a swale. The curb usually incorporates the drainage system.

DANCEHALL/NIGHTCLUB: An establishment offering to the general public facilities for dancing and/or entertainment.

DAY CAMP (FOR CHILDREN): A facility utilized for the organized recreation and instruction of children, including outdoor activities in the vicinity of the facility, on a daytime basis (i.e., no overnight stays).

DAY NURSERY: An establishment where children, separated from their parents or guardian, are housed for care or training during the day (no overnight stay) or a portion thereof on a regular schedule more often than once a week; does not include a public school, private school, kindergarten, or registered family home.

DECIDUOUS PLANTS: Those which shed their leaves at one time each year, usually in the autumn.

DENSITY, GROSS: The number of dwelling units per gross acre. All density calculations shall be made using gross acreage, inclusive of easements, thoroughfare rights-of-way, and streets dedicated and accepted prior to platting of the property.

DENSITY, GROSS RESIDENTIAL: The number of dwelling units per gross acre used for residential use. All density calculations shall be made using gross acreage dedicated for residential use, exclusive of easements and thoroughfare rights-of-way, and inclusive of retention/detention areas, public or private streets that are platted or will be platted as part of the development

of the property, open space, recreational areas, and parks provided within the development.

DENSITY, NET: The number of dwelling units per net acre. Net density calculations are made using net acreage, exclusive of thoroughfare rights-of-way and retention/detention areas, and public or private streets that are platted or are to be platted as part of the development of the property, but inclusive of open space, recreational areas, or parks.

DEPARTMENT STORE: A store selling a wide variety of goods, which are arranged into departments.

DESIGNATED TREE: a specific tree designated by the City Council as having historical or arboricultural significance.

DETENTION/RETENTION POND: As defined within the City's Engineering Design Criteria Manual (EDCM).

DEVELOPED AREA: That portion of a plot or parcel upon which a building, structure, pavement, or other improvements have been placed.

DEVELOPER: An individual, partnership, corporation, or governmental entity undertaking the division or improvement of land and other activities covered by this Unified Development Code, including the preparation of a subdivision or development plat showing the layout of the land and the public improvements involved therein. The term "developer" is intended to include the term "subdivider," even though personnel in successive stages of a development project may vary.

DEVELOPMENT: Initiation of any activities related to the platting of land or construction of buildings or structures, the construction of impervious surfaces, the installation of utilities, roadways, drainage facilities or other infrastructure; or any disturbance of the surface or subsurface of the land in preparation for such construction activities, including without limitation removal of vegetation, grading, clearing, filling, or removal of soil.

DEVELOPMENT PERMIT: A decision by the Commission, Board or responsible official designated by this Unified Development Code, acting in an administrative or quasi-judicial capacity, that authorizes the holder of the permit to undertake one or more development activities or to file further applications needed to initiate or continue development activities authorized under the Unified Development Code. The filing of a complete application for a development permit may or may not stay the City from adopting new standards applicable to the permit or any subordinate permit, depending on the nature of the standards.

DEVELOPMENT STANDARDS: All regulations, design standards, requirements and restrictions that apply to a development.

DISTRICT: A zoning district under this Unified Development Code.

DORMERS: Small, roofed ancillary structures with windows providing light and air to habitable space within the roof. Dormers are permitted and do not constitute a story so long as they do not break the primary eave line.

DORMITORY: Any structure specifically designed to house student tenants associated with a university, college, or school, public or private.

DRIPLINE: An imaginary circle drawn around a tree, extending to the tree's branching limit.

DRAG STRIP/RACETRACK: An establishment where a pre-established racecourse of at least ¼-mile in length is located.

DRIVE-IN/REFRESHMENT STAND: Any place or premises used for sale, dispensing or serving of food and/or beverages to consumers in automobiles or on foot, or at an outdoor patio or table, and where indoor tables are not provided.

DRIVE-IN THEATER: An open lot with its appurtenant facilities devoted primarily to the showing of motion pictures or theatrical productions on a paid admission basis to patrons seated in automobiles.

DRIVEWAY: A minor private entranceway off the common access route into an off-street parking area.

DROUGHT TOLERANT PLANTS: Plants that, once established, survive on natural rainfall with occasional irrigation during dry periods

DUPLEX: See *Dwelling - Two-Family*.

(DUMPSTER: A large, metal refuse receptacle specifically designed to be emptied by heavy machinery and which is otherwise stationary.

DWELLING/DWELLING UNIT: Any building or portion thereof which is designed or used exclusively for residential purposes. The term "Dwelling Unit" shall not include rooms in hotels, motels, or institutional facilities.

DWELLING - INDUSTRIALIZED HOME: (Also called *Modular Prefabricated Structure* or *Modular Home*.) A structure or building module as defined under the jurisdiction and control of the Texas Department of Labor and Standards, that is transportable in one or more sections on a temporary chassis or other conveyance device, and that is designed to be installed and used by a consumer as a fixed residence on a permanent foundation system. The term includes the plumbing, heating, air-conditioning, and electrical systems contained in the structure. The term does not include mobile homes or HUD-Code manufactured homes as defined in the Texas Manufactured Housing Standards Act (Article 5221f, V.A.C.S.)

DWELLING - HUD-CODE MANUFACTURED HOME: A structure constructed on or after June 15, 1976, according to the rules of the United States Department of Housing and Urban Development, transportable in one or more sections, which, in the traveling mode, is eight (8) body feet or more in width or forty (40) body feet or more in length, or when erected on site, is three hundred and twenty (320) or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems.

DWELLING - MOBILE HOME: A structure that was constructed before June 15, 1976, transportable in one or more sections, which, in the traveling mode, is eight (8) body feet or more in width or forty (40) body feet or more in length, or when erected on site is three hundred and twenty (320) or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the

required utilities and includes the plumbing, heating, air conditioning, and electrical systems.

DWELLING - MULTIPLE-FAMILY: A residential building designed for occupancy by three or more families, with the number of families not to exceed the number of dwelling units. The residential building contains dwelling units that are designed to be occupied by families living independently of one another, exclusive of hotels or motels. This definition includes three-family units (triplexes) and four-family units (quadraplexes), as well as traditional apartments.

DWELLING - PATIO HOME: A single-family dwelling on a separately platted lot which is designed such that one side yard is reduced to zero feet to maximize the width and usability of the other side yard, and which permits the construction of a detached single-family dwelling with one side (i.e., wall) of such dwelling placed on the side property line.

DWELLING - QUADRIplex: Four (4) dwelling units joined by common sidewalls.

DWELLING - SINGLE-FAMILY: A residential building, other than a mobile home, designed for occupancy by one family or individual.

DWELLING - SINGLE-FAMILY DETACHED: A single-family dwelling unit with no attached wall(s) or dwelling unit(s).

DWELLING - TOWN HOUSE: One of a group of no less than three (3) nor more than twelve (12) attached dwelling units, separated by a fire rated wall, each dwelling unit located on a separate lot.

DWELLING - TWO-FAMILY: A residential building containing two attached dwelling units, each designed to be occupied by one family (i.e., the building is occupied by not more than two families).

EASEMENT: An interest in land granted to the City, to the public generally and/or to a private entity.

EDCM: The acronym for the City's Engineering Design Criteria Manual.

EFFICIENCY APARTMENT: An apartment without a bedroom separate from other living quarters.

ELEVATION: The exterior walls of a building not along a frontage.

EMERGENCY CONDITIONS: Generally, lighting that is only energized during an emergency; lighting fed from a backup power source; or lighting for illuminating the path of egress solely during a fire or other emergency situation; or lighting for security purposes used solely during an alarm.

EMERGENCY VEHICLE: Any vehicle meeting the requirements for emergency vehicles under State Law or City Ordinance.

EMITTER: A device that applies irrigation water. This term is primarily used to refer to the low flow rate devices used in micro-irrigation systems.

ENFORCING OFFICER: The designated Enforcing Officer of the City of Iowa Colony or a designated representative.

ENGINEER: A person duly licensed under the Texas Engineering Practice Act to practice the profession of engineering.

ENTRANCE, PRIMARY: The principal place of pedestrian entry to a building. In the support of pedestrian activity, the primary entrance should give to the frontage rather than to the parking.

ENVIRONMENTAL PROTECTION AGENCY (EPA): The U.S. Environmental Protection Agency, or, where appropriate, the administrator or other duly authorized official of that agency.

ERECT: To construct, reconstruct, install, or build.

ESPLANADE: An unpaved area between two paved roadway sections.

ETJ: Extraterritorial jurisdiction. See the definition of *Extraterritorial Jurisdiction* herein.

EVERGREEN PLANTS: Those plants that do not lose all their leaves at one time, though they shed their old leaves intermittently, as new leaves come out.

EXCAVATION: Any digging, trenching, scraping or other activity that disturbs natural soil or rock to a depth of two feet or more, other than soil disturbance incidental to the removal of trees or vegetation.

EXISTING VEGETATION TO BE PRESERVED: Any viable grouping of or single existing evergreen or deciduous trees and associated understory for which tree or buffer preservation credit is being requested.

EXPRESSION LINE: A decorative horizontal feature that projects outward from an exterior wall to delineate the top of the first story of a multi-story building.

EXTENDED STAY HOTEL/MOTEL: A multi-unit, extended stay lodging facility consisting of efficiency units or suites with complete kitchen facilities and which is suitable for long-term occupancy. Customary hotel services such as linens and housekeeping, telephones, and upkeep of furniture shall be provided. Meeting rooms, club house, and recreational facilities intended for the use of residents and their guests are permitted. This definition shall not include other dwelling units as defined by this UDC.

EXTERIOR WALL: The exterior wall of a building that is visible from or used as the exterior surface of an exterior wall.

EXTRATERRITORIAL JURISDICTION: The unincorporated area, not a part of any other municipality, which is contiguous to the corporate limits of the City of Iowa Colony, the outer limits of which are measured from the extremities of the corporate limits of the City outward for the distances as may be stipulated in the Texas Local Government Code in accordance with the population of the City of Iowa Colony, or by valid petition from the land owner and in which area the City may enjoy violation of certain provisions of this Unified Development Code.

FAÇADE: The entire area of a side (the elevation) of a building or structure that extends from ground level to the top of a parapet, wall, or eave(s) and from one corner to another. The area of a facade is defined by the outer limits of all its visible exterior elements. Separate faces of a building oriented in the same direction or within 45 degrees of each other are considered part of the same façade.

FAÇADE TRANSPARENCY: The quality of being able to see through the primary face of a building.

FAMILY: A “family” is an individual or any number of persons related by blood or marriage or not more than four (4) unrelated persons living as a single housekeeping unit.

FARM (RANCH, LIVESTOCK): An area used for the raising thereon of the usual farm animals such as horses, cattle, and sheep and including the necessary accessory uses for raising, treating, and storing animals on the premises, but not including the commercial feeding of offal or garbage to swine or other animals and not including any type of husbandry specifically prohibited by ordinance or law.

FEED AND GRAIN STORE/FARM SUPPLY STORE: An establishment for the selling of corn, grain and other food stuffs for animals and livestock, and including implements and goods related to agricultural processes, but not including farm machinery.

FENCE: A tangible barrier constructed of any allowable materials (excluding natural vegetation) erected for the purpose of providing a boundary or as a means of protection, or to prevent uncontrolled access, or for decorative purposes, or to screen from viewers in or on adjoining properties and streets, materials stored, and operations conducted behind such barrier. A “Gateway” as defined herein shall not be considered a fence.

FENCE, LIVING: A hedge of vegetation used as a screening device or a fence with vegetation growing to it or on it which at the time of maturity prevents a visually “open” effect, providing a visual barrier by blocking the normal line of sight.

FENCE, PRIVACY: A solid barrier erected or constructed to prevent views across the fence line.

FENCE, SUBDIVISION: A uniform fence, built at the time a residential subdivision is initially developed, that partially or completely surrounds the subdivision. Other characteristics can include construction by the subdivision developer, maintenance by a homeowners association, and design requirements contained in recorded deed restrictions for that subdivision.

FENCE, WOOD RAIL: A fence constructed of narrow, or split wood timbers, placed between upright supporting posts and with a maximum opacity of 25%.

FINAL SUBDIVISION PLAT: The plat of a subdivision for which platting is required which, when approved, will be recorded in the official public records.

FINANCIAL INSTITUTION (WITH OR WITHOUT MOTOR BANK SERVICES): An establishment for the custody, loan, exchange and/or issue of money, the extension of credit, and/or facilitating the transmission of funds, examples of which include banks, saving and loans, and credit unions. The establishment may or may not have the ability to provide services via a drive-up window, also known as motor bank services.

FIRE STATION: Any public service building of the municipal government, or quasi-public entity, that is used in the provision of fire protection services, including the housing of fire-fighting personnel and/or apparatus.

FIRST FLOOR: For determining facade requirements, first floor is defined as the vertical distance of a structure/building measured from the average established floor

elevation (slab) to the space above it between the floor and the next floor or ceiling or roof, the height of said space being no more than twelve feet (12').

FOOTCANDLE: The unit of measure expressing the quantity of light received on a surface. One foot-candle is the illuminance produced by a candle on a surface one-foot square from one foot.

FLOOD or FLOODING: A general or temporary condition of partial or complete inundation of normally dry land areas from:

- a. The overflow of inland or tidal waters.
- b. The unusual and rapid accumulation of runoff of surface waters from any source.

FLOOD FRINGE: That portion of the floodplain, outside the floodway, that is subject to inundation by the 100-year recurrence interval flood.

FLOOD HAZARD AREA: Land in the floodplain within the City, or its jurisdiction, subject to a one percent (1%) or greater chance of flooding in any given year. This area is shown as zones A, AE, AH, AO, A1--99, VO, V1--30, VE or V on the Flood Insurance Rate Map (FIRM).

FLOOD INSURANCE RATE MAP (FIRM): An official map of a community, on which the Federal Emergency Management Agency has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

FLOODPLAIN (or Flood-Prone Area): Any area of land that is subject to being inundated by water from any source.

FLOODWAY (Regulatory Floodway): The channel of a river or other watercourse and the adjacent land areas that must be reserved to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

FLOOR AREA: The total area of all climate-controlled floors as calculated from measurements to outside walls.

FOOD STORE/SUPERMARKET: A retail market primarily selling consumable goods that are not to be eaten on the premises. Prepared food and other items and/or services may be sold only in limited quantities as a secondary or accessory use.

FORWARD LIGHT: For an exterior luminaire, lumens emitted in the quarter sphere below horizontal and in the direction of the intended orientation of the luminaire.

FRANCHISED PRIVATE UTILITY: A utility such as one distributing heat, electricity, telephone, cable television or similar service and requiring a franchise to operate in the City of Iowa Colony.

FRATERNAL ORGANIZATION: An organized group having a restricted membership and specific purpose related to the welfare of the members. Examples include common organizations such as the Elks, Masons, Knights of Columbus, or a labor union.

FRATERNITY OR SORORITY HOUSE: A building other than a hotel that is occupied only by individuals enrolled in a college or university located within the city and persons to attend the house and supervise activities of the fraternity or sorority. Except for the attendants, each resident is a member of a fraternity or sorority that is recognized by the college or university and chartered by a state or national organization.

FRONTAGE: The linear distance of the property line abutting the street right-of-way upon which the property is addressed.

FRONT PORCH: see porch.

FULLY SHIELDED (LUMINAIRE): Outdoor light fixtures shielded or constructed so that all light rays emitted by the fixture, either directly from the lamp or a diffusing element, or indirectly by reflection or refraction from any part of the luminaire are projected below the horizontal plane passing through the lowest point on the fixture from which light is emitted, nearly 100 percent cut-off type, as evidenced by the manufacturer's photometric data.

FUNERAL HOME: A place for the storage of human bodies prior to their burial or cremation, which may also be used for the preparation of the deceased for burial and the display of the deceased and ceremonies connected therewith before burial or cremation.

GAMING ESTABLISHMENT: A video arcade, game room, or other establishment that has more than four (4) eight-liners or other amusement machines on which are played games of chance for use by the general public for a fee or charge.

GARDEN SHOP & OUTSIDE PLANT SALES: (Also referred to as *Plant Nursery*.) An establishment, including a building, part of a building or open space, for the growth, display and/or sale of plants, shrubs, trees, and other materials used in indoor or outdoor planting.

GARDEN WALL: A masonry wall defining a property line or delineating a private area.

GASOLINE SERVICE STATION: An establishment where gasoline is sold and dispensed into motor vehicle tanks.

GATEWAY: A marker for a point of arrival or entrance.

GLARE: Excessive brightness of light entering the eye directly or indirectly from reflective surfaces in the field of view that is sufficiently greater than that to which the eyes are adapted, causing annoyance or visual discomfort or reduced visibility to jeopardize health, safety, or welfare.

GLASS CURTAIN WALL: An exterior building wall consisting of no less than sixty (60) percent glass, which carries no structural loads, and is made of a combination of metal, glass or other surfacing material supported in a metal framework.

GOLF COURSE (PRIVATE): An area of twenty (20) acres or more improved with trees, greens, fairways, hazards, and which may include clubhouses, and which is owned and operated by a private business entity.

GOLF COURSE (PUBLIC): An area of twenty (20) acres or more improved with trees, greens, fairways, hazards, and which may include clubhouses, and which is owned and operated by the City of Pearland.

GRADE (Adjacent Ground Elevation): The lowest point of elevation of the finished surface of the ground between the exterior wall of a building and a point five feet (5') in distance from said wall, or the lowest point of elevation of the finished surface of the ground between the exterior wall of a building and the property line if it is less than five feet (5') in distance from said wall. In case walls are parallel to and within five feet (5') of a public sidewalk, alley or public way, the grade shall be the elevation of the sidewalk, alley or public way

GREEN CORRIDOR: Any portion of a major thoroughfare that has been designated as a green corridor by City Council.

GREEN CORRIDOR TREE: A tree of a species listed on the Large Tree list that has a caliper of 15 inches or more and is situated in the building setback area of a green corridor.

GREEN SPACE: The entire parcel less the building footprint, driveways, vehicular use areas, hardscapes such as decks, swimming pools, decorative fountains, patios, and other non-porous areas. Stormwater management systems, and wetland conservation areas, lakes, rivers, and creeks are excluded in the calculation of green space area.

GROSS LEASABLE AREA: The total floor area of a building which is designed for tenant occupancy and use, including basements and mezzanines, and measured to center lines of joint partitions and to outside of exterior walls, excluding mechanical equipment, storage, restrooms, stairwells, elevator shafts and other common areas.

HABITABLE: A space in a structure available for living, sleeping, eating, cooking, or any commercial purposes. However, storage space is not considered to be habitable space.

HARDSCAPE: Permanent hardscape improvements to the site including parking lots, drives, entrances, curbs, ramps, stairs, steps, medians, walkways, and non-vegetated landscaping that is 10 feet or less in width. Materials may include concrete, asphalt, stone, gravel, etc.

HARDSCAPE AREA: The area measured in square feet of all hardscape. It is used to calculate the Total Site Lumens Limit in both the Prescriptive Method and Performance Methods. Refer to Hardscape definition.

HARDSCAPE PERIMETER: The perimeter measured in linear feet that is used to calculate the Total Site Lumen Limit in the Performance Method. Refer to hardscape definition.

HARDWARE STORE: A store in which the primary items offered for sale are wares such as fittings, tools, machinery, utensils, and other similar objects.

HEAVY LOAD VEHICLE: A self-propelled vehicle having a manufacturer's recommended Gross Vehicle Weight (GVW) of greater than 16,000 pounds (including trailers), such as large recreational vehicles (originally manufactured as RVs, not converted), tractor-trailers, buses, vans, and other similar vehicles. The term "truck" shall be construed to mean "Heavy Load Vehicle" unless specifically stated otherwise.

HEAVY MACHINERY SALES, STORAGE & REPAIR: The sale, trade, transfer, storage, and/or repair of any motor propelled machinery used for excavation and/or construction purposes.

HELIPORT/HELIPAD: A landing facility for rotary wing aircraft subject to regular use and which may include fueling or servicing facilities for such craft.

HOBBY SHOP: See Specialty Shop.

HOLIDAY: A day on which custom dictates commemoration of a particular event. For the purposes of this UDC, holiday shall be deemed to include any day(s) of religious celebration, such as Christmas, Hanukah, and Easter, as well as the 4th of July, Labor Day, Memorial Day, Presidents' Day, Martin Luther King Day, Halloween, Valentine's Day.

HOME FOR ALCOHOLIC, NARCOTIC OR PSYCHIATRIC PATIENTS: An institution offering in- or out-patient treatment to alcoholic, narcotic, or psychiatric patients.

HOME IMPROVEMENT CENTER: Materials, tools, and/or hardware customarily used in the construction of buildings and other structures, including facilities for storage of materials for retail sales.

HOME OCCUPATION: An occupation carried on in a dwelling unit, or in an accessory building to a dwelling unit, by a resident of the premises, and which is clearly incidental and secondary to the use of the premises for residential purposes.

HOMEOWNERS ASSOCIATION/PROPERTY OWNERS ASSOCIATION: An incorporated, nonprofit organization operating under recorded land agreements through which (a) each lot and/or homeowner in a planned unit or other described land area is automatically a member, (b) each lot is automatically subject to charge for a proportionate share of the expenses for the organization's activities, such as maintaining a common property, and (c) the charge, if unpaid, becomes a lien against the property.

HOSPITAL (FOR PROFIT): A building or portion thereof, used or designed for the housing or treatment of sick or injured patients where they are given medical or surgical treatment intended to restore them to health and an active life, and which is licensed by the State of Texas. This definition does not include rooms in any residential dwelling, hotel, or apartment hotel not ordinarily intended to be occupied by said persons. Said building houses a business operation intended to make a profit for the financial gain of the shareholders/owners of the operation.

HOSPITAL (NON-PROFIT): A building or portion thereof, used or designed for the housing or treatment of sick or injured patients where they are given medical or surgical treatment intended to restore them to health and an active life, and which is licensed by the State of Texas. This definition does not include rooms in any residential dwelling, hotel, or apartment hotel not ordinarily intended to be occupied by said persons. Said building houses a business operation that is not intended to make a profit for financial gain of any shareholder/owner of the operation.

HOTEL/MOTEL: A facility offering temporary lodging accommodations or guest rooms on a daily rate to the general public and possibly providing additional services, such as restaurants, meeting rooms, housekeeping service and recreational facilities, on an accessory use basis. For the purposes of this definition, a guest room shall be defined as a room designed for the overnight lodging of hotel guests for an established rate or fee.

HOUSEHOLD CARE FACILITY: (Also referred to as *Hospice*.) A dwelling unit which provides residence and care to persons, regardless of legal relationship, who are elderly; disabled; orphaned, abandoned, abused, or neglected children; victims of domestic violence; or rendered temporarily homeless due to fire, natural disaster or financial setbacks, living together with not more than two supervisory personnel as a single housekeeping unit. This definition shall be consistent with that of "assisted living facility" in Texas Health and Safety Code Section 247.002 as it presently exists or may be amended in the future.

IDA: The International Dark-Sky Association is the authoritative voice on light pollution. IDA educates lighting designers, manufacturers, technical committees, and the public about controlling light pollution.

IESNA: The Illuminating Engineering Society of North America, a non-profit learned society whose members are regarded as professionals in their industry and are globally respected for their knowledge to improve the lighted environment by bringing together those with lighting knowledge and by translating that knowledge into actions that benefit the public..

IMPERVIOUS COVER: The total amount of impermeable surfaces, including buildings, pavement, and rooftops, which prevent the infiltration of water into the soil.

- a. Any outside area that is covered with a roof structure, whether fully enclosed or not, shall be considered as part of the total amount of impermeable surfaces.
- b. Wooden decking – planks of wood with gaps (approximately 1/4-inch) in between – is not considered as part of the total amount of impermeable surfaces.
- c. However, other typical outdoor surfaces that do not allow for water infiltration, such as exposed aggregate surfacing or concrete porches, shall be considered as part of the total amount of impermeable surfaces.
- d. The portion of swimming pools designed to contain water shall not be considered as part of the total amount of impermeable surfaces.

IMPERVIOUS MATERIAL: Any material sealed to restrict water entry and movement.

IMPROVED LOT OR TRACT: A lot or tract that has a structure or other improvement on it that causes an impervious coverage of the soil under the structure or improvement.

INDUSTRIAL, MANUFACTURING: Establishments engaged in the manufacturing or transformation of materials into new products. These establishments are usually described as plants and factories, and characteristically use power driven machines and materials handling equipment. Manufacturing production is usually carried on for the wholesale market, rather than for direct sale to the domestic consumer.

INDUSTRY STANDARD LIGHTING SOFTWARE: Lighting software that calculates point-by-point illuminance that includes reflected light using either raytracing or radiosity methods.

INSTITUTION OF RELIGIOUS, EDUCATIONAL OR PHILANTHROPIC NATURE: A nonprofit, religious, or educational semi-public or public use, such as the Salvation Army, Habitat for Humanity, or an outreach religious facility.

INTEGRATED BUSINESS DEVELOPMENT: A subdivision of land into separate lots that are utilized for nonresidential uses, where:

1. The subdivision is achieved by a single plat that is filed by an owner who owns the entire property being platted;
2. The plat, or an amending plat or replat thereof, contains a note that individual on-premises ground signs shall not be allowed on any lot in said subdivision if the use on said lot is advertised on a multi-user sign is erected on any lot in the subdivision; and
3. Each lot in the subdivision is contiguous to at least one other lot in the subdivision.

INTERESTED PERSON: A person who is impacted by a final decision of the City to the extent that such impact exceeds the impact of the decision on a member of the public. An interested person may include any officer or agency of the City.

IRRIGATION SYSTEM: Permanent watering systems designed to transport and distribute water to plants as a supplement to natural rainfall.

IRRIGATION ZONE: A control valve circuit containing emitters and/or sprinklers with consistent application rates.

ISO: Insurance services office, an independent statistical, rating, and advisory organization that serves the property/casualty insurance industry. ISO collects information on a community's building-code adoption and enforcement services, analyzes the data, and then assigns a building code effectiveness classification (BCEGS) from 1- 10.

KEY BOX: A secure, tamperproof device with a lock operable only by a fire department master key and containing building entry keys and other keys that may be required for access in an emergency.

KINDERGARTEN: Any school, private or parochial, whether operated for profit or not, attended by children during any part of a day, which provides a program of instruction for children below the first-grade level in which constructive endeavors, object lessons and helpful games are prominent features of the curriculum.

LABORATORY, MEDICAL OR DENTAL: An indoor establishment that includes laboratories and/or experimental equipment for medical or dental testing, prototype design and development, and product testing.

LABORATORY, SCIENTIFIC OR RESEARCH: An indoor establishment equipped for experimental study in a science or for testing and analysis.

LAMP: A generic term for a source of optical radiation (i.e., "light"), often called a "bulb" or "tube". Examples include incandescent, fluorescent, high-intensity discharge (HID) lamps, and low-pressure sodium (LPS) lamps, more commonly known as a bulb, as well as light-emitting diode (LED) modules and arrays.

LANDSCAPE BUFFER: The shielding or obscuring of one land use from another by the planting of evergreen trees or shrubs, or both, or the erection of a screening fence designed to minimize the transmission or propagation of noise, light, vibration, or dust, from traffic or other activity on one property to adjoining public or private properties.

LANDSCAPE LIGHTING: Lighting of trees, shrubs, or other plant material as well as ponds and other landscape features.

LANDSCAPE PLANT ZONE: A grouping of plants with similar water and cultural needs.

LANDSCAPED: Adorned or improved by contouring land and placing thereon live flowers, shrubs, trees, grass, other vegetation, water features, and/or pervious rock material.

LANDSCAPED AREA: The area of a developed site/lot that is required by this UDC to consist of landscaping materials, trees and/or groundcover.

LAUNDROMAT (SELF-SERVICE LAUNDRY): A facility where patrons wash, dry or dry clean clothing and other fabrics in machines that are operated by the patron.

LAUNDRY/DRY CLEANING (RETAIL ONLY - DROP OFF/PICK UP): A facility used for the purpose of receiving articles or goods of fabric to be subjected to the process of laundering, dry

cleaning, or cleaning elsewhere, and for the pressing and distribution of any such articles or goods that have been subjected to any such process.

LED: Light Emitting Diode

LIGHT INDUSTRIAL USE: A use engaged in the processing, manufacturing, compounding, assembling, packaging, treatment, or fabrication of materials and products, from previously manufactured materials. Such use is capable operating in such a manner as to control the external effects of the manufacturing process, such as smoke, noise, odor, etc.

LIGHT LOAD VEHICLE: A self-propelled vehicle having a manufacturer's recommended gross vehicle weight (GVW) not greater than 16,000 pounds and having no more than two axles, such as pick-up trucks, sport utility vehicles, vans and mini-vans, recreational vehicles (less than 32 feet in length), campers and other similar vehicles but not including automobiles and motorcycles.

LIGHT MANUFACTURING: Process(es) which does not emit detectable dust, odor, smoke, gas or fumes beyond the bounding property lines of the lot or tract upon which the use is located, and which does not generate noise or vibration at the boundary of the district which is generally perceptible in frequency or pressure above the ambient level of noise in the adjacent areas.

LIGHT POLLUTION: Any adverse effect of artificial light including, but not limited to, glare, light trespass, sky-glow, energy waste, compromised safety and security, and impacts on the nocturnal environment.

LIGHT TRESPASS(Spillover): Light emitted by a luminaire or lighting installation, which is cast beyond the boundaries of the property on which the lighting installation is sited. The maximum intensity measured at the property line adjacent to all single-family and town home residential uses is 0.2 foot-candle.

LIGHTING: "Electric" or "man-made" or "artificial" lighting. See "lighting equipment".

LIGHTING EQUIPMENT: Equipment specifically intended to provide gas or electric illumination, including but not limited to, lamp(s), luminaire(s), ballast(s), poles, posts, lens(s), and other related structures, electrical wiring, and other necessary or auxiliary components.

LOCAL STREET: A public street that is not specifically designated on the adopted City of Iowa Colony Major Thoroughfare Plan as a Super Arterial, a Major Arterial, a Minor Arterial, a Major Collector, or a Minor Collector.

LOCAL UTILITY LINE (Above-Ground or Below-Ground): The facilities provided by a municipality or a franchised utility company for distribution or collection of gas, water, surface drainage water, sewage, electric power, or telephone service, including pad- and pole-mounted transformers.

LODGING: Premises available for daily and weekly renting of bedrooms.

LOT: An undivided tract or parcel of land shown and designated with a tract or lot number on a duly recorded subdivision or development plat. A lot is or may be offered for sale, conveyance, transfer, or improvement, which is designated as a distinct and separate tract, and which is identified by a tract, or lot number or symbol in a duly approved subdivision plat that has been properly filed of record.

LOT COVERAGE: The amount of impervious cover (see definition) on a lot.

LOT MEASUREMENT:

a. **Lot Area** - The net area of the lot, expressed in square feet or acreage and shall not include portions of any public street or alley, but may include easements. For flag lots, the area of the lot that does not meet the applicable minimum lot width shall be excluded.

b. **Lot Depth** - The distance between the midpoints of straight lines connecting the foremost points of the side lot lines in front and the rearmost points of the side lot lines in the rear (the mean horizontal distance between the front and rear lot line). For flag lots, the distance between the midpoints of straight lines connecting the foremost points of the side lot lines where the lot satisfies the applicable minimum lot width, and the rearmost points of the side lot lines in the rear.

c. **Lot Width** - The shortest distance in a straight line between the side lot lines, measured at any point on the lot from the required front setback line to the required lot depth.

d. **Lot, Double Frontage** - Any lot, not a corner lot, with frontage on two streets that are parallel to each other or within 45 degrees of being parallel to each other.

e. **Lot, Flag** - a lot which has frontage and width at the building line that is less than the minimum required width, but which satisfies the required lot width at a point further away from the front property line than is the building line. The portion of the lot that has frontage but does not satisfy the minimum width is hereby designated the "pole" and the portion that meets the minimum lot width but at a point further away from the front property line than is the building line is designated as the "flag." No flag lot shall have more than one (1) pole portion and said pole shall have a minimum length equal to the minimum lot depth for the zoning district in which the lot is located and a maximum length no greater than five hundred feet (500'). The entire flag portion of a flag lot shall meet the minimum lot width for that zoning district.

f. **Lot, Irregular** - Any lot not having equal front and rear lot lines or equal side lot lines; a lot, the opposite lot lines of which vary in dimension and the corners of which have an angle of either more or less than 90 degrees.

g. **Lot Line:** the boundary that legally and geometrically demarcates a lot.

h. **Lot, Thumbnail (or Eyebrow)** - A partial cul-de-sac bulb, usually with a central angle of 180 degrees or less.

LOW VOLTAGE LANDSCAPE LIGHTING: Landscape lighting powered at less than 15 volts and limited to luminaires having a rated initial luminaire lumen output of 525 lumens or less.

LUMEN: The unit of measure used to quantify the amount of light produced by a lamp or emitted from a luminaire (as distinct from "watt", a measure of power consumption).

LUMINAIRE: The complete lighting unit (fixture), consisting of a lamp, or lamps and a ballast(s) (when applicable), together with the parts designed to distribute the light (reflector, lens, diffuser), to position and protect the lamps, and to connect the lamps to the power supply.

LUMINAIRE LUMENS: For luminaires with relative photometry per IES, it is calculated as the sum of the initial lamp lumens for all lamps within an individual luminaire, multiplied by the luminaire efficiency. If the efficiency is not known for a residential luminaire, assume 70%. For luminaires with absolute photometry per IES LM-79, it is the total luminaire lumens. The lumen rating of a luminaire assumes the lamp or luminaire is new and has not depreciated in light output.

LUX: The SI unit of illuminance. One lux is one lumen per square meter. 1 lux is a unit of incident illuminance approximately equal to 1/10 foot-candle.

MAIN BUILDING: The building on a lot which are occupied by the primary (main) use.

MANUFACTURED HOME: See *Dwelling – HUD-Code Manufactured Home*.

MANUFACTURED HOME DISPLAY, SALES AND/OR RENTAL (NEW OR USED): The offering for sale, rental, storage, or display of new or previously owned (i.e., used) manufactured housing units (e.g., mobile homes/trailers, HUD-Code homes, industrialized homes) on a parcel of land, but excluding the use of such facilities as dwellings either on a temporary or permanent basis.

MANUFACTURED HOME/MOBILE HOME SPACE: A division of a parcel of land into a single lot for use by a single manufactured home or mobile home, as applicable.

MANUFACTURING, PROCESSING and FABRICATION: Activities or facilities including, but not limited to, beverage plant, fabrication, metal finishing, foundry, ice plant, machine shop, planing mill, printing plant, publishing and bindery plant, masonry products manufacturing, refinery for nonagricultural products, food products, processing and packaging plant, precision instruments manufacturing, and research laboratory.

MARQUEE: A roof-like structure projecting over the entrance to a building. It may also project over a sidewalk adjacent and parallel to the front wall of a building.

MASONRY: Brick, stone brick veneer, custom treated tilt wall, decorative or textured concrete block, split face block and stucco.

MASTER PLAT: The initial plat for a subdivision to be developed in phases that delineates the sequence and timing of development within the proposed subdivision, and that is reviewed and decided under this Unified Development Code.

METAL: 24-gauge or heavier architectural panels (wall systems) with concealed fasteners and no exposed seams. Corrugated metal, exposed fasteners, and exposed seams are not included in this definition. Other materials (i.e., from technological advances) may be considered metal by the City when such materials are deemed to be the same or better in quality and appearance.

MICRO-IRRIGATION: An irrigation system with a maximum flow rate per emitter of 30 gallons per hour. Not appropriate for turf-grass applications.

MINI-WAREHOUSE/SELF-STORAGE: Small individual storage units for rent or lease, restricted solely to the storage of items, such as motor vehicles, trailers, boats, bulky household goods, and

sundry personal property. There is no conduct of sales, business, or any other activity within the individual storage units.

MINOR SUBDIVISION PLAT: A plat dividing land into no more than four (4) lots that may be administratively approved under certain circumstances under this Unified Development Code.

MOBILE HOME: See *Dwelling – Mobile Home*.

MOLDINGS: An embellishment in strip form, made of wood or other structural material, which is used to decorate or finish a surface.

MOTION PICTURE THEATER (INDOORS): An indoor establishment charging admission to the general public for the privilege of observing a live, televised, or motion picture performance.

MOUNTING HEIGHT: The height of the photometric center of a luminaire above grade level.

MULCH: Any material except fresh grass clippings applied to the soil surface to retain soil moisture control erosion, inhibit weeds, and/or regulate soil temperatures.

MULLIONS: A vertical member, as of stone or wood, dividing a window or other opening.

MULTI-FAMILY RESIDENTIAL: Any building, or portion thereof, which is designed, built, rented, leased, let out or hired out to be occupied, or which is occupied as the home or residence of three or more families living independently of each other, and shall include flats, apartments and a condominium created under chapter 82 of the Texas Property Code.

MULTIPLE BUILDING COMPLEX: More than one (1) principal structure on a building lot.

MULTIPLE-OCCUPANCY or MULTI-TENANT: One or more adjacent premises containing two or more occupancies, each having main entrances directly from the exterior of a common building or complex of buildings and utilizing common facilities for vehicular access, parking, landscaping, etc.

NATURAL PLANTS: Plants that once established can survive on natural rainfall without irrigation.

NEW LIGHTING: Lighting for areas not previously illuminated; newly installed lighting or any type except for replacement lighting or lighting repairs.

NONCONFORMING LOT: A lot that does not conform to the regulations of this Code.

NONCONFORMING STRUCTURE: A structure that does not conform to the regulations of this Code.

NONCONFORMING USE: A use of property that does not conform to the regulations of this Code.

NONRESIDENTIAL USE: All uses other than single-family residential use.

NURSING/CONVALESCENT HOME: (Also referred to as *Long-Term Care Facility* or *Skilled Nursing Facility*.) A facility providing primarily in-patient health care, personal care, or rehabilitative services over a long period of time to persons who are chronically ill, aged or disabled and who need ongoing health supervision but not hospitalization.

OASIS PLANTS: Plants requiring frequent irrigation.

OBJECT: A permanent structure located on a site. Objects may include statues or artwork, garages or canopies, outbuildings, etc.

OBJECT HEIGHT: The highest point of an entity but shall not include antennas or similar structures.

OCCUPANCY: Any utilization of real property.

OFF-STREET PARKING INCIDENTAL TO NONRESIDENTIAL MAIN USE: Off-street parking spaces provided in accordance with the requirements of this Ordinance, located on the lot or tract occupied by the main nonresidential use or within the vicinity of such lot or tract, and located within the same zoning district as the main nonresidential use or in an adjacent parking district.

OFFICE/CLINIC, VETERINARIAN: A place where a veterinarian maintains treatment facilities for diseased or injured animals, including boarding facilities (no outside pens or kennels).

OFFICE, MEDICAL/DENTAL: An office or group of offices for one or more physicians for the examination and treatment of ill and afflicted human outpatients.

OFFICE, PROFESSIONAL AND GENERAL BUSINESS: An office or group of offices used for the provision of executive, management, administrative services, or any other vocation involving predominately mental or intellectual skills. Specifically excludes any activity involving sales of personal property and veterinary clinics.

OFFICE WAREHOUSE STORAGE OR SALES: An establishment where not more than 75% of the total floor area is devoted to warehousing, and may include the sales of office products, but sales are not generally accessible to the public.

OFFICIAL FILING DATE: The date that a complete application (see definition) has been accepted by the City for filing.

OPEN SPACE: Property designated for recreational use, including a private park, play lot, plaza or ornamental area intended for use or enjoyment by people. Open space does not include streets, alleys, utility easements, public parks or required setbacks.

ORCHARD: An area of two (2) acres or more which is used for the growing of farm products, vegetables, fruits, trees and/or grain and including incidental and/or necessary accessory uses for raising, treating, and storing products raised on the premises, but not including the commercial feeding of offal and garbage to swine or other animals and not including any type of agricultural animal husbandry as specifically defined.

ORNAMENTAL LIGHTING: Lighting that does not impact the function and safety of an area but is purely decorative, or used to illuminate architecture and/or landscaping, and installed for aesthetic effect.

ORNAMENTAL STREET LIGHTING: A luminaire intended for illuminating streets that serves a decorative function in addition to providing optics that effectively deliver street lighting. It has a historical period appearance or decorative appearance, and has the following design characteristics:

- (1) Designed to mount on a pole using an arm, pendant or vertical tenon;
- (2) Opaque or translucent top and/or sides;
- (3) An optical aperture that is either open or enclosed with a flat, sag or drop lens;

(4) Mounted in a fixed position; and

(5) With the photometric output measured using Type C photometry per IESNA LM-75-01.

OVERSPRAY: Water delivered beyond the landscape area and wets pavement, walks, structures, or other non-landscaped areas.

OUTDOOR LIGHT FIXTURE: Outdoor artificial illuminating devices, installed or portable, used for floodlighting, general illumination, or advertisement. Such devices shall include but are not limited to search, spot, flood, and area lighting for:

- (1) Buildings and structures;
- (2) Recreational facilities;
- (3) Parking areas;
- (4) Landscape lighting;
- (5) Outdoor advertising;
- (6) Public and private street lighting; and
- (7) Walkway lighting.

OUTDOOR LIGHTING: Lighting equipment installed within the property line and outside the building envelopes, whether attached to poles, building structures, the earth, or any other location; and any associated lighting control equipment.

OUTSIDE DISPLAY: (Also referred to as *Outside* or *Outdoor Sales*.) Any primary use of a premises whereon goods, materials, or merchandise is displayed for the purpose of sale on a temporary basis for not more than twenty-four (24) hours, and which the display area is greater than thirty percent (30%) of the gross floor area of the principal building

OUTSIDE STORAGE: (Also referred to as *Open Storage*.) Keeping, displaying, or storing, outside a building, of any goods, materials, merchandise or equipment on a lot or tract on a generally permanent basis for more than twenty-four (24) hours. This includes storage within boxes, containers, portable sheds, trailers, and other structures that are not permanently affixed to a foundation, do not resemble the main onsite building in architectural style, or are not assembled onsite.

OVERLAY ZONING DISTRICT: A zoning district that establishes regulations that combine with the regulations of an underlying (base) zoning district. The purposes of an overlay district shall be to prohibit uses otherwise allowed in the base district, to establish additional or different conditions for such uses, or to authorize special uses, together with standards for such uses, not otherwise allowed in the base district.

PARK OR PLAYGROUND (PRIVATE): A recreation facility, park or playground which is not owned by a public agency such as the City or School District, and which is operated for the exclusive use of private residents or neighborhood groups and their guests and not for use by the general public.

PARK OR PLAYGROUND (Public; Municipal): Publicly owned and operated parks, recreation areas, playgrounds, swimming pools and open spaces that are available for use by the general public without membership or affiliation. This land use shall include special event type uses such as rodeos, concerts, festivals, and other special events requiring special event permits, as set forth in the City of Pearland's Code of Ordinances.

PARKING LOT: A paved, surfaced or leveled area designed and ordinarily used for accessory or public parking of motor vehicles, including commercial parking areas available for lease and leased premises available for public parking. The term shall not include parking garages.

PARKING AREA: An off-street area for the temporary storage of motor vehicles, whether free, for compensation or as an accommodation for clients or customers.

PARKING LOT TREE: A tree of a species listed on the Large Tree list and the Small Tree list and includes both large and small parking lot trees as provided on the list.

PARKING LOT TREE LIST: A Large Tree list and a Small Tree list issued and revised from time to time by the City Engineer, which, based upon recognized arboricultural standards, shall designate trees that are required to be used for planting in parking lots. The City Engineer may only decline to include and may only remove otherwise suitable trees because of health or disease concerns or warnings. The list shall be subdivided into large trees and small trees based upon canopy size characteristics.

PARKING SPACE: An individual vehicle parking space within a parking lot, which shall be computed based on applicable provisions in other parts of the Ordinances of the City of Iowa Colony.

PARKING, STACKED: Also known as Tandem parking. An off-street parking stall arrangement, not more than two spaces in depth, wherein one space is located directly in front of another space and requires the moving of the rear vehicle for another vehicle to enter or leave the forward space.

PARKWAY AREA: That portion of the public right-of-way laying primarily between the edge of the pavement or curb and the private property line.

PARKWAY TREE: A tree of a species listed on the Large Tree list or the Small Tree list that is situated in the parkway area adjacent to any tract or parcel of land and that has a caliper equal to or greater than 1½ inches.

PARTIALLY SHIELDED: Shielding so that the lower edge of the shield is at or below the centerline of the lamp to minimize the light transmission above the horizontal plane, or at least ninety percent (90%) of the emitted light projects below the horizontal plane as evidenced by the manufacturer's photometric data.

PARTLY SHIELDED LUMINAIRE: A luminaire with opaque top and translucent or perforated sides, designed to emit most light downward.

PAVED: Ground surface covered with concrete and constructed in conformance with applicable requirements of the City of Iowa Colony Building Code.

PAWN SHOP: An establishment where articles are traded in exchange for money plus a right to redeem such articles within a given amount of time upon repayment of such money with interest. The establishment may also be involved in the retail sale of primarily used items is also allowed, provided that the sale of such items complies with local, State and Federal regulations.

PEDESTRIAN HARDSCAPE: Stone, brick, concrete, asphalt, or other similar finished surfaces intended primarily for walking such as sidewalks and pathways.

PERMITTED USE: A use specifically allowed in one (1) or more of the various districts by right. This term does not include conditionally or special permitted uses.

PERSON: A natural person, the natural person's heirs, executors, administrators, or assigns and includes a firm, partnership, or corporation, its or their successors or assigns, or the agent of any of the aforesaid.

PERSON IN CHARGE: Any person who has real, or apparent care, custody, and control of real property or buildings located thereon.

PERSONAL SERVICE SHOP: A retail establishment for the purpose of supplying limited personal services, including but not limited to cleaning and laundry collection station; interior decorating; watch and jewelry repair; art gallery; library; museum; studio for professional artwork, photography, dance, or fine arts, including teaching of applied and fine arts; this definition does not include massage parlors, barber shops, beauty shops, or hairdressers.

PET CARE FACILITY/ANIMAL KENNEL: A commercial establishment in which dogs or other domesticated (pet) animals are housed, groomed, bred, boarded, trained, sold, or provided other health and well-being related services, for a fee or compensation. This term along with the parenthetical phrase "without outdoor pens" means that all the listed activities occur indoors, except outdoor exercise under supervision for a limited period (e.g., one-half to one hour at a time). This term along with the parenthetical phrase "with outdoor pens" means that all the listed activities may occur outdoors for an extended period. This term does not include a veterinary clinic.

PETITION FOR A LEGISLATIVE DECISION: A request for approval of an action authorized under this Unified Development Code requiring action by the City Council acting in its legislative capacity.

PETITION FOR CHANGE IN NON-CONFORMING STATUS: A request by a property owner to the City of Iowa Colony Zoning Board of Adjustment (ZBA) for a change in the status of a non-conforming use or structure to allow for modification to the use or property owned.

PETITION FOR RELIEF FROM DEDICATION OR CONSTRUCTION REQUIREMENT: A request for relief from a requirement imposed under this Unified Development Code to dedicate or construct a public improvement based on constitutional standards, and that is reviewed and decided under this Unified Development Code.

PETROLEUM PRODUCTS BULK STORAGE (WHOLESALE): A facility for the long-term storage and distribution of petroleum that may also involve wholesale sales, but not retail sales, of petroleum and petroleum-based products. No manufacturing or refining of petroleum or petroleum-based products occurs on the premises, only storage and/or distribution functions.

PHOTOELECTRIC SWITCH: A control device employing a photocell or photodiode to detect daylight and automatically switch lights off when sufficient daylight is available.

PHOTOMETRIC: Quantitative measurements of light levels and distributions.

PLANNED DEVELOPMENT: The terms Planned Development and Planned Unit Development shall have the same meaning.

PLANNED UNIT DEVELOPMENT (PD) DISTRICT: A land development project comprehensively planned which permits flexibility in building siting, mixtures of housing types and land uses, usable open spaces, and the preservation of significant natural features.

PLAT: A map, drawing, chart, or plan showing the exact layout and proposed construction of a proposed development into one or more lots, blocks, streets, parks, school sites, commercial or industrial sites, easements, alleys and/or any other elements as required by this Unified Development Code and which a subdivider shall submit for approval in accordance with this Unified Development Code.

POLICE STATION: Any public service building of the municipal government that is used in the provision of police protection services, including the housing of police personnel and related automobiles.

PLAZA: An unroofed public open space designed for pedestrians that is open to public sidewalks on at least one side.

PORCH, (FRONT PORCH): The ground floor platform attached to the front or side of the main building.

PRELIMINARY SUBDIVISION PLAT: A plat that illustrates and thereby assures the general layout of a proposed subdivision, the adequacy of public facilities needed to serve the proposed subdivision, and the overall compliance of the land division with applicable requirements of the Unified Development Code and that is reviewed and decided prior to approval of a Final Subdivision Plat.

PREMISES: A parcel or tract of land or one or more platted lots under the same ownership and use, together with the buildings and structures located thereon.

PRIMARY FINISH: An exterior finish consisting of masonry, glass wall, cementitious stucco, or a combination thereof.

PRIVATE OPEN SPACE: Private property under common ownership designated for recreational use, including a private park, play lot, plaza or ornamental area intended for use or enjoyment of property owners within a subdivision. Open space does not include streets, alleys, utility easements, public parks or required setbacks.

PROJECT COVERAGE: The total amount of impermeable surfaces (impervious cover) of an entire proposed development, as opposed to the lot-by-lot amount defined for the impervious cover calculation.

PROJECTING FAÇADE ELEMENTS: Building elements which attach to the outside of the primary building envelope. Projecting façade elements can include stoops, porches, bay windows, awnings, canopies, second-floor balconies, colonnades, or arcades.

PROPANE SALES (RETAIL): Retail sales of gaseous substances commonly used for household purposes such as propane or butane; does not include the storage, sale, or distribution of other types of combustible substances or alternative fuels such as containerized natural gas, liquid propane, etc.

PROPERTY LINE: The edges of the legally defined extent of privately owned property.

PROTECTED TREE: A corridor tree, designated tree, green corridor tree or parkway tree; any tree of a size twenty (20) caliper inches or more of any species; or any tree of a size of one and one-half (1 ½) caliper inches or more of any species included in the Large Tree list.

PROTECTED TREE REPLACEMENT REQUIREMENT: The requirement established to replace a protected tree as found elsewhere in this Code, as applicable.

PUBLIC ART: Art that is visually or physically accessible to the public (within the public realm e.g., a Street) and that is acquired by City funds, donated to the City, or provided by a private entity as a community benefit, including monuments and statues, building ornament, and visible public infrastructure such as bridges, etc.

PUBLIC EDUCATIONAL FACILITIES: Facilities that are used to provide instruction or education by primary or secondary schools or institutions of higher education that receive public funding. Private schools, day cares and other similar uses, and facilities not used for instructional purposes such as administrative and service facilities shall not be included in this definition.

PUBLIC FACILITIES: Infrastructure and municipal service improvements owned and/or operated by the City, excluding dry utilities such as gas, phone, cable, etc.

PUBLIC OPEN SPACE: Property that is owned by or dedicated to the City and that is designated for recreational use, including a park, play lot, plaza or ornamental area intended for use or enjoyment of citizens. Open space does not include streets, alleys, utility easements, public parks or required setbacks.

PUBLIC RIGHT-OF-WAY: A strip of land used or intended to be used, wholly or in part, as a public street, alley, crosswalk way, sidewalk, or drainage-way.

PUBLIC STREET RIGHT-OF-WAY: The entire width between the boundary lines of every way which is held by the city, a county, the state or otherwise by the public in fee or dedication when any part thereof is open to the use of the public for purposes of vehicular travel.

PUBLIC VIEW: Areas that can be seen from any public street.

RAIN SENSOR DEVICE: A calibrated device that is designed to measure rainfall and override the irrigation cycle of the irrigation system when a pre-determined amount of rainfall has occurred.

RECONSTRUCTION: Rehabilitation or replacement of a structure which either has been damaged, altered or removed or which is proposed to be altered or removed to an extent exceeding fifty percent (50%) of the replacement cost of the structure at the time of the damage, alteration or removal.

RECORD DRAWINGS: See *As-Built/Record Drawings*.

RECORDED PLAT: A subdivision plat that has been finally approved by the city and that has been filed with the applicable County after meeting all City requirements for recordation under this Unified Development Code.

RECREATION CENTER (PRIVATE, FOR PROFIT): An indoor business establishment used for recreation and social activities.

RECREATIONAL VEHICLE (RV): A vehicle that is:

- a. Built on a single chassis;
- b. Four hundred (400) square feet or less when measured at the largest horizontal projection;
- c. Designed to be self-propelled or permanently tow-able by a light-duty truck; and
- d. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

REFUSE CONTAINER: Any container, including dumpster, used as temporary storage of routinely collected waste.

REFUSE DUMP: A place reserved or used for the dumping or accumulation of refuse or discarded matter.

REGISTERED FAMILY HOME: See *Child Day Nursery*.

REHABILITATION CARE FACILITY (HALFWAY HOUSE): A dwelling unit which provides residence and care to not more than nine (9) persons regardless of legal relationship who have demonstrated a tendency towards alcoholism, drug abuse, mental illness, or antisocial or criminal conduct living together with not more than two (2) supervisory personnel as a single housekeeping unit.

REHABILITATION CARE INSTITUTION (BUSINESS): A facility which provides residence and care to ten (10) or more persons, regardless of legal relationship, who have demonstrated a tendency toward alcoholism, drug abuse, mental illness, or antisocial or criminal conduct together with supervisory personnel.

RELATIVE PHOTOMETRY: Photometric measurements made of the lamp plus luminaire and adjusted to allow for light loss due to reflection or absorption within the luminaire. Reference standard: IES LM-63

REMAINDER TRACT: Land that is part of a larger parcel that is not subject to a subdivision plat affecting the parcel.

REMODELING: Renovation, alteration or repair of an existing structure that is not an addition.

REMOVE OR REMOVAL: To take a tree away from its existing position and includes such actions that may be reasonably expected to damage a tree sufficiently to cause it to die.

REPAIR: To restore or mend to sound working condition after damage, decay, or failure.

REPAIR(S) (LIGHTING): The reconstruction or renewal of any part of an existing luminaire for the purpose of its ongoing operation, other than re-lamping or replacement of components including capacitor, ballast, or photocell. Note that retrofitting a luminaire with new lamp and/or ballast technology is not considered a repair and for the purposes of this ordinance the luminaire shall be treated as if new. "Repair" does NOT include normal re-lamping or replacement of components including capacitor, ballast, or photocell.

REPLACEMENT: The act of moving one structure from its existing location or site and replacing it with another structure.

REPLACEMENT LIGHTING: Lighting installed specifically to replace existing lighting that is sufficiently broken to be beyond repair.

RESERVE: A tract of land that is not restricted to single-family residential use and not designated on a subdivision plat as a lot or street right-of-way use and is designated as a reserve.

RESIDENTIAL USE: A dwelling unit or group of dwelling units; includes dwelling units within the upper story or stories of a building wherein other parts of the building are used for a nonresidential purpose or purposes, such as a retail establishment or office.

RESPONSIBLE OFFICIAL: The Building Official or an assign, or the City Engineer who has been designated to accept a type of development application or plans for filing, to review and make recommendations concerning such applications, and where authorized, to initially decide such applications, to initiate enforcement actions, and to take all other actions necessary for administration of the provisions of this Unified Development Code with respect to such development applications.

RESTAURANT (WITH DRIVE-IN SERVICE OR DRIVE-THRU SERVICE): An eating establishment where food or drinks are primarily served to customers in motor vehicles, or where facilities are provided on the premises which encourage the serving and consumption of food in automobiles on or near the restaurant premises. An area may also be provided for the consumption of food the premises.

RESTAURANT (WITH NO DRIVE-IN OR DRIVE-THRU SERVICE): An eating establishment where customers are primarily served at tables or are self-served, where food is consumed on the premises, and which do not have a drive-through window.

RETAIL SHOP FOR ACCESSORIES, GIFTS & SIMILAR GOODS: An establishment engaged in the selling of goods and merchandise to the general public for personal or household consumption and rendering services incidental to the sale of such goods.

RIBBON CURB: A concrete boundary marking the edge of a roadway or paved area and, unlike a typical raised curb, is not vertically separated from the roadway or paved area.

ROADWAY: That portion of a public street which is improved, designed, or ordinarily used for vehicular travel, exclusive of the curb, berm, or shoulder. If a public street includes two or more separate roadways, "roadway" means each such roadway separately.

ROADWAY OR HIGHWAY LIGHTING: Lighting provided for freeways, expressways, limited access roadways, and roads on which pedestrians, cyclists, and parked vehicles are generally not present. The primary purpose of roadway or highway lighting is to help the motorist remain on the roadway and help with the detection of obstacles within and beyond the range of the vehicle's headlights.

ROOT COLLAR: An encircling structure of band-like markings or a marked color change (from the tree bark) located at the highest part of the root system joining into the trunk of the tree at or slightly below the surrounding soil line.

RUNOFF: Water that flows from the area where it fell because it is not absorbed soon enough by the soil.

SALES AREA: Uncovered area used for sales of retail goods and materials, including but not limited to automobiles, boats, tractors, and other farm equipment, building supplies, and gardening and nursery products.

SCHOOL - OTHER THAN PUBLIC OR PAROCHIAL: A school under the sponsorship of a private agency or corporation, other than a religious agency, which offers a curriculum that is generally equivalent to public elementary and/or secondary schools.

SCHOOL - PUBLIC OR PAROCHIAL: A school under the sponsorship of a public or religious agency which provides elementary or secondary curricula, but not including private business or trade/commercial schools.

SCHOOL - TRADE OR COMMERCIAL: A for-profit business that offers vocational instruction and training in trades such as the computer industry, welding, brick laying, machinery operation/repair, and similar trades.

SCREENING WALL: (Also called *Solid Wall*.) A solid vertical barrier constructed of masonry materials that is intended to separate and limit visibility between that which is on either side of the barrier, for example adjacent land uses or particular site elements.

SEASONAL LIGHTING: Temporary lighting installed and operated in connection with holidays or traditions.

SEAT: One (1) sitting space equal to eighteen (18) inches of bench or pew width if other than an individual chair.

SECONDARY BUILDING SETBACK: The area of a lot measured from a lot line to a secondary building.

SECURITY DWELLING: An accessory dwelling incidental and subordinate to the primary use. The function of a security dwelling would be the protection and security of the primary use served.

SETBACK LINE: A line which marks the setback distance from the property line, and establishes the minimum required front, side, or rear yard space of a building plot.

SHALL: As used in this Code, is mandatory and not discretionary.

SHARED USE OF TOWERS: Also referred to as "*Co-location*". The use of a single antenna support structure and/or site by more than one communications provider.

SHED: (Also referred to as *Tool Shed*.) An accessory structure typically used for storage that is: (1) constructed onsite; (2) securely affixed to the ground by means of a permanent foundation or with tie-downs designed to be used to anchor a shed to the ground; (3) resembles the main onsite structure in architectural style; and (4) does not exceed fifteen percent (15%) of the square footage of the main onsite structure in size.

SHELTERED CARE FACILITY: A nonprofit or for-profit boarding home for the sheltered care of persons with special needs, which, in addition to providing food and shelter, may also

provide some combination of personal care, social or counseling services, and transportation.

SHIELDED DIRECTIONAL LUMINAIRE: A luminaire that includes an adjustable mounting device allowing aiming in any direction and contains a shield, louver, or baffle to reduce direct view of the lamp.

SHOPPING CENTER OR INTEGRATED BUSINESS DEVELOPMENT: A commercial development such as a strip center, mall, multi-tenant office building, commercial center, or industrial complex in which two (2) or more separate businesses occupy a single or multiple structures which share on-site parking and common driveways.

SHRUB: Any plant, deciduous or evergreen, which is generally multi-stemmed and sold by height or spread and measured in inches or feet.

SIDEWALK: Also called a *Walkway*. The paved portion of a public street right-of-way which is between the curb lines, or the lateral lines of a roadway, and the adjacent property lines and is improved and designed for or is ordinarily used for pedestrian travel. A paved pedestrian way generally located within the public street right-of-way but outside the roadway but may be located outside the public street right-of-way when a public access easement is granted.

SIGHT TRIANGLE: A triangle-shaped area adjacent to the intersection of two streets, formed by two lines.

SIGN: Any object, device or display facing the exterior (outdoors), which is used to inform or give direction or to advertise or identify a person, organization, business, product, service, event or location by any means, including words, letters, numbers, symbols, figures, or illumination.

SIGN, ALLOWABLE EFFECTIVE AREA: The maximum effective sign area as allowed by the UDC, as measured from the highest point on the sign to the elevation of the center of the bottom of the sign (excluding base) by the width at the widest point. The highest point and the width shall be inclusive of all supports and framing.

SIGN COPY: The letters, numbers, symbols, or geometric shapes, either in permanent or changeable form, on the surface of a sign.

SIGN PERMIT: A City-issued permit that authorizes the display, erection, rebuilding, expansion or relocation of any on-premises or off-premises sign and that conforms to this UDC.

SIGN, ANIMATED: A sign with any visual effect of a light source which causes the perception of movement of graphics or text.

SIGN, ATTACHED: Any sign attached to, applied on, or supported by any part of a building or accessory structure, including awnings and other similar permanent attachments to the buildings. Also, may be referred to as "building sign".

SIGN, BANNER A temporary sign that is designed to be attached or installed with rope, wire, or other temporary means to any part of the building façade, to allow ease of installation and removal.

SIGN, BILLBOARD: A, off-premise sign which is subject to regulation under the provisions of the Federal Highway Beautification Act, 23 U.S.C.A. Section 131 et seq., as amended.

SIGN, BLADE: A non-illuminated panel sign with dimensional copy suspended from a decorative bracket attached to the building, typically upon a merchant's storefront, permitted for occupant identification purposes only, and limited to 1 blade sign per public entrance where public foot traffic occurs, and limited to two square feet per face.

SIGN, BUILDER/SUBDIVISION: Any sign that advertises 1) a new subdivision for the purpose of selling lots, land, and/or buildings and/or 2) a builder(s) that has lots, land, or buildings for sale. Such sign may or may not be directional.

SIGN, COMMUNITY INFORMATION: Any sign which promotes items of general interest to the community including time, temperature, date, atmospheric conditions and upcoming noncommercial events or charitable causes.

SIGN, ELECTRONIC CHANGEABLE MESSAGE: Any sign with a fixed or changing display/message composed of a series of lights that may be changed through electronic means. Includes Electronic Changeable message board and scrolling signs.

SIGN, ELECTRONIC CHANGEABLE MESSAGE BOARD: Any sign with a fixed or changing display/message composed of a series of lights that may be changed through electronic means.

SIGN, FLASHING/BLINKING: Sign with a type of animation characterized by cyclical switching of visual content or colors between on and off states in rapid successive increments of less than four (4) seconds.

SIGN, FREESTANDING: An on-premise sign which advertises an establishment and is located on the premises owned or controlled by said establishment, which is supported by a single vertical support anchored or set into the ground.

SIGN, GROUND: Also referred to as a *Monument Sign*. A sign which is supported by one (1) monolithic structure which is not less in width than one-half ($\frac{1}{2}$) the maximum sign height, set upon the ground and is not part of a building, including ground signs that advertise for more than one occupancy on the premises (multi-tenant).

SIGN, ILLUMINATED: A sign exposed to artificial lighting by light sources located on or in the sign or specifically directed toward the sign.

SIGN, MARQUEE: A sign with slots or wires for inserting individual letters so that a message about products sold or services provided on the same premises may be changed.

SIGN, MONUMENT: See *Ground Sign*.

SIGN, MULTI-TENANT: An on-premise sign with the name of the primary on-site facility and a list of the individual stores or businesses mounted on such sign. Examples include signs describing a mall arrangement, a shopping center development, and industrial park complex, or a complex of buildings with a unifying name and group of businesses.

SIGN, MULTI-USER: A ground sign used to advertise more than two (2) businesses that are part of an integrated business development. A multi-user sign shall be located on the premises of one of said businesses, but shall be allowed to be off-premise signage as to the other businesses that are part of the integrated business development.

SIGN, NON-COMMERCIAL or NON-BUSINESS: A sign with a message that does not contain or convey commercial context or information or advertising for any business, commodity, service, entertainment, product or other attraction or event.

SIGN, NONCONFORMING: means any sign lawfully existing on the effective date of the ordinance from which the sign regulations in this Unified Development Code derive which does not conform to all the standards and requirements of this Unified Development Code.

SIGN, OFF-PREMISE PORTABLE: An off-premise sign which is also a portable sign.

SIGN, OFF-PREMISE: A sign displaying advertising copy that pertains to a business, person, organization, activity, event, place, service, or product not principally located or primarily manufactured or sold on the premises on which the sign is located.

SIGN, ON-PREMISE: A sign displaying advertising copy that pertains to a business, person, organization, activity, event, place, service, or product principally located or primarily manufactured or sold on the premises on which the sign is located.

SIGN, PERMANENT: A sign designed to be anchored to the ground, a building or other structure for the duration of the use of the premises.

SIGN, POLITICAL: A sign that contains primarily a political message and that is located on private real property with the consent of the property owner.

SIGN, PORTABLE: Any sign designed or constructed to be easily moved from one location to another, including, but not limited to, signs mounted upon or designed to be mounted upon a trailer, bench, wheeled carrier, A-frame, or other non-motorized mobile structure; a portable sign which has its wheels removed shall still be considered a portable sign hereunder. For the purpose of this definition, trailer signs and signs on benches are "portable signs".

SIGN, REAL ESTATE: A sign which has the purpose of advertising for sale a parcel of real property or an estate in land, including rentals.

SIGN, SCROLLING: Sign with a type of animation which causes displayed text or graphics to move continuously up, down, or across the screen, so that a line of text or graphics appears at one edge of the screen for each line that moves off the opposite edge.

SIGN, SUBDIVISION IDENTIFICATION: Any sign that is a permanent sign identifying an entrance to a residential or nonresidential (e.g., office park) subdivision.

SIGN, SUSPENDED: Signs which hang or are suspended from any projecting element off the façade of the building. This can include Blade Signs.

SIGN, TEMPORARY: Any sign constructed of cloth, canvas, light fabric, cardboard, wallboard, plywood, or other light materials with short life expectancies. A portable sign shall not be considered a temporary sign.

SIGN, TOTAL EFFECTIVE SIGN AREA: The total effective area provided by a sign, measured from the highest point on the sign to the elevation of the center of the bottom of the sign (excluding base) by the width at the widest point. The highest point and the width shall be inclusive of all supports and framing.

SINGLE-FAMILY RESIDENTIAL: A building (attached or detached) designed to contain one or two separate living units with facilities for living, sleeping, cooking, or eating.

SITE: A tract of property that is the subject of a development application.

SITE DEVELOPMENT PLAN: The final step of the development process within a PD district, if required by the ordinance adopting the PD.

SITE PLAN: A scaled and detailed drawing that conforms to the requirements of this UDC, and that shows the roads, parking, footprints of all buildings, existing trees, proposed landscaping, parkland, open space, grading and drainage, and similar features needed to verify compliance with the City's approved land use plan and development standards.

SITE PREPARATION PERMIT: A permit that is issued under this Unified Development Code, that authorizes site preparatory activities other than construction or placement of a structure on the land under one or more site plans and that, upon approval, authorizes the property owner to apply for a construction permit.

SKY GLOW: The brightening of the nighttime sky that results from scattering and reflection of artificial light by moisture and dust particles in the atmosphere. Sky-glow is caused by light directed or reflected upwards or sideways and reduces one's ability to view the night sky.

SPACE: A plot of ground within a mobile home or manufactured housing park designed for the accommodation of one (1) mobile home or manufactured home, together with the open space as required by this UDC. This term also includes the terms "lot", "stand" and "site". *Space* may also mean any plot or parcel of ground upon which is erected any accommodation for any recreational vehicle or structures of a temporary nature for living and sleeping purposes.

SPECIAL EXCEPTION: A City-authorized modification of zoning standards applicable to particular types of development within any zoning district in a manner consistent with the overall intent of the zoning regulations and for which express standards are prescribed

SPECIALTY SHOP: An establishment for the purpose of supplying limited specialty items for hobbies and other similar activities including but not limited to antiques, art objects and supplies, ceramic supplies, books, camera and photo supplies, candy, florist, gifts, greeting cards, framing, stamps and coins, stationery, and tobacco.

SPECIMEN TREE: An exemplary tree of good health and true to species habit and form, containing a minimum caliper of 1½ inches.

STABLE, COMMERCIAL: A facility used for the rental of a stall space or spaces, or for the sale or rental of horses or mules.

STABLE (PRIVATE, PRINCIPAL OR ACCESSORY USE): A facility used solely for the owner's private purposes for the keeping of horses, mules or ponies which are not kept for remuneration, hire or sale.

STONE MATERIAL: Hard or durable naturally occurring rock, weathered, cut, or dimensioned, and manufactured stone products.

STOOP: A staircase on the facade of a building, usually constructed of concrete or stone, that leads either to a small un-walled entrance platform or directly to the main entry door.

STOREFRONT WINDOWS: The large glass window facing the front of the building in a commercial, retail or office structure.

STREET: The entire width between property lines when any part thereof is open to the use of the public, as a matter of right, for the purpose of vehicular traffic. This definition shall include public as well as private streets. An "Alley" is not considered to be a street and is separately defined herein.

STREETLIGHT: Any man-made light installed for the purpose of vehicular traffic illumination purposes on a pole with a minimum fixture height of thirty (30) feet above natural ground located within public or private street right-of-way.

STREET LIGHTING: Lighting provided for major, collector, and local roads where pedestrians and cyclists are generally present. The primary purpose of street lighting is to help the motorist identify obstacles, provide adequate visibility of pedestrians and cyclists, and assist in visual search tasks, both on and adjacent to the roadway.

STREETSCAPE: The principal variables of streetscape are the type and dimension of curbs, walks, planters, street trees and streetlights.

STREET TREE: A list of trees (large Trees and Small Trees) issued and revised from time to time by the Building Official or the City Engineer, which, based upon recognized arboricultural standards, shall designate trees that are required to be used for planting adjacent to and within street rights-of-way within the city. The Building Official or City Engineer may only decline to include and may only remove otherwise suitable trees based on health or disease concerns or warnings. The list shall be subdivided into categories of trees that may be planted under power lines and trees that shall not be planted under power lines. The categories of trees that may be planted under power lines shall include live oak trees.

STREET TREE LIST: The Large Tree list and the Small Tree list indicated in Appendix 3.1.3.12 and Appendix 3.1.3.13

STRUCTURE: Anything constructed, the use of which requires permanent location on the ground or attachment to something having a permanent location on the ground. Also see "Building".

STUDIO, HEALTH REDUCING OR SIMILAR SERVICE: Includes, but is not limited to, an establishment which provides facilities and equipment, such as gymnasiums, weight rooms, swimming pools or spas, exercise apparatus and instruction classes, which are intended to promote

health, fitness, weight reduction and/or similar health-related activities. Such facilities may include such accessory uses as food service, sales of sundries and apparel, and childcare services, provided that such accessory uses are clearly incidental to the primary use and are for the use of studio patrons only.

STUDIO - TATTOO OR BODY PIERCING: A building or portion of a building used for selling and/or applying tattoos (by injecting dyes/inks into the skin), and/or for piercing the skin with needles, jewelry, or other paraphernalia, primarily for the purpose of ornamentation of the human body.

STUDIO FOR RADIO AND/OR TELEVISION: A building or portion of a building used as a place for radio or television broadcasting.

SUBDIVIDE:

(a) Is the following when done for the purpose of sale or building development:

1. The division of any tract of land into two or more tracts or lots; or
2. The assembly of two or more tracts of land into one tract or lot.

(b) Is the following regarding changes to a recorded subdivision plat:

1. A re-subdivision of all or part of the subdivision;
2. Any change of lot size or lot lines; or
3. The relocation of any street.

SUBDIVIDER: Any person or any agent of the person dividing or proposing to divide land to constitute a subdivision, as that term is defined in this section. In any event, the term "subdivider" is restricted to include only the owner, equitable owner or authorized agent of the owner or equitable owner of land to be subdivided.

SUBDIVISION: Pertaining to land for which a plat has been recorded, *subdivision* means an area of subdivided lots; pertaining to the act of subdividing land, see the definition of *subdivide* herein.

SUBMITTAL DATE: The date upon which the responsible City staff person decides that a zoning or development application is complete and when a fee receipt is issued by the City for the required application fee.

SURVEYOR: A licensed state land surveyor or a registered professional land surveyor, as authorized by state statutes, to practice the profession of surveying.

SWIMMING POOL, COMMERCIAL: A swimming pool with accessory facilities which is not part of the municipal or public recreational system, and which is not a private swim club, but where the facilities are available for use by the public for a fee.

SWIMMING POOL, PRIVATE (USE ONLY BY RESIDENT): A swimming pool constructed for the exclusive use of the residents of a one-family, two-family or multiple-family dwelling and located, fenced and built-in accordance with the city code of ordinances. A

private swimming pool shall not be operated as a business nor maintained in a manner to be hazardous or obnoxious to adjacent property owners.

TCEQ: The acronym for the Texas Commission on Environmental Quality.

TELEMARKETING AGENCY: An establishment which solicits business or the purchase of goods and/or services by telephone only. No sales of goods or services to the public occurs at or on the premises. No products are stored at or on the premises.

TEMPORARY CLASSROOM BUILDING: A building(s) built on skids, and which is utilized by a public school district for the purpose of eliminating the shortage of classrooms to bring the student/teacher ratio into compliance with state law.

TEMPORARY LIGHTING: Lighting installed and operated for periods not to exceed 60 days, completely removed, and not operated again for at least 30 days.

TENNIS OR SWIM CLUB: A recreational area containing a swimming pool or tennis courts or both with related facilities and/or clubhouse, all which facilities are available to the public through a private membership.

THIN BRICK: Brick which does not have the thickness of Brick material but is at least one-half (1/2) inch thick and meets the latest version of ASTM Standard C-1088 Thin Veneer Brick Units, Clay or Shale, Exterior grade.

THIRD PARTY: A party contracted to provide lighting.

THIS ORDINANCE: The entire Uniform Development Code, as herein defined.

THROUGH STREET: A street that is not a cul-de-sac street and which intersects with at least two other streets that are not cul-de-sacs streets, at intersections that are 3-way or 4-way intersections.

TIEDOWN: Any device designed for the purpose of anchoring a mobile home or manufactured home to ground anchors, as required by V.T.C.A., Occupations Code, Chapter 1201.

TIME SWITCH: An automatic lighting control device that switches lights according to time of day.

TOTAL TREE PLANTING REQUIREMENT: The total number of trees, if any, that must be planted under this article, excluding any which might be planted as part of a landscape buffer and further excluding the protected tree replacement requirement.

TOTAL TREE REQUIREMENT: The total number of trees that must be provided under this article, excluding any which might be provided as part of a landscape buffer, and further excluding the protected tree replacement requirement. This sum shall be made up of:

- (1) Any street and parking lot trees to be planted; and
- (2) Planting equivalency credits earned pursuant to section 3.1.2.3.

TRANSFER STORAGE & BAGGAGE TERMINAL: An area and building where cargo is stored and where trucks, including tractor and trailer units, load, and unload cargo on a regular basis. May include facilities for the temporary storage of loads prior to shipment.

TRANSIT TERMINAL: Any premises for the transient housing and/or parking of motor-driven buses and the loading and unloading of passengers.

TRANSLUCENT: Allowing light to pass through, diffusing it so that objects beyond cannot be seen clearly (not transparent or clear).

TRAVEL TRAILER/RV PARK/CAMPGROUND: An area or commercial campground for users of recreational vehicles, travel trailers, and similar vehicles to reside, park, rent or lease on a temporary basis. For this definition, “temporary” means a maximum three-month time.

TREE: Any evergreen or deciduous tree which at the time of planting has a caliper equal to or greater than 1½ inches as measured six inches above the root collar, which is not less than six feet in height as measured from the root collar, and which meets the Standard for Nursery Stock Specifications as established by the American Association of Nurserymen (1986 ed.).

TREE, LARGE: A tree that is a minimum of three inches (3”) in caliper at the time of planting and is a minimum planted height of eight feet (8’) at the time of planting.

TREE, ORNAMENTAL: A tree that is a minimum of two-inch (2”) in caliper at the time of planting and is a minimum planted height of six feet (6’) at the time of planting.

TREE PRESERVATION: All definitions related to tree preservation that are contained within this UDC.

TRUCK: See Heavy Load Vehicle.

TRUCK AND BUS LEASING: The rental of new or used panel trucks, vans, trailers, recreational vehicles, or motor-driven buses in operable condition and where no repair work or intensive cleaning operations are performed.

TRUCK SALES (HEAVY TRUCKS): The display, sale, or rental of new or used heavy load vehicles in operable condition.

TURF AND/OR TURFGRASS: Continuous plant coverage consisting of grass species appropriately suited to the site where it was planted.

TXDOT: The acronym for the Texas Department of Transportation.

UNDERSTORY: The small tree, shrub, and grass constituents of a plant association, excluding canopy vegetation.

UNIFORM DEVELOPMENT CODE: The following ordinances of the City, as they may be amended from time to time: this ordinance (the Unified Development Code or UDC), the Zoning Ordinance, the Subdivision Ordinance, all Building Codes of any kind, and any ordinance providing that it amends or is part of the Uniform Development Code.

UNSHIELDED: Fixtures lacking any means to restrict emitted light to below the horizontal plane.

UNSHIELDED LUMINAIRE: A luminaire capable of emitting light in any direction including downward.

UPLIGHT: For an exterior luminaire, flux radiated in the hemisphere at or above the horizontal plane.

USABLE OPEN SPACE: An open area or recreational facility that is designed and intended to be used for outdoor, active or passive, recreation purposes. An area of usable open space has a slope that does not exceed ten percent (10%), and no dimension of less than ten feet (10'). An area of usable open space may also include landscaping elements (e.g., trees, ground cover), trails, recreational facilities, water features and decorative objects such as art or fountains.

USE: The classification of the purpose or activity for which land or buildings are designated, arranged, intended, occupied, or maintained.

UTILITY: A business that provides an essential commodity or service, such as electric, gas transmission, and local telephone, and that is generally under government regulations. Unless otherwise specified, this term (or the plural "utilities") when used within this UDC refers to a public utility.

UTILITY, DRY: Facility that provides a service for electricity, natural gas, telecommunications, cable television, and/or internet/data. Also referred to as private utility.

UTILITY, WET: Facility that provides a service for potable water distribution, wastewater collection, and storm drainage. Also referred to as public utility.

VIDEO SALE or RENTAL: An establishment primarily engaged in the retail sales or rental/lease of video tapes, films, CD-ROMs, and electronic media.

VISIBLE: Capable of being seen by or perceptible to the general public.

VARIANCE: Authorization to deviate from or vary one or more standards applicable to a development application that is reviewed and decided under this Unified Development Code.

VERTICAL ILLUMINANCE: Illuminance measured or calculated in a plane perpendicular to the site boundary or property line.

VESTED RIGHTS PETITION: A request for relief from one or more standards of this Unified Development Code based on an assertion that the petitioner has acquired a vested right requiring the City to review and decide the application under standards in effect prior to the effective date of the standards of this Unified Development Code.

VIOLATION: The failure of a structure or other development to fully comply with this article.

VISIBILITY TRIANGLE: A triangle sight area, at all intersections, 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. The triangle is established by measuring forty-five feet (45') from the intersection of the extended curb or edge of the pavement of major thoroughfares, and twenty-five feet (25') from the extended edge of the curb or pavement of local streets. A straight line connecting the ends of each measured distance which forms the hypotenuse shall establish the visibility triangle. The visibility triangle shall not contain any visual or physical impediments or obstructions to the vertical view between thirty inches (30") and seven feet (7') in height. Visibility triangle shall also mean a triangle sight 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 lot within a right triangle with the right angle at the point where the curb break begins and the sides forming the right angle being fifteen feet (15') long, one of which extends back along the adjacent curb and the other back toward the private property or parkway. (Also refer to the definition of Visibility Triangle as it applies to tree preservation in section 4.2.3.2 of the UDC)

WAIVER: Authorization to deviate from or vary one or more standards applicable to a development application that is reviewed and decided this Unified Development Code.

WALKWAYS: Passages or paths for walking.

WATER FEATURES: Features of a site that holds water temporarily or permanently. These may include either natural features (lakes, wetlands, rivers, creeks, etc.) or artificial features (retention and detention ponds, fountains, ditches, and canals).

WAREHOUSE STORAGE or DISTRIBUTION FACILITY: Building or facility used for the storage and/or distribution of wholesale items/products.

WHOLESALE DISTRIBUTOR: An establishment or place of business primarily engaged in the selling and/or distributing merchandise to retailers; to industrial, commercial, institutional, or professional business users, or to other wholesalers; or engaged in acting as agents or brokers and buying merchandise for, or selling merchandise to, such individuals or companies.

WRECKING OR SALVAGE YARD: A yard or building where motor vehicles, parts of motor vehicles, building materials, or machinery are stored, dismantled and/or offered for sale in the open as whole units, as salvaged parts or as scrap or processed metal.

XERISCAPE: Quality landscape that conserves water, protects the environment, and is drought tolerant and adaptable to local conditions. The principles of xeriscape include planning and design, appropriate choice of plants, soil analysis which may include the use of solid waste compost, efficient irrigation, practical use of turf, appropriate use of mulches, and proper maintenance.

YARD: Open space on the lot or parcel on which a building is situated, between the property line and an imaginary straight line that incorporates the nearest face of the main building and drawn to bisect the property, which is open and unobstructed to the sky by any structure except as herein provided.

YARD, FRONT: That portion of the yard located between the front property line and a parallel imaginary straight line through the point nearest the front property line in the front-most face of the principal building(s).

YARD, FRONT (FLAG LOT): The distance between the front of the building and the point nearest the abutting street where the lot satisfies applicable width requirements.

YARD, REAR: That portion of the yard located between the rear property line and an imaginary straight line parallel to the front property line through the point nearest the rear property line in the rearmost face of the principal building(s).

YARD, REQUIRED an area being equal to the required setback areas (front, side, and rear) for a given zoning district.

YARD, SIDE: That portion of the yard bounded by the front yard, the rear yard, the side property line, and the side facade of the principal building(s).

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August 20, 2021

UNIFIED DEVELOPMENT CODE PROPOSED SUBSTANTIAL MODIFICATIONS

In addition to minor spelling and grammar corrections, the following modifications are proposed:

1. Section N/A – Removed page numbers from Table of Contents
2. 1.1.2.4. Added City Manager decision process
3. 1.1.3.2. Revised Planning and Zoning Commission role
4. 1.1.3.3. Added subdivision plat final authority – removed from City Council
5. 1.1.4.2. Revised role of Zoning Board of Adjustment
6. 1.1.5.1.,2.,3. Added Building Code Board of Adjustment process
7. 1.2.2.2. Reduced Published Notice requirement
8. 1.2.2.3. Reduced Personal Notice requirement
9. 1.2.2.4. Reduced Posting Notice on Property requirement
10. 3.1.2.13.,
14., 15., 16. Added Appeal of Denial of Building Permits by BCBA
11. 3.1.3.12. Added Vitex to approved Large Tree list and checked for invasive species
12. 3.1.3.13. Removed invasive species from Small Tree list
13. 3.3.1.1. Revised multi-family/single-family, non-residential screening requirement
14. 3.3.1.3. Added Collectors to residential screening requirements (7' wood)
15. 3.3.2.3. Revised fencing requirements around single-family developments (>2 ac)
16. 3.4.1.8. Table E – revised building entrance lumen allowance
17. 3.5.3.1. h. added build-to line allowance for utility easements
18. 3.5.3.8. Added allowed materials per State of Texas law
19. 3.5.3.11. Revised vertical and horizontal offset criteria
20. 3.5.3.12. Revised primary entrance and transparency requirements
21. Removed all streetlight requirements and criteria (moved to DCM)

J. Kent Marsh, AICP CUD

2021 Tax Rate Calculation Worksheet

Date: 08/13/2021 11:33 AM

Taxing Units Other Than School Districts or Water Districts

CITY OF IOWA COLONY

Taxing Unit Name

Phone (area code and number)

Taxing Unit's Address, City, State, ZIP Code

Taxing Unit's Website Address

GENERAL INFORMATION: Tax Code Section 26.04(c) requires an officer or employee designated by the governing body to calculate the No-New-Revenue (NNR) tax rate and Voter-Approval tax rate for the taxing unit. These tax rates are expressed in dollars per \$100 of taxable value calculated. The calculation process starts after the chief appraiser delivers to the taxing unit the certified appraisal roll and the estimated values of properties under protest. The designated officer or employee shall certify that the officer or employee has accurately calculated the tax rates and used values shown for the certified appraisal roll or certified estimate. The officer or employee submits the rates to the governing body by Aug. 7 or as soon thereafter as practicable.

School districts do not use this form, but instead use Comptroller Form 50-859 *Tax Rate Calculation Worksheet, School Districts without Chapter 313 Agreements* or Comptroller Form 50-884 *Tax Rate Calculation Worksheet, School District with Chapter 313 Agreements*.

Water districts as defined under Water Code Section 49.001(1) do not use this form, but instead use Comptroller Form 50-858 *Water District Voter-Approval Tax Rate Worksheet for Low Tax Rate and Developing Districts* or Comptroller Form 50-860 *Developed Water District Voter-Approval Tax Rate Worksheet*.

The Comptroller's office provides this worksheet to assist taxing units in determining tax rates. The information provided in this worksheet is offered as technical assistance and not legal advice. Taxing units should consult legal counsel for interpretations of law regarding tax rate preparation and adoption.

SECTION 1: No-New-Revenue Tax Rate

The NNR tax rate enables the public to evaluate the relationship between taxes for the prior year and for the current year based on a tax rate that would produce the same amount of taxes (no new taxes) if applied to the same properties that are taxed in both years. When appraisal values increase, the NNR tax rate should decrease.

The NNR tax rate for a county is the sum of the NNR tax rates calculated for each type of tax the county levies.

While uncommon, it is possible for a taxing unit to provide an exemption for only maintenance and operations taxes. In this case, the taxing unit will need to calculate the NNR tax rate separately for the maintenance and operations tax and the debt tax, then add the two components together.

No-New-Revenue Tax Rate Worksheet	Amount/Rate
1. 2020 total taxable value. Enter the amount of 2020 taxable value on the 2020 tax roll today. Include any adjustments since last year's certification; exclude Tax Code Section 25.25(d) one-fourth and one-third over-appraisal corrections from these adjustments. Exclude any property value subject to an appeal under Chapter 42 as of July 25 (will add undisputed value in Line 6). This total includes the taxable value of homesteads with tax ceilings (will deduct in Line 2) and the captured value for tax increment financing (adjustment is made by deducting TIF taxes, as reflected in Line 17). ¹	\$642,147,831
2. 2020 tax ceilings. Counties, cities and junior college districts. Enter 2020 total taxable value of homesteads with tax ceilings. These include the homesteads of homeowners age 65 or older or disabled. Other taxing units enter 0. If your taxing units adopted the tax ceiling provision in 2020 or a prior year for homeowners age 65 or older or disabled, use this step. ²	\$0
3. Preliminary 2020 adjusted taxable value. Subtract Line 2 from Line 1.	\$642,147,831
4. 2020 total adopted tax rate.	\$0.469209/\$100
5. 2020 taxable value lost because court appeals of ARB decisions reduced 2020 appraised value. A. Original 2020 ARB values:	\$0

B. 2020 values resulting from final court decisions:	\$0
C. 2020 value loss. Subtract B from A. ³	\$0
6. 2020 taxable value subject to an appeal under Chapter 42, as of July 25.	
A. 2020 ARB certified value:	\$0
B. 2020 disputed value:	\$0
C. 2020 undisputed value. Subtract B from A. ⁴	\$0
7. 2020 Chapter 42 related adjusted values Add Line 5C and Line 6C.	\$0
8. 2020 taxable value, adjusted for actual and potential court-ordered adjustments. Add Line 3 and Line 7.	\$642,147,831
9. 2020 taxable value of property in territory the taxing unit deannexed after Jan. 1, 2020. Enter the 2020 value of property in deannexed territory. ⁵	\$0
10. 2020 taxable value lost because property first qualified for an exemption in 2021. If the taxing unit increased an original exemption, use the difference between the original exempted amount and the increased exempted amount. Do not include value lost due to freeport, goods-in-transit, temporary disaster exemptions. Note that lowering the amount or percentage of an existing exemption in 2021 does not create a new exemption or reduce taxable value.	
A. Absolute exemptions. Use 2020 market value:	\$292,960
B. Partial exemptions. 2021 exemption amount or 2021 percentage exemption times 2020 value:	\$15,207,753
C. Value loss. Add A and B. ⁵	\$15,500,713
11. 2020 taxable value lost because property first qualified for agricultural appraisal (1-d or 1-d-1), timber appraisal, recreational/scenic appraisal or public access airport special appraisal in 2021. Use only properties that qualified in 2021 for the first time; do not use properties that qualified in 2020.	
A. 2020 market value:	\$126,380
B. 2021 productivity or special appraised value:	\$5,720
C. Value loss. Subtract B from A. ⁷	\$120,660
12. Total adjustments for lost value. Add lines 9, 10C and 11C.	\$15,621,373
13. 2020 captured value of property in a TIF. Enter the total value of 2020 captured appraised value of property taxable by a taxing unit in a tax increment financing zone for which 2020 taxes were deposited into the tax increment fund. ⁸ If the taxing unit has no captured appraised value in line 18D, enter 0.	\$162,892,070
14. 2020 total value. Subtract Line 12 and Line 13 from Line 8.	\$463,634,388
15. Adjusted 2020 total levy. Multiply Line 4 by Line 14 and divide by \$100.	\$2,175,414
16. Taxes refunded for years preceding tax year 2020. Enter the amount of taxes refunded by the taxing unit for tax years preceding tax year 2020. Types of refunds include court	\$882

decisions, Tax Code Section 25.25(b) and (c) corrections and Tax Code Section 31.11 payment errors. Do not include refunds for tax year 2020. This line applies only to tax years preceding tax year 2020. ⁸	
17. Adjusted 2020 levy with refunds and TIF adjustment. Add Lines 15 and 16. ¹⁰	\$2,176,296
18. Total 2021 taxable value on the 2021 certified appraisal roll today. This value includes only certified values or certified estimate of values and includes the total taxable value of homesteads with tax ceilings (will deduct in Line 20). These homesteads include homeowners age 65 or older or disabled. ¹¹ A. Certified values: B. Counties: Include railroad rolling stock values certified by the Comptroller's office: C. Pollution control and energy storage system exemption: Deduct the value of property exempted for the current tax year for the first time as pollution control or energy storage system property: D. Tax increment financing: Deduct the 2021 captured appraised value of property taxable by a taxing unit in a tax increment financing zone for which the 2021 taxes will be deposited into the tax increment fund. Do not include any new property value that will be included in Line 23 below. ¹² E. Total 2021 value. Add A and B, then subtract C and D.	\$710,263,085 \$0 \$0 \$238,644,370 \$471,618,715
19. Total value of properties under protest or not included on certified appraisal roll. ¹³ A. 2021 taxable value of properties under protest. The chief appraiser certifies a list of properties still under ARB protest. The list shows the appraisal district's value and the taxpayer's claimed value, if any, or an estimate of the value if the taxpayer wins. For each of the properties under protest, use the lowest of these values. Enter the total value under protest. ¹⁴ B. 2021 value of properties not under protest or included on certified appraisal roll. The chief appraiser gives taxing units a list of those taxable properties that the chief appraiser knows about, but are not included in the appraisal roll certification. These properties also are not on the list of properties that are still under protest. On this list of properties, the chief appraiser includes the market value, appraised value and exemptions for the preceding year and a reasonable estimate of the market value, appraised value and exemptions for the current year. Use the lower market, appraised or taxable value (as appropriate). Enter the total value of property not on the certified roll. ¹⁵ C. Total value under protest or not certified: Add A and B.	\$58,056,862 \$0 \$58,056,862
20. 2021 tax ceilings. Counties, cities and junior colleges enter 2021 total taxable value of homesteads with tax ceilings. These include the homesteads of homeowners age 65 or older or disabled. Other taxing units enter 0. If your taxing units adopted the tax ceiling provision in 2020 or a prior year for homeowners age 65 or older or disabled, use this step. ¹⁶	\$0
21. 2021 total taxable value. Add Lines 18E and 19C. Subtract Line 20. ¹⁷	\$529,675,577
22. Total 2021 taxable value of properties in territory annexed after Jan. 1, 2020.	\$0

Include both real and personal property. Enter the 2021 value of property in territory annexed. ¹⁸	
23. Total 2021 taxable value of new improvements and new personal property located in new improvements. New means the item was not on the appraisal roll in 2020. An improvement is a building, structure, fixture or fence erected on or affixed to land. New additions to existing improvements may be included if the appraised value can be determined. New personal property in a new improvement must have been brought into the taxing unit after Jan. 1, 2020, and be located in a new improvement. New improvements do include property on which a tax abatement agreement has expired for 2021. ¹⁹	\$95,444,331
24. Total adjustments to the 2021 taxable value. Add Lines 22 and 23.	\$95,444,331
25. Adjusted 2021 taxable value. Subtract Line 24 from Line 21.	\$434,231,246
26. 2021 NNR tax rate. Divide Line 17 by Line 25 and multiply by \$100. ²⁰	\$0.501183/\$100
27. COUNTIES ONLY. Add together the NNR tax rates for each type of tax the county levies. The total is the 2021 county NNR tax rate. ²¹	

¹Tex. Tax Code Section 26.012(14)

²Tex. Tax Code Section 26.012(14)

³Tex. Tax Code Section 26.012(13)

⁴Tex. Tax Code Section 26.012(13)

⁵Tex. Tax Code Section 26.012(15)

⁶Tex. Tax Code Section 26.012(15)

⁷Tex. Tax Code Section 26.012(15)

⁸Tex. Tax Code Section 26.03(c)

⁹Tex. Tax Code Section 26.012(13)

¹⁰Tex. Tax Code Section 26.012(13)

¹¹Tex. Tax Code Section 26.012,26.04(c-2)

¹²Tex. Tax Code Section 26.03(c)

¹³Tex. Tax Code Section 26.01(c) and (d)

¹⁴Tex. Tax Code Section 26.01(c)

¹⁵Tex. Tax Code Section 26.01(d)

¹⁶Tex. Tax Code Section 26.012(6)(b)

¹⁷Tex. Tax Code Section 26.012(6)

¹⁸Tex. Tax Code Section 26.012(17)

¹⁹Tex. Tax Code Section 26.012(17)

²⁰Tex. Tax Code Section 26.04(c)

²¹Tex. Tax Code Section 26.04(d)

²²Reserved for expansion

²³Tex. Tax Code Section 26.044

²⁴Tex. Tax Code Section 26.0441

SECTION 2: Voter-Approval Tax Rate

The voter-approval tax rate is the highest tax rate that a taxing unit may adopt without holding an election to seek voter approval of the rate. The voter-approval tax rate is split into two separate rates:

1. **Maintenance and Operations (M&O) Tax Rate:** The M&O portion is the tax rate that is needed to raise the same amount of taxes that the taxing unit levied in the prior year plus the applicable percentage allowed by law. This rate accounts for such things as salaries, utilities and day-to-day operations
2. **Debt Rate:** The debt rate includes the debt service necessary to pay the taxing unit's debt payments in the coming year. This rate accounts for principal and interest on bonds and other debt secured by property tax revenue.

The Voter-Approval tax rate for a county is the sum of the Voter-Approval tax rates calculated for each type of tax the county levies. In most cases the Voter-Approval tax rate exceeds the No-New-Revenue tax rate, but occasionally decreases in a taxing unit's debt service will cause the NNR tax rate to be higher than the voter-approval tax rate.

Voter-Approval Tax Rate Worksheet	Amount/Rate
28. 2020 M&O tax rate. Enter the 2020 M&O tax rate.	\$0.449322/\$100
29. 2020 taxable value, adjusted for actual and potential court-ordered adjustments. Enter the amount in Line 8 of the <i>No-New-Revenue Tax Rate Worksheet</i> .	\$642,147,831
30. Total 2020 M&O levy. Multiply Line 28 by Line 29 and divide by \$100.	\$2,885,311
31. Adjusted 2020 levy for calculating NNR M&O rate. A. M&O taxes refunded for years preceding tax year 2020 Enter the amount of M&O taxes refunded in the preceding year for taxes before that year. Types of refunds include court decisions, Tax Code Section 25.25(b) and (c) corrections and Tax Code Section 31.11 payment errors. Do not include refunds for tax year 2020. This line applies only to tax years preceding tax year 2020. B. 2020 taxes in TIF Enter the amount of taxes paid into the tax increment fund for a reinvestment zone as agreed by the taxing unit. If the taxing unit has no 2021 captured appraised value in Line 18D, enter 0. C. 2020 transferred function. If discontinuing all of a department, function or activity and transferring it to another taxing unit by written contract, enter the amount spent by the taxing unit discontinuing the function in the 12 months preceding the month of this calculation. If the taxing unit did not operate this function for this 12-month period, use the amount spent in the last full fiscal year in which the taxing unit operated the function. The taxing unit discontinuing the function will subtract this amount in D below. The taxing unit receiving the function will add this amount in D below. Other taxing units enter 0. D. 2020 M&O levy adjustments. Subtract B from A. For taxing unit with C, subtract if discontinuing function and add if receiving function. E. Add Line 30 to 31D.	<div>\$882</div> <div>\$684,695</div> <div>\$0</div> <div>\$-683,813</div> <div>\$2,201,498</div>
32. Adjusted 2021 taxable value. Enter the amount in Line 25 of the <i>No-New-Revenue Tax Rate Worksheet</i> .	\$434,231,246
33. 2021 NNR M&O rate (unadjusted). Divide Line 31E by Line 32 and multiply by \$100.	\$0.506987/\$100
34. Rate adjustment for state criminal justice mandate.²³ A. 2021 state criminal justice mandate: Enter the amount spent by a county in the previous 12 months providing for the maintenance and operation cost of keeping inmates in county-paid facilities after they have been sentenced. Do not include any state reimbursement received by the county for the same purpose.	\$0

<p>B. 2020 state criminal justice mandate: Enter the amount spent by a county in the 12 months prior to the previous 12 months providing for the maintenance and operation cost of keeping inmates in county-paid facilities after they have been sentenced. Do not include any state reimbursement received by the county for the same purpose. Enter zero if this is the first time the mandate applies.</p> <p>C. Subtract B from A and divide by Line 32 and multiply by \$100.</p> <p>D. Enter the rate calculated in C. If not applicable, enter 0.</p>	<p>\$0</p> <p>\$0.000000/\$100</p> <p>\$0.000000/\$100</p>
<p>35. Rate adjustment for indigent health care expenditures.²⁴</p> <p>A. 2021 indigent health care expenditures: Enter the amount paid by a taxing unit providing for the maintenance and operation cost of providing indigent health care for the period beginning on July 1, 2020 and ending on June 30, 2021, less any state assistance received for the same purpose.</p> <p>B. 2020 indigent health care expenditures: Enter the amount paid by a taxing unit providing for the maintenance and operation cost of providing indigent health care for the period beginning on July 1, 2019 and ending on June 30, 2020, less any state assistance received for the same purpose.</p> <p>C. Subtract B from A and divide by Line 32 and multiply by \$100.</p> <p>D. Enter the rate calculated in C. If not applicable, enter 0.</p>	<p>\$0</p> <p>\$0</p> <p>\$0.000000/\$100</p> <p>\$0.000000/\$100</p>
<p>36. Rate adjustment for county indigent defense compensation.²⁵</p> <p>A. 2021 indigent defense compensation expenditures: Enter the amount paid by a county to provide appointed counsel for indigent individuals for the period beginning on July 1, 2020 and ending on June 30, 2021, less any state grants received by the county for the same purpose.</p> <p>B. 2020 indigent defense compensation expenditures: Enter the amount paid by a county to provide appointed counsel for indigent individuals for the period beginning on July 1, 2019 and ending on June 30, 2020, less any state grants received by the county for the same purpose.</p> <p>C. Subtract B from A and divide by Line 32 and multiply by \$100.</p> <p>D. Multiply B by 0.05 and divide by Line 32 and multiply by \$100.</p> <p>E. Enter the lessor of C and D. If not applicable, enter 0.</p>	<p>\$0</p> <p>\$0</p> <p>\$0.000000/\$100</p> <p>\$0.000000/\$100</p> <p>\$0.000000/\$100</p>
<p>37. Rate adjustment for county hospital expenditures.²⁶</p> <p>A. 2021 eligible county hospital expenditures: Enter the amount paid by the county or municipality to maintain and operate an eligible county hospital for the period beginning on July 1, 2020 and ending on June 30, 2021.</p> <p>B. 2020 eligible county hospital expenditures: Enter the amount paid by the county or municipality to maintain and operate an eligible county hospital for the period beginning on July 1, 2019 and ending on June 30, 2020.</p>	<p>\$0</p> <p>\$0</p>

C. Subtract B from A and divide by Line 32 and multiply by \$100.	\$0.000000/\$100
D. Multiply B by 0.08 and divide by Line 32 and multiply by \$100.	\$0.000000/\$100
E. Enter the lessor of C and D, if applicable. If not applicable, enter 0.	\$0.000000/\$100
<p>38. Rate adjustment for defunding municipality. This adjustment only applies to a municipality that is considered to be a defunding municipality for the current tax year under Chapter 109, Local Government Code. Chapter 109, Local Government Code only applies to municipalities with a population of more than 250,000 and includes a written determination by the Office of the Governor. See Tax Code 26.0444 for more information.</p> <p>A. Amount appropriated for public safety in 2020. Enter the amount of money appropriated for public safety in the budget adopted by the municipality for the preceding fiscal year</p> <p>B. Expenditures for public safety in 2020. Enter the amount of money spent by the municipality for public safety during the preceding fiscal year.</p> <p>C. Subtract B from A and divide by Line 32 and multiply by \$100.</p> <p>D. Enter the rate calculated in C. If not applicable, enter 0.</p>	<p>\$0</p> <p>\$0</p> <p>\$0.000000/\$100</p> <p>\$0.000000/\$100</p>
39. Adjusted 2021 NNR M&O rate. Add Lines 33, 34D, 35D, 36E, and 37E. Subtract Line 38D.	\$0.506987/\$100
<p>40. Adjustment for 2020 sales tax specifically to reduce property values. Cities, counties and hospital districts that collected and spent additional sales tax on M&O expenses in 2020 should complete this line. These entities will deduct the sales tax gain rate for 2021 in Section 3. Other taxing units, enter zero.</p> <p>A. Enter the amount of additional sales tax collected and spent on M&O expenses in 2020, if any. Counties must exclude any amount that was spent for economic development grants from the amount of sales tax spent.</p> <p>B. Divide Line 40A by Line 32 and multiply by \$100.</p> <p>C. Add Line 40B to Line 39.</p>	<p>\$0</p> <p>\$0.000000/\$100</p> <p>\$0.506987/\$100</p>
<p>41. 2021 voter-approval M&O rate. Enter the rate as calculated by the appropriate scenario below.</p> <p>Special Taxing Unit. If the taxing unit qualifies as a special taxing unit, multiply Line 40C by 1.08.</p> <p>- or -</p> <p>Other Taxing Unit. If the taxing unit does not qualify as a special taxing unit, multiply Line 40C by 1.035.</p>	\$0.524731/\$100
D41. Disaster Line 41 (D41): 2021 voter-approval M&O rate for taxing unit affected by disaster declaration. If the taxing unit is located in an area declared a disaster area and at least one person is granted an exemption under Tax Code Section 11.35 for property located in the taxing unit, the governing body may direct the person calculating the voter-approval	\$0.000000/\$100

<p>tax rate to calculate in the manner provided for a special taxing unit. The taxing unit shall continue to calculate the voter-approval tax rate in this manner until the earlier of</p> <ol style="list-style-type: none"> 1. the first year in which total taxable value on the certified appraisal roll exceeds the total taxable value of the tax year in which the disaster occurred, or 2. the third tax year after the tax year in which the disaster occurred. <p>If the taxing unit qualifies under this scenario, multiply Line 40C by 1.08.²⁷ If the taxing unit does not qualify, do not complete Disaster Line 41 (Line D41).</p>	
<p>42. Total 2021 debt to be paid with property taxes and additional sales tax revenue. Debt means the interest and principal that will be paid on debts that:</p> <ol style="list-style-type: none"> (1) are paid by property taxes, (2) are secured by property taxes, (3) are scheduled for payment over a period longer than one year and (4) are not classified in the taxing unit's budget as M&O expenses <p>A. Debt also includes contractual payments to other taxing units that have incurred debts on behalf of this taxing unit, if those debts meet the four conditions above. Include only amounts that will be paid from property tax revenue. Do not include appraisal district budget payments. If the governing body of a taxing unit authorized or agreed to authorize a bond, warrant, certificate of obligation, or other evidence of indebtedness on or after Sept. 1, 2021, verify if it meets the amended definition of debt before including it here.²⁸ Enter debt amount.</p> <p>B. Subtract unencumbered fund amount used to reduce total debt.</p> <p>C. Subtract certified amount spent from sales tax to reduce debt (enter zero if none)</p> <p>D. Subtract amount paid from other resources.</p> <p>E. Adjusted debt. Subtract B, C, and D from A.</p>	<p>\$98,970</p> <p>\$0</p> <p>\$0</p> <p>\$0</p> <p>\$98,970</p>
43. Certified 2020 excess debt collections. Enter the amount certified by the collector. ²⁸	\$0
44. Adjusted 2021 debt. Subtract Line 43 from Line 42E.	\$98,970
<p>45. 2021 anticipated collection rate. A. Enter the 2021 anticipated collection rate certified by the collector:²⁹</p> <p>B. Enter the 2020 actual collection rate</p> <p>C. Enter the 2019 actual collection rate</p> <p>D. Enter the 2018 actual collection rate</p> <p>E. If the anticipated collection rate in A is lower than actual collection rates in B, C and D, enter the lowest collection rate from B, C and D. If the anticipated rate in A is higher than at least one of the rates in the prior three years, enter the rate from A. Note that the rate can be greater than 100%.³¹</p>	<p>101.23%</p> <p>107.92%</p> <p>101.88%</p> <p>101.23%</p> <p>101.23%</p>
46. 2021 debt adjusted for collections. Divide Line 44 by Line 45E	\$97,767
47. 2021 total taxable value. Enter the amount on Line 21 of the <i>No-New-Revenue Tax Rate Worksheet</i> .	\$529,675,577
48. 2021 debt tax rate. Divide Line 46 by Line 47 and multiply by \$100.	\$0.018457/\$100

49. 2021 voter-approval tax rate. Add Lines 41 and 48.	\$0.543188/\$100
D49. Disaster Line 49 (D49): 2021 voter-approval tax rate for taxing unit affected by disaster declaration. Complete this line if the taxing unit calculated the voter-approval tax rate in the manner provided for a special taxing unit on Line D41. Add Line D41 and 48.	\$0.000000/\$100
50. COUNTIES ONLY. Add together the voter-approval tax rates for each type of tax the county levies. The total is the 2021 county voter-approval tax rate.	

²³Tex. Tax Code Section 26.044

²⁴Tex. Tax Code Section 26.0441

²⁵Tex. Tax Code Section 26.0442

²⁶Tex. Tax Code Section 26.0443

²⁷Tex. Tax Code Section 26.042(a)

²⁸Tex. Tax Code Section 26.012(7)

²⁹Tex. Tax Code Section 26.012(10) and 26.04(b)

³⁰Tex. Tax Code Section 26.04(b)

³¹Tex. Tax Code Section 26.04(h),(h-1) and (h-2)

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SECTION 3: NNR Tax Rate and Voter-Approval Tax Rate Adjustments for Additional Sales Tax to Reduce Property Taxes

Cities, counties and hospital districts may levy a sales tax specifically to reduce property taxes. Local voters by election must approve imposing or abolishing the additional sales tax. If approved, the taxing unit must reduce its NNR and voter-approval tax rates to offset the expected sales tax revenue.

This section should only be completed by a county, city or hospital district that is required to adjust its NNR tax rate and/or voter-approval tax rate because it adopted the additional sales tax.

Additional Sales and Use Tax Worksheet	Amount/Rate
51. Taxable Sales. For taxing units that adopted the sales tax in November 2020 or May 2021, enter the Comptroller's estimate of taxable sales for the previous four quarters. ²⁰ Estimates of taxable sales may be obtained through the Comptroller's Allocation Historical Summary webpage. Taxing units that adopted the sales tax before November 2020, enter 0.	\$0
52. Estimated sales tax revenue. Counties exclude any amount that is or will be spent for economic development grants from the amount of estimated sales tax revenue. ³³ Taxing units that adopted the sales tax in November 2020 or in May 2021. Multiply the amount on Line 51 by the sales tax rate (.01, .005 or .0025, as applicable) and multiply the result by .95. ³⁴ - or - Taxing units that adopted the sales tax before November 2020. Enter the sales tax revenue for the previous four quarters. Do not multiply by .95.	\$0
53. 2021 total taxable value. Enter the amount from Line 21 of the <i>No-New-Revenue Tax Rate Worksheet</i> .	\$529,675,577
54. Sales tax adjustment rate. Divide Line 52 by Line 53 and multiply by \$100.	\$0.000000/\$100
55. 2021 NNR tax rate, unadjusted for sales tax. ³⁵ Enter the rate from Line 26 or 27, as applicable, on the <i>No-New-Revenue Tax Rate Worksheet</i> .	\$0.501183/\$100
56. 2021 NNR tax rate, adjusted for sales tax. Taxing units that adopted the sales tax in November 2020 or in May 2021. Subtract Line 54 from Line 55. Skip to Line 57 if you adopted the additional sales tax before November 2020.	\$0.501183/\$100
57. 2021 voter-approval tax rate, unadjusted for sales tax. ³⁶ Enter the rate from Line 49, Line D49 (disaster), or Line 50 (counties), as applicable, of the <i>Voter-Approval Tax Rate Worksheet</i> .	\$0.543188/\$100
58. 2021 voter-approval tax rate, adjusted for sales tax. Subtract Line 54 from Line 57.	\$0.543188/\$100

³¹Reserved for expansion

³²Tex. Tax Code Section 26.041(d)

³³Tex. Tax Code Section 26.041(i)

³⁴Tex. Tax Code Section 26.041(d)

³⁵Tex. Tax Code Section 26.04(c)

³⁶Tex. Tax Code Section 26.04(c)

SECTION 4: Voter-Approval Tax Rate Adjustment for Pollution Control

A taxing unit may raise its rate for M&O funds used to pay for a facility, device or method for the control of air, water or land pollution. This includes any land, structure, building, installation, excavation, machinery, equipment or device that is used, constructed, acquired or installed wholly or partly to meet or exceed pollution control requirements. The taxing unit's expenses are those necessary to meet the requirements of a permit issued by the Texas Commission on Environmental Quality (TCEQ). The taxing unit must provide the tax assessor with a copy of the TCEQ letter of determination that states the portion of the cost of the installation for pollution control.

This section should only be completed by a taxing unit that uses M&O funds to pay for a facility, device or method for the control of air, water or land pollution.

Voter-Approval Protection for Pollution Control Worksheet	Amount/Rate
59. Certified expenses from the Texas Commission on Environmental Quality (TCEQ). Enter the amount certified in the determination letter from TCEQ. ³⁷ The taxing unit shall provide its tax assessor-collector with a copy of the letter. ³⁸	\$0
60. 2021 total taxable value. Enter the amount from Line 21 of the <i>No-New-Revenue Tax Rate Worksheet</i> .	\$529,675,577
61. Additional rate for pollution control. Divide Line 59 by Line 60 and multiply by \$100.	\$0.000000/\$100
62. 2021 voter-approval tax rate, adjusted for pollution control. Add Line 61 to one of the following lines (as applicable): Line 49, Line D49 (disaster), Line 50 (counties) or Line 58 (taxing units with the additional sales tax).	\$0.543188/\$100

³⁷Tex. Tax Code Section 26.045(d)

³⁸Tex. Tax Code Section 26.045(i)

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SECTION 5: Voter-Approval Tax Rate Adjustment for Unused Increment Rate

The unused increment rate is the rate equal to the difference between the adopted tax rate and voter-approval tax rate before the unused increment rate for the prior three years.³⁹ In a year where a taxing unit adopts a rate by applying any portion of the unused increment rate, the unused increment rate for that year would be zero.

The difference between the adopted tax rate and voter-approval tax rate is considered zero in the following scenarios:

- a tax year before 2020; and⁴⁰
- a tax year in which the municipality is a defunding municipality, as defined by Tax Code Section 26.0501(a);⁴¹ or
- after Jan. 1, 2022, a tax year in which the comptroller determines that the county implemented a budget reduction or reallocation described by Local Government Code Section 120.002(a) without the required voter approval.⁴²

This section should only be completed by a taxing unit that does not meet the definition of a special taxing unit.⁴³

Unused Increment Rate Worksheet	Amount/Rate
63. 2020 unused increment rate. Subtract the 2020 actual tax rate and the 2020 unused increment rate from the 2020 voter-approval tax rate. If the number is less than zero, enter zero. If the year is prior to 2020, enter zero.	\$0.434790
64. 2019 unused increment rate. Subtract the 2019 actual tax rate and the 2019 unused increment rate from the 2019 voter-approval tax rate. If the number is less than zero, enter zero. If the year is prior to 2020, enter zero	\$0
65. 2018 unused increment rate. Subtract the 2018 actual tax rate and the 2018 unused increment rate from the 2018 voter-approval tax rate. If the number is less than zero, enter zero. If the year is prior to 2020, enter zero.	\$0.000000
66. 2021 unused increment rate. Add Lines 63, 64 and 65.	\$0.434790/\$100
67. 2021 voter-approval tax rate, adjusted for unused increment rate. ²³ Add Line 66 to one of the following lines (as applicable): Line 49, Line D49(disaster), Line 50 (counties), Line 58 (taxing units with the additional sales tax) or Line 62 (taxing units with pollution control).	\$0.977978/\$100

³⁹Tex. Tax Code Section 26.013(a)

⁴⁰Tex. Tax Code Section 26.013(c)

⁴¹Tex. Tax Code Section 26.0501(a) and (c)

⁴²Tex. Tax Code Section Local Gov't Code Section 120.007(d), effective Jan. 1, 2022

⁴³Tex. Tax Code Section 26.063(a)(1)

SECTION 6: De Minimis Rate

The de minimis rate is the rate equal to the sum of the no-new-revenue maintenance and operations rate, the rate that will raise \$500,000, and the current debt rate for a taxing unit.⁴⁴

This section should only be completed by a taxing unit that is a municipality of less than 30,000 or a taxing unit that does not meet the definition of a special taxing unit.⁴⁵

De Minimis Rate Worksheet	Amount/Rate
68. Adjusted 2021 NNR M&O tax rate. Enter the rate from Line 39 of the <i>Voter-Approval Tax Rate Worksheet</i>	\$0.506987/\$100
69. 2021 total taxable value. Enter the amount on Line 21 of the <i>No-New-Revenue Tax Rate Worksheet</i> .	\$529,675,577
70. Rate necessary to impose \$500,000 in taxes. Divide \$500,000 by Line 69 and multiply by \$100.	\$0.094397
71. 2021 debt rate. Enter the rate from Line 48 of the <i>Voter-Approval Tax Rate Worksheet</i> .	\$0.018457/\$100
72. De minimis rate. ²³ Add Lines 68, 70 and 71.	\$0.619841/\$100

⁴⁴Tex. Tax Code Section 26.012(8-a)

⁴⁵Tex. Tax Code Section 26.063(a)(1)

Copy

SECTION 7: Voter-Approval Tax Rate Adjustment for Emergency Revenue Rate

In the tax year after the end of the disaster calculation time period detailed in Tax Code Section 26.042(a), a taxing unit that calculated its voter-approval tax rate in the manner provided for a special taxing unit due to a disaster must calculate its emergency revenue rate and reduce its voter-approval tax rate for that year.⁴⁶

Similarly, if a taxing unit adopted a tax rate that exceeded its voter-approval tax rate, calculated normally, without holding an election to respond to a disaster, as allowed by Tax Code Section 26.042(d), in the prior year, it must also reduce its voter-approval tax rate for the current tax year⁴⁷.

NOTE: This section will not apply to any taxing units in 2021. It is added to implement Senate Bill 1438 (87th Regular Session) and does not apply to a taxing unit that calculated its voter-approval tax rate in the manner provided for a special taxing unit due to a declared disaster in 2020, as provided for in the recently repealed Tax Code Sections 26.04(c-1) and 26.041(c-1).

In future tax years, this section will apply to a taxing unit other than a special taxing unit that:

- directed the designated officer or employee to calculate the voter-approval tax rate of the taxing unit in the manner provided for a special taxing unit in the prior year; and
- the current year is the first tax year in which the total taxable value of property taxable by the taxing unit as shown on the appraisal roll for the taxing unit submitted by the assessor for the taxing unit to the governing body exceeds the total taxable value of property taxable by the taxing unit on January 1 of the tax year in which the disaster occurred or the disaster occurred four years ago.

In future tax years, this section will also apply to a taxing unit in a disaster area that adopted a tax rate greater than its voter-approval tax rate without holding an election in the prior year.

Note: This section does not apply if a taxing unit is continuing to calculate its voter-approval tax rate in the manner provided for a special taxing unit because it is still within the disaster calculation time period detailed in Tax Code Section 26.042(a) because it has not met the conditions in Tax Code Section 26.042(a)(1) or (2).

Emergency Revenue Rate Worksheet	Amount/Rate
73. 2020 adopted tax rate. Enter the rate in Line 4 of the <i>No-New-Revenue Tax Rate Worksheet</i> .	N/A
74. Adjusted 2020 voter-approval tax rate. Use the taxing unit's Tax Rate Calculation Worksheets from the prior year(s) to complete this line. If a disaster occurred in 2020 and the taxing unit calculated its 2020 voter-approval tax rate using a multiplier of 1.08 on Disaster Line 41 (D41) of the 2020 worksheet due to a disaster, enter the 2020 voter-approval tax rate as calculated using a multiplier of 1.035 from Line 49. - or - If a disaster occurred prior to 2020 for which the taxing unit continued to calculate its voter-approval tax rate using a multiplier of 1.08 on Disaster Line 41 (D41) in 2020, complete the separate <i>Adjusted Voter-Approval Tax Rate for Taxing Units in Disaster Area Calculation Worksheet</i> to recalculate the voter-approval tax rate the taxing unit would have calculated in 2020 if it had generated revenue based on an adopted tax rate using a multiplier of 1.035 in the year(s) following the disaster. ⁴⁸ Enter the final adjusted 2020 voter-approval tax rate from the worksheet. - or - If the taxing unit adopted a tax rate above the 2020 voter-approval tax rate without calculating a disaster tax rate or holding an election due to a disaster, no recalculation is necessary. Enter the voter-approval tax rate from the prior year's worksheet.	N/A
75. Increase in 2020 tax rate due to disaster. Subtract Line 74 from Line 73.	N/A
76. Adjusted 2020 taxable value. Enter the amount in Line 14 of the <i>No-New-Revenue Tax Rate Worksheet</i> .	N/A
77. Emergency revenue. Multiply Line 75 by Line 76 and divide by \$100.	N/A

78. Adjusted 2021 taxable value. Enter the amount in Line 25 of the <i>No-New-Revenue Tax Rate Worksheet</i> .	N/A
79. Emergency revenue rate. Divide Line 77 by Line 78 and multiply by \$100. ⁴⁹	N/A
80. 2021 voter-approval tax rate, adjusted for emergency revenue. Subtract Line 79 from one of the following lines (as applicable): Line 49, Line D49(disaster), Line 50 (counties), Line 58 (taxing units with the additional sales tax), Line 62 (taxing units with pollution control) or Line 67 (taxing units with the unused increment rate).	N/A

⁴⁶Tex. Tax Code Section 26.042(b)

⁴⁷Tex. Tax Code Section 26.042(f)

⁴⁸Tex. Tax Code Section 26.042(c)

⁴⁹Tex. Tax Code Section 26.042(b)

⁵⁰Tex. Tax Code Section 26.04(c-2) and (d-2)

SECTION 8: Total Tax Rate

Indicate the applicable total tax rates as calculated above.

No-New-Revenue tax rate

As applicable, enter the 2021 NNR tax rate from: Line 26, Line 27 (counties), or Line 56 (adjusted for sales tax). \$0.501183/\$100

Indicate the line number used: 26

Voter-Approval tax rate

As applicable, enter the 2021 voter-approval tax rate from: Line 49, Line 50 (counties), Line 58 (adjusted for sales tax), Line 62 (adjusted for pollution control), Line 67 (adjusted for unused increment), or Line 80 (adjusted for emergency revenue). \$0.977978/\$100

Indicate the line number used: 67

De minimis rate

If applicable, enter the de minimis rate from Line 72. \$0.619841/\$100

SECTION 9: Taxing Unit Representative Name and Signature

Enter the name of the person preparing the tax rate as authorized by the governing body of the taxing unit. By signing below, you certify that you are the designated officer or employee of the taxing unit and have accurately calculated the tax rates using values that are the same as the values shown in the taxing unit's certified appraisal roll or certified estimate of taxable value, in accordance with requirements in Tax Code.⁵⁰

print here

Printed Name of Taxing Unit Representative

sign here _____

Taxing Unit Representative

Date

BRAZORIA COUNTY APPRAISAL DISTRICT

STATE OF TEXAS
COUNTY OF BRAZORIA

CERTIFICATION OF THE 2021 APPRAISAL ROLL FOR

BRAZORIA COUNTY M.U.D. #31

In compliance with Section 26.01 of the State Property Tax Laws, "submission of rolls to taxing units," notice is hereby given to-wit:

The Brazoria County Appraisal Review Board meeting on **July 14, 2021**, duly approved the **2021** Appraisal Rolls for your entity for certification as follows:

TAXABLE VALUE FOR 2021 APPRAISAL ROLL

TOTAL TAXABLE VALUE \$355,172,136

ESTIMATED TAXABLE VALUE FOR THE 2021 SUPPLEMENTAL ROLL

(properties still under protest)

B.C.A.D. APPRAISED VALUE *VALUE CLAIMED BY OWNER

\$23,859,269

\$21,950,527

SUMMARY

TAXABLE VALUE FOR 2021 APPRAISAL ROLL \$355,172,136

*ESTIMATED TAXABLE VALUE FOR 2021 SUPPLEMENTAL ROLL \$21,950,527

NET TAXABLE VALUE **\$377,122,663**

I, Al Baird, Interim Chief Appraiser for the Brazoria County Appraisal District, do hereby certify the correctness of the rolls as approved by the Appraisal Review Board's action.


Al Baird, Interim Chief Appraiser

July 21, 2021
Date

2021 CERTIFIED TOTALS

Property Count: 1,789

M31 - BRAZORIA COUNTY MUD #31
ARB Approved Totals

7/19/2021

2:35:53PM

Land		Value			
Homesite:		51,789,437			
Non Homesite:		3,843,835			
Ag Market:		0			
Timber Market:		0	Total Land	(+)	55,633,272
Improvement		Value			
Homesite:		313,651,204			
Non Homesite:		517,850	Total Improvements	(+)	314,169,054
Non Real		Count	Value		
Personal Property:	50		3,826,720		
Mineral Property:	0		0		
Autos:	0		0	Total Non Real	(+) 3,826,720
			Market Value	=	373,629,046
Ag	Non Exempt	Exempt			
Total Productivity Market:	0	0			
Ag Use:	0	0	Productivity Loss	(-)	0
Timber Use:	0	0	Appraised Value	=	373,629,046
Productivity Loss:	0	0			
			Homestead Cap	(-)	848,222
			Assessed Value	=	372,780,824
			Total Exemptions Amount (Breakdown on Next Page)	(-)	17,608,688
			Net Taxable	=	355,172,136

APPROXIMATE TOTAL LEVY = NET TAXABLE * (TAX RATE / 100)
 2,521,722.17 = 355,172,136 * (0.710000 / 100)

Certified Estimate of Market Value: 373,629,046
 Certified Estimate of Taxable Value: 355,172,136

Tax Increment Finance Value: 0
 Tax Increment Finance Levy: 0.00

2021 CERTIFIED TOTALS

Property Count: 1,789

M31 - BRAZORIA COUNTY MUD #31
ARB Approved Totals

7/19/2021

2:37:13PM

Exemption Breakdown

Exemption	Count	Local	State	Total
DP	22	0	0	0
DSTR	1	30,225	0	30,225
DV1	2	0	10,000	10,000
DV2	7	0	61,500	61,500
DV3	10	0	100,000	100,000
DV4	39	0	372,000	372,000
DV4S	1	0	0	0
DVHS	52	0	13,593,233	13,593,233
DVHSS	3	0	687,920	687,920
EX-XN	12	0	1,936,500	1,936,500
EX-XV	13	0	559,455	559,455
EX366	7	0	2,060	2,060
FRSS	1	0	236,375	236,375
HS	1,103	0	0	0
OV65	116	0	0	0
OV65S	1	0	0	0
SO	5	19,420	0	19,420
Totals		49,645	17,559,043	17,608,688

Copy

2021 CERTIFIED TOTALS

Property Count: 107

M31 - BRAZORIA COUNTY MUD #31
Under ARB Review Totals

7/19/2021

2:35:53PM

Land		Value			
Homesite:		3,427,491			
Non Homesite:		0			
Ag Market:		0			
Timber Market:		0	Total Land	(+)	3,427,491
Improvement		Value			
Homesite:		20,557,100			
Non Homesite:		0	Total Improvements	(+)	20,557,100
Non Real		Count	Value		
Personal Property:	2		131,980		
Mineral Property:	0		0		
Autos:	0		0	Total Non Real	(+)
			Market Value	=	131,980
					24,116,571
Ag	Non Exempt	Exempt			
Total Productivity Market:	0	0			
Ag Use:	0	0	Productivity Loss	(-)	0
Timber Use:	0	0	Appraised Value	=	24,116,571
Productivity Loss:	0	0			
			Homestead Cap	(-)	179,302
			Assessed Value	=	23,937,269
			Total Exemptions Amount (Breakdown on Next Page)	(-)	78,000
			Net Taxable	=	23,859,269

APPROXIMATE TOTAL LEVY = NET TAXABLE * (TAX RATE / 100)
 169,400.81 = 23,859,269 * (0.710000 / 100)

Certified Estimate of Market Value:	21,902,753
Certified Estimate of Taxable Value:	21,655,143
Tax Increment Finance Value:	0
Tax Increment Finance Levy:	0.00

BRAZORIA County

2021 CERTIFIED TOTALS

As of Certification

Property Count: 107

M31 - BRAZORIA COUNTY MUD #31
Under ARB Review Totals

7/19/2021

2:37:13PM

Exemption Breakdown

Exemption	Count	Local	State	Total
DP	3	0	0	0
DV3	3	0	30,000	30,000
DV4	4	0	48,000	48,000
HS	73	0	0	0
OV65	5	0	0	0
Totals		0	78,000	78,000

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BRAZORIA County

2021 CERTIFIED TOTALS

As of Certification

Property Count: 1,896

M31 - BRAZORIA COUNTY MUD #31

Effective Rate Assumption

7/19/2021

2:37:13PM

New ValueTOTAL NEW VALUE MARKET:
TOTAL NEW VALUE TAXABLE:\$33,135,920
\$31,898,990**New Exemptions**

Exemption	Description	Count		
EX-XN	11.252 Motor vehicles leased for personal use	3	2020 Market Value	\$0
EX366	HB366 Exempt	4	2020 Market Value	\$1,330
ABSOLUTE EXEMPTIONS VALUE LOSS				\$1,330

Exemption	Description	Count	Exemption Amount
DP	Disability	1	\$0
DV3	Disabled Veterans 50% - 69%	4	\$40,000
DV4	Disabled Veterans 70% - 100%	7	\$84,000
DVHS	Disabled Veteran Homestead	4	\$1,149,714
HS	Homestead	99	\$0
OV65	Over 65	17	\$0
PARTIAL EXEMPTIONS VALUE LOSS		132	\$1,273,714
NEW EXEMPTIONS VALUE LOSS			\$1,275,044

Increased Exemptions

Exemption	Description	Count	Increased Exemption Amount
INCREASED EXEMPTIONS VALUE LOSS			
TOTAL EXEMPTIONS VALUE LOSS			\$1,275,044

New Ag / Timber Exemptions**New Annexations****New Deannexations****Average Homestead Value****Category A and E**

Count of HS Residences	Average Market	Average HS Exemption	Average Taxable
1,176	\$237,325	\$874	\$236,451
Category A Only			

Count of HS Residences	Average Market	Average HS Exemption	Average Taxable
1,176	\$237,325	\$874	\$236,451

BRAZORIA County

2021 CERTIFIED TOTALS
M31 - BRAZORIA COUNTY MUD #31
Lower Value Used

As of Certification

Count of Protested Properties	Total Market Value	Total Value Used
107	\$24,116,571.00	\$21,655,143

Copy

BRAZORIA COUNTY APPRAISAL DISTRICT
STATE OF TEXAS
COUNTY OF BRAZORIA

CERTIFICATION OF THE 2021 APPRAISAL ROLL FOR
TAX INCREMENT REINVESTMENT ZONE #02 (T2CIC)
(City of Iowa Colony)

In compliance with Section 26.01 of the State Property Tax Laws, "submission of rolls to taxing units," notice is hereby given to-wit:

The Brazoria County Appraisal Review Board meeting on **July 14, 2021**, duly approved the **2021** Appraisal Rolls for your entity for certification as follows:

TAXABLE VALUE FOR 2021 APPRAISAL ROLL

TOTAL TAXABLE VALUE \$280,302,860

ESTIMATED TAXABLE VALUE FOR THE 2021 SUPPLEMENTAL ROLL
(properties still under protest)

B.C.A.D. APPRAISED VALUE	*VALUE CLAIMED BY OWNER
<u>\$29,733,527</u>	<u>\$27,354,845</u>

SUMMARY

TAXABLE VALUE FOR 2021 APPRAISAL ROLL	<u>\$280,302,860</u>
*ESTIMATED TAXABLE VALUE FOR 2021 SUPPLEMENTAL ROLL	<u>\$27,354,845</u>
NET TAXABLE VALUE	<u>\$307,657,705</u>

I, Al Baird, Interim Chief Appraiser for the Brazoria County Appraisal District, do hereby certify the correctness of the rolls as approved by the Appraisal Review Board's action.



Al Baird, Interim Chief Appraiser

July 21, 2021

Date

2021 CERTIFIED TOTALS

Property Count: 1,426

CIC - CITY OF IOWA COLONY
ARB Approved Totals

7/19/2021

3:50:44PM

Land		Value			
Homesite:		50,372,608			
Non Homesite:		16,460,873			
Ag Market:		193,166			
Timber Market:		0	Total Land	(+)	67,026,647
Improvement		Value			
Homesite:		255,031,389			
Non Homesite:		11,823,690	Total Improvements	(+)	266,855,079
Non Real		Count	Value		
Personal Property:	1		11,170		
Mineral Property:	0		0		
Autos:	0		0	Total Non Real	(+)
				Market Value	=
					11,170
					333,892,896
Ag	Non Exempt	Exempt			
Total Productivity Market:	193,166	0			
Ag Use:	6,604	0	Productivity Loss	(-)	186,562
Timber Use:	0	0	Appraised Value	=	333,706,334
Productivity Loss:	186,562	0	Homestead Cap	(-)	1,055,924
			Assessed Value	=	332,650,410
			Total Exemptions Amount (Breakdown on Next Page)	(-)	52,347,550
			Net Taxable	=	280,302,860

APPROXIMATE TOTAL LEVY = NET TAXABLE * (TAX RATE / 100)
 1,315,206.25 = 280,302,860 * (0.469209 / 100)

Certified Estimate of Market Value: 333,892,896
 Certified Estimate of Taxable Value: 280,302,860

Tax Increment Finance Value: 0
 Tax Increment Finance Levy: 0.00

2021 CERTIFIED TOTALS

Property Count: 1,426

CIC - CITY OF IOWA COLONY
ARB Approved Totals

7/19/2021

3:50:55PM

Exemption Breakdown

Exemption	Count	Local	State	Total
DP	6	160,000	0	160,000
DV1	6	0	37,000	37,000
DV2	4	0	30,000	30,000
DV3	11	0	110,000	110,000
DV4	28	0	240,000	240,000
DV4S	1	0	0	0
DVHS	47	0	16,126,824	16,126,824
EX-XV	18	0	11,123,700	11,123,700
HS	692	22,220,026	0	22,220,026
OV65	65	2,300,000	0	2,300,000
Totals		24,680,026	27,667,524	52,347,550

Copy

2021 CERTIFIED TOTALS

Property Count: 93

CIC - CITY OF IOWA COLONY
Under ARB Review Totals

7/19/2021

3:50:44PM

Land		Value			
Homesite:		5,309,010			
Non Homesite:		0			
Ag Market:		0			
Timber Market:		0	Total Land	(+)	5,309,010
Improvement		Value			
Homesite:		28,600,130			
Non Homesite:		0	Total Improvements	(+)	28,600,130
Non Real	Count	Value			
Personal Property:	0	0			
Mineral Property:	0	0			
Autos:	0	0	Total Non Real	(+)	0
			Market Value	=	33,909,140
Ag	Non Exempt	Exempt			
Total Productivity Market:	0	0			
Ag Use:	0	0	Productivity Loss	(-)	0
Timber Use:	0	0	Appraised Value	=	33,909,140
Productivity Loss:	0	0			
			Homestead Cap	(-)	363,720
			Assessed Value	=	33,545,420
			Total Exemptions Amount (Breakdown on Next Page)	(-)	3,811,893
			Net Taxable	=	29,733,527

APPROXIMATE TOTAL LEVY = NET TAXABLE * (TAX RATE / 100)

139,512.38 = 29,733,527 * (0.469209 / 100)

Certified Estimate of Market Value: 28,617,291

Certified Estimate of Taxable Value: 26,629,747

Tax Increment Finance Value: 0

Tax Increment Finance Levy: 0.00

BRAZORIA County

2021 CERTIFIED TOTALS

As of Certification

Property Count: 93

CIC - CITY OF IOWA COLONY
Under ARB Review Totals

7/19/2021

3:50:55PM

Exemption Breakdown

Exemption	Count	Local	State	Total
DP	1	40,000	0	40,000
DV1	2	0	10,000	10,000
DV3	2	0	20,000	20,000
DV4	1	0	12,000	12,000
DVHS	1	0	411,990	411,990
HS	89	3,157,903	0	3,157,903
OV65	4	160,000	0	160,000
Totals		3,357,903	453,990	3,811,893

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2021 CERTIFIED TOTALS

Property Count: 1,426

CIC - CITY OF IOWA COLONY
ARB Approved Totals

7/19/2021 3:50:55PM

State Category Breakdown

State Code	Description	Count	Acres	New Value	Market Value	Taxable Value
A	SINGLE FAMILY RESIDENCE	824	186.0258	\$50,792,490	\$280,902,833	\$239,626,085
C1	VACANT LOTS AND LAND TRACTS	113	117.9547	\$0	\$623,486	\$623,486
D1	QUALIFIED OPEN-SPACE LAND	2	22.0017	\$0	\$193,166	\$6,604
E	RURAL LAND, NON QUALIFIED OPE	23	365.4809	\$0	\$1,958,620	\$1,946,450
F1	COMMERCIAL REAL PROPERTY	1	14.5360	\$1,596,670	\$1,683,890	\$1,683,890
L1	COMMERCIAL PERSONAL PROPE	1		\$0	\$11,170	\$11,170
O	RESIDENTIAL INVENTORY	447	64.7629	\$20,852,918	\$37,396,031	\$36,405,175
X	TOTALLY EXEMPT PROPERTY	18	210.1228	\$0	\$11,123,700	\$0
Totals			980.8848	\$73,242,078	\$333,892,896	\$280,302,860

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BRAZORIA County

2021 CERTIFIED TOTALS

As of Certification

Property Count: 93

CIC - CITY OF IOWA COLONY
Under ARB Review Totals

7/19/2021 3:50:55PM

State Category Breakdown

State Code	Description	Count	Acres	New Value	Market Value	Taxable Value
A	SINGLE FAMILY RESIDENCE	93	21.6052	\$3,075,650	\$33,909,140	\$29,733,527
	Totals	93	21.6052	\$3,075,650	\$33,909,140	\$29,733,527

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2021 CERTIFIED TOTALS

Property Count: 1,426

CIC - CITY OF IOWA COLONY
ARB Approved Totals

7/19/2021 3:50:55PM

CAD State Category Breakdown

State Code	Description	Count	Acres	New Value	Market Value	Taxable Value
A1	SINGLE FAMILY RESIDENCE	824	186.0258	\$50,792,490	\$280,902,833	\$239,626,085
C1	VACANT LOT IN CITY	111	114.4397	\$0	\$130,990	\$130,990
C2	COMMERCIAL OR INDUSTRIAL VAC	1	1.7950	\$0	\$444,226	\$444,226
C3	VACANT LOT OUT SIDE CITY	1	1.7200	\$0	\$48,270	\$48,270
D1	QUALIFIED AG LAND	2	22.0017	\$0	\$193,166	\$6,604
E1	FARM OR RANCH IMPROVEMENT	2	5.0000	\$0	\$102,850	\$90,680
E2	FARM OR RANCH OUT BUILDINGS	1		\$0	\$25,880	\$25,880
E4	NON QUALIFIED AG LAND	20	360.4809	\$0	\$1,829,890	\$1,829,890
F1	COMMERCIAL REAL PROPERTY	1	14.5360	\$1,596,670	\$1,683,890	\$1,683,890
L1	COMMERCIAL PERSONAL PROPER	1		\$0	\$11,170	\$11,170
O1	RESIDENTIAL INVENTORY VACANT L	295	42.7811	\$0	\$12,920,303	\$12,892,689
O2	RESIDENTIAL INVENTORY IMPROVE	152	21.9818	\$20,852,918	\$24,475,728	\$23,512,486
X	TOTAL EXEMPT	18	210.1228	\$0	\$11,123,700	\$0
Totals			980.8848	\$73,242,078	\$333,892,896	\$280,302,860

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BRAZORIA County

2021 CERTIFIED TOTALS

As of Certification

Property Count: 93

CIC - CITY OF IOWA COLONY
Under ARB Review Totals

7/19/2021 3:50:55PM

CAD State Category Breakdown

State Code Description	Count	Acres	New Value	Market Value	Taxable Value
A1 SINGLE FAMILY RESIDENCE	93	21.6052	\$3,075,650	\$33,909,140	\$29,733,527
Totals		21.6052	\$3,075,650	\$33,909,140	\$29,733,527

Copy

2021 CERTIFIED TOTALS

Property Count: 1,519

CIC - CITY OF IOWA COLONY
Effective Rate Assumption

7/19/2021

3:50:55PM

New Value

TOTAL NEW VALUE MARKET:	\$76,317,728
TOTAL NEW VALUE TAXABLE:	\$66,221,532

New Exemptions

Exemption	Description	Count	2020 Market Value	Exemption Amount
EX-XV	Other Exemptions (including public property, r	4		\$0
ABSOLUTE EXEMPTIONS VALUE LOSS				\$0

Exemption	Description	Count	Exemption Amount
DP	Disability	1	\$40,000
DV1	Disabled Veterans 10% - 29%	4	\$20,000
DV2	Disabled Veterans 30% - 49%	1	\$7,500
DV3	Disabled Veterans 50% - 69%	6	\$60,000
DV4	Disabled Veterans 70% - 100%	12	\$132,000
DV4S	Disabled Veterans Surviving Spouse 70% - 100	1	\$0
DVHS	Disabled Veteran Homestead	10	\$2,073,554
HS	Homestead	211	\$6,733,508
OV65	Over 65	18	\$720,000
PARTIAL EXEMPTIONS VALUE LOSS		264	\$9,786,562
NEW EXEMPTIONS VALUE LOSS			\$9,786,562

Increased Exemptions

Exemption	Description	Count	Increased Exemption Amount
-----------	-------------	-------	----------------------------

INCREASED EXEMPTIONS VALUE LOSS**TOTAL EXEMPTIONS VALUE LOSS \$9,786,562****New Ag / Timber Exemptions****New Annexations****New Deannexations****Average Homestead Value**

Category A and E

Count of HS Residences	Average Market	Average HS Exemption	Average Taxable
781	\$345,904	\$34,312	\$311,592
Category A Only			

Count of HS Residences	Average Market	Average HS Exemption	Average Taxable
780	\$346,232	\$34,340	\$311,892

2021 CERTIFIED TOTALS
CIC - CITY OF IOWA COLONY
Lower Value Used

Count of Protested Properties	Total Market Value	Total Value Used
93	\$33,909,140.00	\$26,629,747

Copy

BRAZORIA COUNTY APPRAISAL DISTRICT

STATE OF TEXAS
COUNTY OF BRAZORIA

CERTIFICATION OF THE 2021 APPRAISAL ROLL FOR

CITY OF IOWA COLONY

In compliance with Section 26.01 of the State Property Tax Laws, "submission of rolls to taxing units," notice is hereby given to-wit:

The Brazoria County Appraisal Review Board meeting on July 14, 2021, duly approved the 2021 Appraisal Rolls for your entity for certification as follows:

TAXABLE VALUE FOR 2021 APPRAISAL ROLL

TOTAL TAXABLE VALUE \$710,263,085

ESTIMATED TAXABLE VALUE FOR THE 2021 SUPPLEMENTAL ROLL

(properties still under protest)

B.C.A.D. APPRAISED VALUE	*VALUE CLAIMED BY OWNER
<u>\$63,105,285</u>	<u>\$58,056,862</u>

SUMMARY

TAXABLE VALUE FOR 2021 APPRAISAL ROLL \$710,263,085

*ESTIMATED TAXABLE VALUE FOR 2021 SUPPLEMENTAL ROLL \$58,056,862

NET TAXABLE VALUE \$768,319,947

I, Al Baird, Interim Chief Appraiser for the Brazoria County Appraisal District, do hereby certify the correctness of the rolls as approved by the Appraisal Review Board's action.

Al Baird
Al Baird, Interim Chief Appraiser

July 21, 2021
Date

2021 CERTIFIED TOTALS

As of Certification

Property Count: 4,205

CIC - CITY OF IOWA COLONY
ARB Approved Totals

7/19/2021

2:35:53PM

Land		Value			
Homesite:		120,616,782			
Non Homesite:		40,888,183			
Ag Market:		20,951,040			
Timber Market:		0	Total Land	(+)	182,456,005
Improvement		Value			
Homesite:		619,351,392			
Non Homesite:		41,950,058	Total Improvements	(+)	661,301,450
Non Real		Count	Value		
Personal Property:	204		30,309,540		
Mineral Property:	0		0		
Autos:	0		0	Total Non Real	(+)
			Market Value	=	30,309,540
					874,066,995
Ag	Non Exempt	Exempt			
Total Productivity Market:	20,951,040	0			
Ag Use:	281,652	0	Productivity Loss	(-)	20,669,388
Timber Use:	0	0	Appraised Value	=	853,397,607
Productivity Loss:	20,669,388	0			
			Homestead Cap	(-)	5,472,141
			Assessed Value	=	847,925,466
			Total Exemptions Amount (Breakdown on Next Page)	(-)	137,662,381
			Net Taxable	=	710,263,085

APPROXIMATE TOTAL LEVY = NET TAXABLE * (TAX RATE / 100)
 3,332,618.32 = 710,263,085 * (0.469209 / 100)

Certified Estimate of Market Value: 874,066,995
 Certified Estimate of Taxable Value: 710,263,085

Tax Increment Finance Value: 0
 Tax Increment Finance Levy: 0.00

2021 CERTIFIED TOTALS

Property Count: 4,205

CIC - CITY OF IOWA COLONY
ARB Approved Totals

7/19/2021

2:37:13PM

Exemption Breakdown

Exemption	Count	Local	State	Total
DP	37	1,293,960	0	1,293,960
DSTR	5	147,757	0	147,757
DV1	14	0	84,000	84,000
DV2	16	0	138,000	138,000
DV2S	1	0	7,500	7,500
DV3	22	0	220,000	220,000
DV4	76	0	650,069	650,069
DV4S	2	0	0	0
DVHS	112	0	33,284,851	33,284,851
DVHSS	2	0	432,630	432,630
EX-XN	34	0	5,024,960	5,024,960
EX-XV	56	0	33,959,162	33,959,162
EX-XV (Prorated)	1	0	12,987	12,987
EX366	20	0	4,060	4,060
HS	2,104	52,510,390	0	52,510,390
OV65	286	9,792,635	0	9,792,635
OV65S	2	80,000	0	80,000
SO	5	19,420	0	19,420
Totals		63,844,162	73,818,219	137,662,381

Copy

2021 CERTIFIED TOTALS

Property Count: 258

CIC - CITY OF IOWA COLONY
Under ARB Review Totals

7/19/2021

2:35:53PM

Land		Value			
Homesite:		11,341,522			
Non Homesite:		1,461,401			
Ag Market:		565,048			
Timber Market:		0	Total Land	(+)	13,367,971
Improvement		Value			
Homesite:		58,589,890			
Non Homesite:		11,570	Total Improvements	(+)	58,601,460
Non Real		Count	Value		
Personal Property:	5		214,910		
Mineral Property:	0		0		
Autos:	0		0	Total Non Real	(+)
			Total Non Real	(+)	214,910
			Market Value	=	72,184,341
Ag	Non Exempt	Exempt			
Total Productivity Market:	565,048	0			
Ag Use:	9,781	0	Productivity Loss	(-)	555,267
Timber Use:	0	0	Appraised Value	=	71,629,074
Productivity Loss:	555,267	0	Homestead Cap	(-)	1,200,775
			Assessed Value	=	70,428,299
			Total Exemptions Amount (Breakdown on Next Page)	(-)	7,323,014
			Net Taxable	=	63,105,285

APPROXIMATE TOTAL LEVY = NET TAXABLE * (TAX RATE / 100)
 296,095.68 = 63,105,285 * (0.469209 / 100)

Certified Estimate of Market Value:	62,575,435
Certified Estimate of Taxable Value:	57,544,861
Tax Increment Finance Value:	0
Tax Increment Finance Levy:	0.00

2021 CERTIFIED TOTALS

Property Count: 258

CIC - CITY OF IOWA COLONY
Under ARB Review Totals

7/19/2021

2:37:13PM

Exemption Breakdown

Exemption	Count	Local	State	Total
DP	4	160,000	0	160,000
DV1	2	0	10,000	10,000
DV3	6	0	60,000	60,000
DV4	5	0	60,000	60,000
DVHS	1	0	411,990	411,990
HS	196	5,887,824	0	5,887,824
OV65	19	733,200	0	733,200
Totals		6,781,024	541,990	7,323,014

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2021 CERTIFIED TOTALS

Property Count: 4,463

CIC - CITY OF IOWA COLONY

Effective Rate Assumption

7/19/2021

2:37:13PM

New ValueTOTAL NEW VALUE MARKET:
TOTAL NEW VALUE TAXABLE:\$123,011,733
\$95,444,331**New Exemptions**

Exemption	Description	Count		
EX-XN	11.252 Motor vehicles leased for personal use	7	2020 Market Value	\$0
EX-XV	Other Exemptions (including public property, r	7	2020 Market Value	\$289,480
EX366	HB366 Exempt	9	2020 Market Value	\$3,480
ABSOLUTE EXEMPTIONS VALUE LOSS				\$292,960

Exemption	Description	Count	Exemption Amount
DP	Disability	2	\$80,000
DV1	Disabled Veterans 10% - 29%	4	\$20,000
DV2	Disabled Veterans 30% - 49%	2	\$19,500
DV3	Disabled Veterans 50% - 69%	10	\$100,000
DV4	Disabled Veterans 70% - 100%	19	\$216,000
DV4S	Disabled Veterans Surviving Spouse 70% - 100	1	\$0
DVHS	Disabled Veteran Homestead	15	\$3,598,416
HS	Homestead	316	\$9,395,196
OV65	Over 65	48	\$1,778,641
PARTIAL EXEMPTIONS VALUE LOSS		417	\$15,207,763
NEW EXEMPTIONS VALUE LOSS			\$15,500,713

Increased Exemptions

Exemption	Description	Count	Increased Exemption Amount
INCREASED EXEMPTIONS VALUE LOSS			
TOTAL EXEMPTIONS VALUE LOSS			\$15,500,713

New Ag / Timber Exemptions

2020 Market Value	\$126,380	Count: 5
2021 Ag/Timber Use	\$5,720	
NEW AG / TIMBER VALUE LOSS	\$120,660	

New Annexations**New Deannexations****Average Homestead Value**

Category A and E

Count of HS Residences	Average Market	Average HS Exemption	Average Taxable
2,287	\$271,855	\$28,413	\$243,442
Category A Only			
Count of HS Residences	Average Market	Average HS Exemption	Average Taxable
2,232	\$273,740	\$28,302	\$245,438

2021 CERTIFIED TOTALS
CIC - CITY OF IOWA COLONY
Lower Value Used

As of Certification

Count of Protested Properties	Total Market Value	Total Value Used
258	\$72,184,341.00	\$57,544,861

Copy

IOWA COLONY BUDGET FORECAST

FISCAL YEAR 2021-22

Copy

AGENDA

- Revenues
 - Tax Rate Information
 - Certified Values
 - City Comparisons
 - Applicable Rate Limits
 - Development permitting
- Expenditures
 - COLA, Salary Rate Study, and Benefit Options
 - Departmental Budget Requests
 - Planning and Capital Projects

Copy

IOWA COLONY CERTIFIED VALUES

	2020 Cert Values	2021 Cert Values	Change
Iowa Colony TOTAL	648,734,596.00	768,319,947.00	18.43%
MUD 31 (Sterling Lakes)	332,360,871.00	377,122,663.00	13.47%
TIRZ (Meridiana)	224,268,811.00	307,657,705.00	37.18%
Balance of City*	92,104,914.00	83,539,579.00	-9.30%

*There was an expansion of the TIRZ as well as a property acquisition by Alvin ISD in 2020 which are now reflected in the certified rolls.

2020 TAX RATES IN BRAZORIA COUNTY

City	Tax Rate	Exemption
Town of Holiday Lakes	\$1.02	
City of Alvin	\$0.768	1%
City of West Columbia	\$0.73177	
City of Pearland	\$0.72	2.5%
City of Sweeny	\$0.701553	
City of Danbury	\$0.697258	
City of Brazoria	\$0.680476	
City of Angleton	\$0.665144	1%
City of Richwood	\$0.62747	
City of Freeport	\$0.615859	20%
City of Manvel	\$0.61	

City	Tax Rate	Exemption
City of Clute	\$0.595392	20%
Village of Brookside	\$0.55275	
City of Iowa Colony	\$0.469209	10%
Village of Jones Creek	\$0.44	20%
City of Hillcrest Village	\$0.38901	
City of Surfside	\$0.334846	20%
City of Lake Jackson	\$0.328977	
City of Oyster Creek	\$0.238518	20%
City of Liverpool	\$0.164649	
Village of Bailey's Prairie	\$0.06483	
Town of Quintana	\$0.013426	20%

APPLICABLE TAX RATE LIMITS

- 2019 Adopted Tax Rate
 - \$0.489209
- 2020 Adopted Tax Rate
 - \$0.469209
 - Added 10% Homestead exemption
 - COVID-based discussion to reduce tax rate
- 2021 Debt Rate
 - \$0.018457
- 2021 No New Revenue Tax Rate
 - \$0.501183
- 2021 Voter Approval Tax Rate
 - \$0.543188
 - \$0.977978 (with unused increment)
- 2021 De Minimis Rate
 - \$0.619841

TAX RATE REVENUE

- Last year's rate (\$0.469209)
 - **\$1,304,000**
- Pre-COVID rate (\$0.489209)
 - **\$1,362,000**
- No New Revenue Rate (\$0.501183)
 - **\$1,396,000**
- Voter Approval Rate (\$0.543188)
 - **\$1,517,000**
- Each \$0.01 of tax rate results in ~\$28,897 net tax income (~37.6%)
- Impact on \$200,000 home valuation
 - \$0.469209 - \$ 938.42
 - \$0.489209 - \$ 978.42
 - \$0.501183 - \$ 1,002.37
 - \$0.543188 - \$ 1,086.38
- Homestead exemption will still apply
- Each \$0.01 of tax rate costs the taxpayer approximately \$1.67 per month (on \$200,000 valuation)

DEVELOPMENT PERMITTING AND INSPECTIONS

- FY 2020-21 forecast permit revenue was \$1,375,000
 - Actual revenue through 7/31/2021 was >\$1,500,000
 - Holding budget forecast flat because several items this year are not likely to carry forward
- Contract inspections (plan reviews) incur fee of 50% of the permit cost
 - Fire Marshal/Building Official has begun (June 2021) conducting many of the plan reviews
 - Keeping these fees in-house further supports cost recovery of salary and city operations
 - Also allowing us to implement new permit and inspections tracking software chosen by staff

EXPENSES

- Balanced budget
- Priorities and direction
- Preparing for growth and increased demands
- Some increased expenses are a result of increased revenue

PERSONNEL COSTS (CURRENT RATES)

- Police Department
 - 12 positions (current)
 - Salary ~ \$644,100
 - Benefits ~ \$271,550
 - Overtime
 - Certification Pay
 - Health Insurance
 - TMRS
 - **TOTAL ~ \$915,650**
- Other City Departments
 - 9 positions
 - Salary and Benefits
 - Collective amounts / Divided into appropriate departments in budget
 - Salary ~ \$588,550
 - Benefits ~ \$189,200
 - **TOTAL ~ \$777,750**

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SALARIES AND BENEFITS

- Cost of Living
 - 12-month CPI-U through June = 4.6%
 - CPI (major categories less food and energy) = 3.1%
- Health Insurance
 - Rates and City contribution
- Salary Rate Study
 - Evaluating current positions against the market
 - Establishing job families and structure for future growth
- TMRS / Deferred Compensation

City of Iowa Colony														
2021-22 Pay Grades (PROPOSED)														
Pay Grade		P	A	B	C	D	E	F	G	H	I	J	K	L
10	Hourly	15.00	15.38	15.76	16.15	16.56	16.97	17.40	17.83	18.28	18.73	19.20	19.68	20.17
	Bi-Weekly	1,200.00	1,230.00	1,260.75	1,292.27	1,324.58	1,357.69	1,391.63	1,426.42	1,462.08	1,498.64	1,536.10	1,574.50	1,613.87
	Annual	31,200.00	31,980.00	32,779.50	33,598.99	34,438.96	35,299.94	36,182.43	37,087.00	38,014.17	38,964.52	39,938.64	40,937.10	41,960.53
12	Hourly	20.50	21.01	21.54	22.08	22.63	23.19	23.77	24.37	24.98	25.60	26.24	26.90	27.57
	Bi-Weekly	1,640.00	1,681.00	1,723.03	1,766.10	1,810.25	1,855.51	1,901.90	1,949.44	1,998.18	2,048.14	2,099.34	2,151.82	2,205.62
	Annual	42,640.00	43,706.00	44,798.65	45,918.62	47,066.58	48,243.25	49,449.33	50,685.56	51,952.70	53,251.52	54,582.80	55,947.38	57,346.06
14	Hourly	28.00	28.70	29.42	30.15	30.91	31.68	32.47	33.28	34.12	34.97	35.84	36.74	37.66
	Bi-Weekly	2,240.00	2,296.00	2,353.40	2,412.24	2,472.54	2,534.35	2,597.71	2,662.66	2,729.22	2,797.45	2,867.39	2,939.07	3,012.55
	Annual	58,240.00	59,696.00	61,188.40	62,718.11	64,286.06	65,893.21	67,540.54	69,229.06	70,959.78	72,733.78	74,552.12	76,415.93	78,326.33
16	Hourly	38.00	38.95	39.92	40.92	41.94	42.99	44.07	45.17	46.30	47.46	48.64	49.86	51.11
	Bi-Weekly	3,040.00	3,116.00	3,193.90	3,273.75	3,355.59	3,439.48	3,525.47	3,613.60	3,703.94	3,796.54	3,891.46	3,988.74	4,088.46
	Annual	79,040.00	81,016.00	83,041.40	85,117.44	87,245.37	89,426.51	91,662.17	93,953.72	96,302.57	98,710.13	101,177.88	103,707.33	106,300.01
18	Hourly	52.00	53.56	55.17	56.82	58.53	60.28	62.09	63.95	65.87	67.85	69.88	71.98	74.14
	Bi-Weekly	4,160.00	4,284.80	4,413.34	4,545.74	4,682.12	4,822.58	4,967.26	5,116.28	5,269.76	5,427.86	5,590.69	5,758.41	5,931.17
	Annual	108,160.00	111,404.80	114,746.94	118,189.35	121,735.03	125,387.08	129,148.70	133,023.16	137,013.85	141,124.27	145,358.00	149,718.74	154,210.30

EMPLOYEE HEALTH INSURANCE

	Current Plan Renewal	Option 1	Option 2	Option 3	Option 4
Coverage	\$3K/\$7K	\$1K/\$5K	\$1K/\$5K	\$1K/\$5K	\$1K/\$5K
Employee Only	\$662.38/mo.	\$587.74/month	\$622.34/mo.	\$622.34/mo.	\$622.34/mo.
Emp. Health (% city-funded)	75%	82.5%	90%	90%	90%
Dental/Vision (% city-funded)	0%	0%	90%	90%	90%
Add'l Coverage (% city-funded)	0%	0%	0%	25%	50%
Approximate Budget Impact	\$3,000 increase	No change	\$12,000 increase	\$31,000 increase	\$50,000 increase

NOTES: All based on Blue Cross/Blue Shield PPO Network. Options 1-4 based on TML Health Benefits Pool proposal. A total of 11 proposals from 4 companies were evaluated. Budget impacts for options 2-4 are high estimates.

DEPARTMENTAL BUDGET REQUESTS

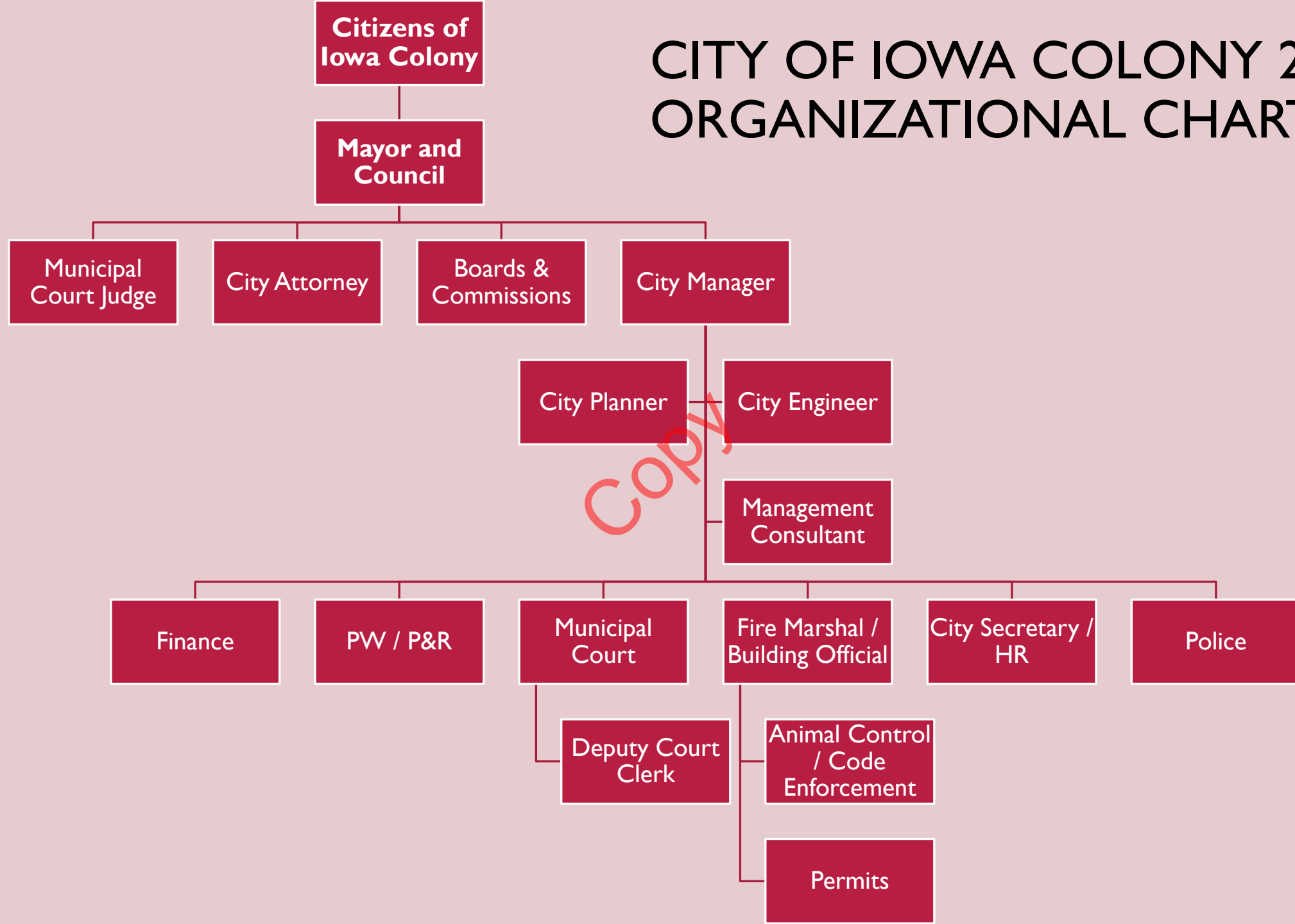
- New Departments / New personnel (previous year)
- Personnel requests
- Operations
- Equipment
- Planning projects

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CURRENT BUDGET

- Many expenses still budgeted within “Admin”
- Departments have begun emerging as community growth occurred, but not always established with all associated expenses
- New Departments added just this year, without individual funding previously
- **Total current allocations ~ \$3,190,000**
 - M&O ~ \$2,225,000
 - Capital ~ \$965,000
 - All current departments combined, exclusive of salaries and benefits

CITY OF IOWA COLONY 2021-22 ORGANIZATIONAL CHART



ADMINISTRATION

- Technology
 - Council Tablet Devices
- Training & Travel
 - City Manager and Council
 - Texas Municipal League
- Dues & Fees
 - TML / TCMA / ICMA
- Meetings
 - BCCA
 - Other regional collaboration
- MuniCode
- Management Professional Services
 - Council Retreat
 - Transition to development projects
- Council Districting Process
- Special Election Costs
 - CCPD Renewal
 - Educational materials

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POLICE

- Additional Personnel
 - Investigator
 - Patrol Officer
 - Reclassify – Dispatch Lead
- Vehicle Maintenance
 - Expanding fleet size
- Police Radios
 - Poor coverage
- Moving to stand-alone areas
 - Animal Control / Code Enforcement
 - Emergency Management

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FINANCE

- Enterprise Resource Planning (ERP) Financial Management Software
 - City has grown to the limit of current software
 - Recommendation from auditors
 - Specialized software incorporates many areas
 - Payroll / Timekeeping
 - Purchase Orders
 - Accounts Payable

COMMUNITY DEVELOPMENT

- New software will appear here
 - Cost recovery funded by permit revenue
- Professional Services – Planning
 - Transition to new consultant Planner
 - Consultant to update Zoning and Subdivision Ordinances and incorporate into Uniform Development Code (UDC)

MUNICIPAL COURT

- Prosecutor fees have increased along with number of citations
- State fees for citations
 - Direct correlation to fine assessments

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ANIMAL CONTROL / CODE ENFORCEMENT

- Moving out of Police Department into stand-alone department
- More efficient as community grows
- Potential to implement cost recovery fees

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FIRE MARSHAL'S OFFICE

- Department did not exist in previous budgets
- Fire prevention program materials
- Fire investigations / Law enforcement
- Training & travel
 - Multiple disciplines requiring continuing education
- Dues & memberships

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PUBLIC WORKS & ENGINEERING

- Modest increases due to growth
 - Roadway and ROW Maintenance
 - Equipment costs
 - Personnel overtime
- Moved equipment rental funds from capital to departmental

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PARKS & RECREATION

- Parks & Recreation Advisory Board proposal
- No departmental funding in previous budgets
- Allow for community events throughout the year
 - Christmas tree lighting event (\$14,500)
 - Easter egg hunt and activities (\$4,750)
 - Fourth of July celebration (\$22,300)
- Other events throughout the year

EMERGENCY MANAGEMENT

- Department did not exist in previous budgets
- Includes educational materials as well as response costs
- Allows for costs to be tracked and managed
 - Easier to seek reimbursement
- Significant disaster response costs appropriated from reserve

CAPITAL AND PLANNING PROJECTS

- Water Infrastructure Legal Fees & Planning
- Drainage Master Plan
 - Local match only / To be grant-funded
- Fast-Fiber/Broadband Project Support
 - Unknown if local funding will be needed
- Future Government Center Planning
 - Initial architectural schematic design
- Iowa Colony Blvd and NW City Roadside Ditch Project
- Impact Fee Study
 - Need study to establish impact fees and provide funding for W&S Master Plan Projects

ALLOCATION PRIORITIES

- Revenue
 - Assumes continuation of development/permitting, court fines, and sales tax revenue
 - ~ \$5.0M - \$5.1M (depending on ad valorem tax rate)
- Expenses
 - Carry-over (existing staff and M&O) ~ \$ 3,919,000
 - Carry-over (continuation of capital) ~ \$ 915,000
 - New Budget requests (M&O) ~ \$ 350,000
 - New Budget requests (personnel) ~ \$ 160,000
 - New Budget requests (salary & benefits) ~ \$ 60,000

CITY OF IOWA COLONY

Fiscal Year 2021-2022

Budget Cover Page

This budget will raise more revenue from property taxes than last year's budget by an amount of \$405,051, which is a 18.01 percent increase from last year's budget. The property tax revenue to be raised from new property added to the tax roll this year is \$478,351.

The members of the governing body voted on the budget as follows:

FOR:

AGAINST:

PRESENT and not voting:

ABSENT:

Property Tax Rate Comparison

	2021-2022	2020-2021
Property Tax Rate:	\$0.501183/100	\$0.469209/100
No-New-Revenue Tax Rate:	\$0.501183/100	\$0.660083/100
No-New-Revenue Maintenance & Operations Tax Rate:	\$0.506987/100	\$0.798890/100
Voter-Approval Tax Rate:	\$0.977978/100	\$0.882688/100
Debt Rate:	\$0.094397/100	\$0.019887/100

Total debt obligation for CITY OF IOWA COLONY secured by property taxes: \$0



Proposed Budget (Revised)

Fiscal Year 2021 - 2022

Copy

Revised 8-25-21



To: Mayor and City Council

From: Robert Hemminger

Date: August 26, 2021

Subject: Fiscal Year 2021-22 Revised Proposed Budget and Tax Rate

It is with pleasure and honor that I present the proposed fiscal year 2021-22 budget and tax rate. This proposed budget considers many factors, including, and most significantly, the will of the people as expressed through their elected officials. This budget is a balanced proposal between anticipated revenues and expenses, and is an extension of the on-going progress in Iowa Colony.

The proposed tax rate, **\$0.489209 per \$100** of appraised valuation, is equal to the City's 2019 (pre-COVID) adopted tax rate and is below the **No New Revenue Tax Rate**, as illustrated on the 2021 Tax Rate Calculation Worksheet. This proposed tax rate will yield \$1,360,000 (rounded) in revenue after the City's contractual rebates to the TIRZ and MUD-31. The total anticipated revenue, net of those rebates, is \$5,247,250.

Four (4) new departments appear in this year's proposed budget. These include: Fire Marshal/Building Official, Animal Control/Code Enforcement, Parks and Recreation, and Emergency Management. Funding for these functions was previously included within other departmental budgets or the Administration oversight budget.

The proposed budget represents an approximate 10.4% increase over the last fiscal year, and is consistent with the growth and development occurring within Iowa Colony. In aggregate, the certified tax appraisal values for the City increased about 18.4%, the majority of which was contained within the TIRZ and MUD-31 areas. Please note that at first glance the budget may appear to have a much larger growth rate. This is attributed to the fact that we are more accurately capturing and accounting for the TIRZ and MUD-31 tax rebates, which have not previously been accounted for within the budget.

The noteworthy changes within this proposed budget include the following:

- Employee Compensation – A cost of living adjustment (COLA) of 2% is applied across all employee positions, and the initial pay plan including defined pay grade steps is implemented. Funding for a market analysis/rate study is included.
- Employee Health Insurance – Improved health insurance plan benefits and increased City contributions toward premiums, including 90% of the employee's premium and 25% of additional dependent coverage.

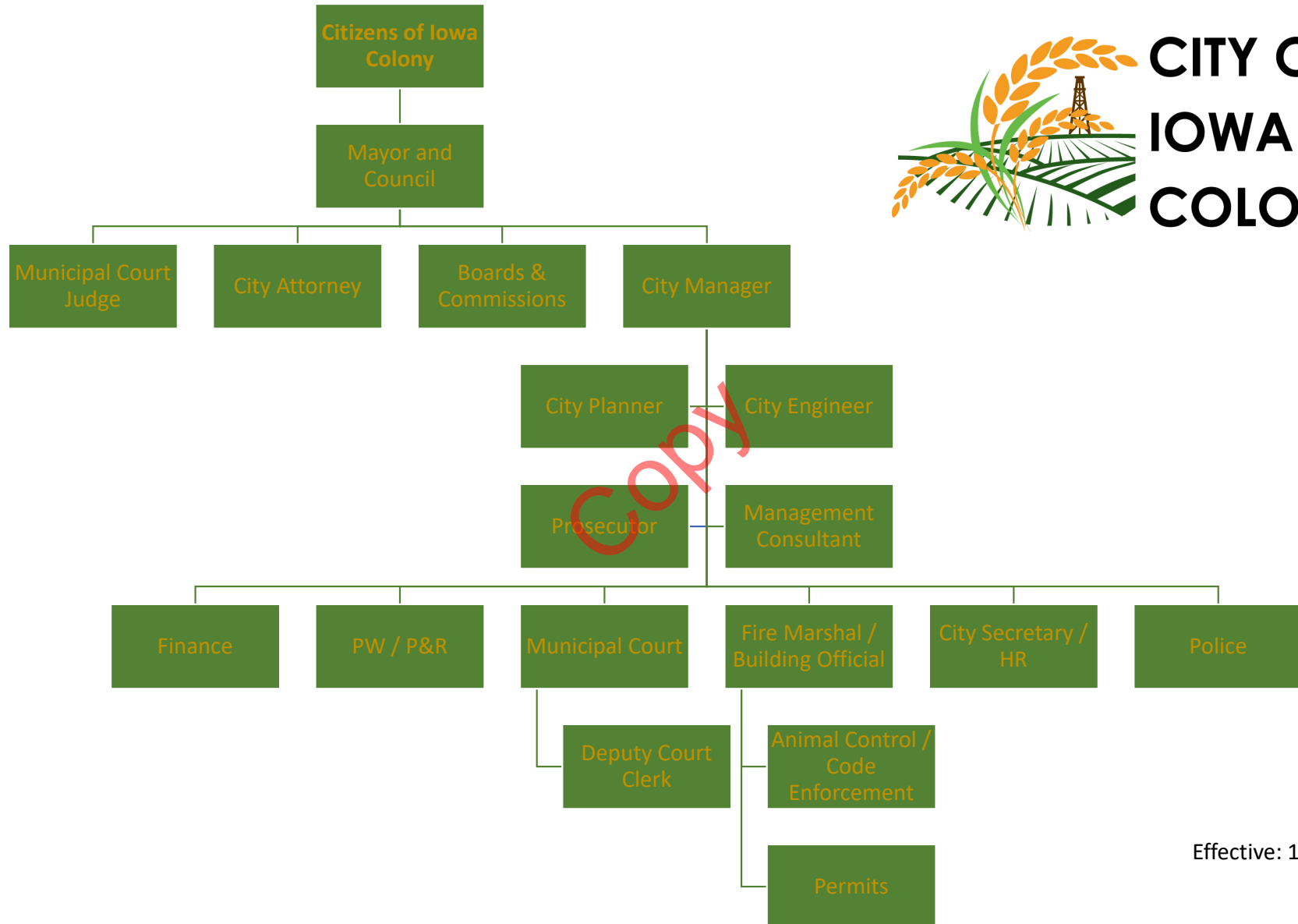
- Police personnel – One new Investigator is funded for the entire year and one new Patrol Officer position is funded for ½ year. Additionally, a position for dispatch was reclassified to a Lead Dispatcher.
- Strategic Planning Retreat – Funding for a consultant-led Strategic Planning Retreat of the Council and City staff is included.
- Training, Travel and Collaboration – The proposed budget includes funding within several departments to allow the Council and staff to improve their job performance and knowledge by attending various training events and through hosting regional collaboration meetings.
- Parks & Recreation – This first-time departmental budget allots for a large Fourth of July celebration as well as funding for other events throughout the year.

Once again, it is my honor to work alongside you and the high-quality, dedicated staff members of Iowa Colony. I look forward to discussing this budget with you at our upcoming meetings, and even further, to implementing this budget and seeing Iowa Colony's continued success.

Respectfully submitted,



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Effective: 10-1-2021

YTD Actual Previous Budget Proposed Budget Adopted Budget
Thru 7-31-21

REVENUE

ADMIN	6,205,620.51	4,962,665.53	7,583,250.00	
TOTAL REVENUE	6,205,620.51	4,962,665.53	7,583,250.00	

EXPENSE

ADMIN	240,735.48	697,487.94	660,447.96	
FINANCE	76,812.75	109,460.73	128,463.81	
POLICE DEPARTMENT	680,214.66	1,109,264.66	1,217,258.61	
ANIMAL CONTROL	34,840.18	41,600.00	77,864.07	
EMERGENCY MANAGEMENT	2,855.78	-	11,000.00	
MUNICIPAL COURT	274,612.03	252,114.27	336,099.58	
PUBLIC WORKS	209,834.14	575,722.70	576,974.90	
PARKS & REC	46,903.93	105,000.00	142,000.00	
COMMUNITY DEVELOPMENT	2,257,714.96	708,634.71	2,953,743.22	
FIRE MARSHAL	747,182.98	379,162.00	441,880.61	
CAPITAL AND PLANNING PROJECTS	65,187.31	965,000.00	915,000.00	
BOND	98,276.98	-	99,000.00	

TOTAL EXPENSE	4,735,171.18	4,943,447.01	7,559,732.75	
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EXCESS REVENUE OVER(UNDER) EXPENDITURES	1,470,449.33	19,218.52	23,517.25	
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Account	Description	YTD Actual Thru 7-31-21	Previous Budget	Proposed Budget	Adopted Budget
REVENUE					
4100	GENERAL REVENUE				
4109	Mixed Beverage Tax	460.11	2,000.00	1,000.00	
4110	City Sales Tax	340,786.50	350,000.00	360,000.00	
4120	Property Tax	1,950,946.14	1,164,165.53	1,360,000.00	
4121	Delinquent Property Tax	37,437.59	35,000.00	35,000.00	
4130	Property Tax - TIF 70%	730,282.19	-	1,071,000.00	
4131	Delinquent Tax - TIF 70%	3,621.60	-	-	
4132	City Property TIF 30%	312,978.10	-	-	
4133	City Property DelinqTIF 30%	1,552.10	-	-	
4134	Intermodal Ship. Container	3,316.49	2,000.00	3,000.00	
4135	Property Tax MUD 31 - 70%	-	-	1,265,000.00	
TOTAL 4100	GENERAL REVENUE	3,381,380.82	1,553,165.53	4,095,000.00	
4122	OTHER REVENUE				
4124	Accident Reports	121.00	-	-	
4126	MUD 31 Annexation				
	MUD 31 Pub. Safety Contr.	-	250,000.00	250,000.00	
	MUD 32 Pub. Safety Contr.	-	250,000.00	250,000.00	
TOTAL 4126	MUD 31 Annexation	-	500,000.00	500,000.00	
4122	OTHER REVENUE - Other	4,574.33	-	-	
TOTAL 4122	OTHER REVENUE	4,695.33	500,000.00	500,000.00	
4125	Arrest Fees	39.76	-	-	
4200	BUILDING & CONSTRUCTION PERMITS				
4201	Buidling Construction Permits	1,654,631.21	1,375,000.00	1,375,000.00	
4202	Trade Fees	61,254.75	40,000.00	50,000.00	
4203	Reinspection Fees	32,325.00	25,000.00	30,000.00	
4204	Signs	500.00	2,500.00	1,000.00	
4205	Misc Permits	4,455.10	1,000.00	2,000.00	
4206	Dirt Work Permits	250.00	1,500.00	500.00	
4207	Driveway Permits	1,150.00	3,000.00	1,500.00	
4210	Culvert Permit	300.00	1,000.00	500.00	
4211	Commercial Vehicle Permit	500.00	3,000.00	1,000.00	
4212	Park Use Permit	2,075.00	-	1,000.00	
4213	Mobile Food Unit Permit	750.00	-	1,000.00	
4200	BUILDING & CONSTRUCTION PERMITS	1,758,191.06	1,452,000.00	1,463,500.00	
4300	PLAT FEES				
4301	Preliminary Plat Fees	74,120.00	75,000.00	75,000.00	
4302	Final Plat Fees	26,790.00	40,000.00	35,000.00	
4303	Abbreviated Plat Fees	10,540.00	2,000.00	7,000.00	
4305	Admin Fee- Early Plat Recording	103,815.71	300,000.00	150,000.00	
TOTAL 4300	PLAT FEES	215,265.71	617,000.00	267,000.00	
4400	ENGINEERING FEES				
4401	Infrastructure Plan Review Fee	68,284.28	150,000.00	75,000.00	
4403	Civil Site Plan Review Fee	199,354.52	300,000.00	200,000.00	
TOTAL 4400	ENGINEERING FEES	267,638.80	450,000.00	275,000.00	
4500	ZONING FEES				
4501	Rezoning Fees	-	3,000.00	1,500.00	
4503	Specific Use Permit	-	2,000.00	1,000.00	

TOTAL 4500	ZONING FEES	-	5,000.00	2,500.00	
4600	FRANCHISE				
4601	Franchise Tax - Electric	94,155.20	110,000.00	110,000.00	
4602	Franchise Tax - Gas	-	20,000.00	-	
4603	Telecommunication Fee - Sales Tax	30,677.57	10,000.00	30,000.00	
TOTAL 4600	FRANCHISE	124,832.77	140,000.00	140,000.00	
4700	CITATIONS				
4701	Citations/Warrants	334,848.80	200,000.00	300,000.00	
4702	Delinquent Court Collection	-	5,000.00	-	
4703	Court Security Fee	6,501.87	2,000.00	2,500.00	
4704	Court Technology Fee	5,943.03	2,500.00	2,500.00	
4700	CITATIONS - Other	241.00	-	-	
TOTAL 4700	CITATIONS	347,534.70	209,500.00	305,000.00	
4800	SPECIAL FUNDS				
4803	State & Federal Grants	106,002.48	-	-	
4805	Park Reserves	-	35,000.00	35,000.00	
TOTAL 4800	SPECIAL FUNDS	106,002.48	35,000.00	35,000.00	
4900	INVESTMENT INCOME				
4910	Interest Income	39.08	1,000.00	250.00	
TOTAL 4900	INVESTMENT INCOME	39.08	1,000.00	250.00	
TOTAL REVENUE		6,205,620.51	4,962,665.53	7,583,250.00	

Please note: Revenues associated with the TIRZ and MUD31 tax rebates are included in this budget but were not previously identified as revenue and expense (corresponding expenses are included in the Community Development departmental budget).

	2021 Certified Values*	70% Tax Rebate to TIRZ2/MUD 31	2020 Rate	2021 Proposed Rate	2021 M&O Tax Rate	2021 I&S Rate
			0.469209	0.489209	0.470752	0.018457
Total Value (7-23-20)	\$ 768,319,947.00					
MUD 31 (7-21-21)	\$ 377,122,663.00	\$ 1,242,718.73			\$ 532,593.74	\$ 69,605.53
TIRZ2 (7-21-21)	\$ 307,657,705.00	\$ 1,053,562.43			\$ 434,491.44	
Balance of City	\$ 83,539,579.00				\$ 393,264.24	\$ 32,454.21
Total					\$ 1,360,349.42	\$ 102,059.74

*Certified Values as of 7-21-21

Does include 10% Homestead Exemption Reduction

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Account	Description	YTD Actual Thru 7-31-21	Previous Budget	Proposed Budget	Adopted Budget
EXPENSE					
10	ADMINISTRATION				
5101	Salaries - Full-Time	119,975.59	162,831.00	213,889.92	
5102	Salaries - Part-Time			25,000.00	
5106	Social Security/Medicare	3,958.91	13,248.88	16,362.58	
5107	TMRS	6,195.34	18,202.06	19,250.09	
5108	Health & Life Insurance	72.00	11,660.00	14,800.00	
5109	Worker's Comp			7,597.37	
5110	Texas Workforce Commission	435.40	486.00	504.00	
5112	457(b) Reimbursement			10,500.00	
5114	Benefits Admin Fees			144.00	
5115	Longevity Pay	180.00	240.00	300.00	
5116	Vehicle Allowance	300.00	-	7,200.00	-
5121	Payroll Expense/Direct Deposit Fee	673.89	-	1,000.00	-
5211	Legal	81,397.01	100,000.00	95,000.00	-
5212	Audit	30,200.00	22,000.00	30,000.00	-
5213	Tax Appraisal & Collection	40.00	-	100.00	-
5214	Legislative & Admin Action	-	5,000.00	2,000.00	-
5219	Professional Service	5,816.50	10,000.00	26,000.00	-
5220	Website - Professional	5,349.99	5,900.00	5,500.00	
5225	Equipment Maintenance	277.00	-	500.00	-
5229	BCAD Fee	15,058.33	6,000.00	21,500.00	-
5240	Building Maintenance				
	Prof Cleaning Services	9,000.00	-	12,000.00	-
	Building Maintenance - Other	7,010.94	50,000.00	12,000.00	-
5245	Technology	10,144.64	16,000.00	15,000.00	-
5246	Software Maintenance/ License	12,332.63	7,500.00	8,000.00	-
5250	Utilities	4,529.44	9,000.00	7,000.00	-
5260	Equipment Rentals	3,064.13	3,000.00	4,000.00	-
5320	Supplies/ Printing	6,324.23	12,000.00	14,000.00	-
5321	Postage	206.90	750.00	500.00	-
5322	Advertising & Legal Notices	5,945.76	5,000.00	7,000.00	-
5323	Telephone Expense	13,805.21	10,000.00	16,000.00	-
5325	Miscellaneous	5,903.89	-	1,000.00	-
5326	Uniforms			2,000.00	-
5327	Well Permit fee	-	30.00	200.00	-
5411	Travel & Training	3,564.93	2,400.00	9,000.00	-
5412	Seminars & Meetings	200.00	1,200.00	3,000.00	-
5413	Staff Recognition	200.57	-	2,000.00	-
5439	Election Costs	5,564.20	8,000.00	8,000.00	-
5481	Mayor's Special Expense	46.25	1,500.00	1,500.00	-
5495	Dues	1,285.95	2,000.00	2,500.00	-
5630	Equipment	1,732.15	500.00	2,000.00	-
5710	Insurance - Windstorm	8,948.00	7,500.00	10,000.00	-
5720	Insurance - Liability & Property	21,765.00	20,000.00	8,000.00	-
5721	Bank Fees	(6.00)	100.00	100.00	-
5722	Credit Card Fees	1,414.87	4,000.00	2,500.00	-
5725	Grant Admin	-	15,000.00	5,000.00	-
5810	Vehicle Insurance			1,000.00	-
TOTAL EXPENSE		240,735.48	641,587.94	650,447.96	-

Please note: In preparation for new Enterprise Resource Planning (ERP) Financial Software, some account numbers have been changed to align with a new (standardized) chart of accounts. Some budgeted amounts from this department have been moved to more accurately be reflected in the actual department in which the expenses occur.

Account	Description	YTD Actual Thru 7-31-21	Previous Budget	Proposed Budget	Adopted Budget
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EXPENSE

15	FINANCE				
5101	Salaries - Full-Time	58,770.89	70,004.00	80,620.80	
5106	Social Security/Medicare	4,310.56	5,355.31	6,167.49	
5107	TMRS	6,899.57	7,357.42	7,255.87	
5108	Health & Life Insurance	2,574.94	5,830.00	7,400.00	
5109	Worker's Comp		3,052.00	2,863.65	
5110	Texas Workforce Commission	252.00	162.00	252.00	
5114	Benefits Admin Fees			144.00	
5115	Longevity Pay			60.00	
5320	Supplies/ Printing	594.11	2,000.00	1,000.00	
5321	Postage	154.05	200.00	200.00	
5410	Technology	2,981.63	8,000.00	20,000.00	
5411	Training & Travel	275.00	5,000.00	2,000.00	
5495	Dues	-	2,500.00	500.00	
TOTAL EXPENSE		76,812.75	109,460.73	128,463.81	

Please note: In preparation for new Enterprise Resource Planning (ERP) Financial Software, some account numbers have been changed to align with a new (standardized) chart of accounts. Primary increase is new ERP software being implemented.

Account	Description	YTD Actual Thru 7-31-21	Previous Budget	Proposed Budget	Adopted Budget
EXPENSE					
20	POLICE DEPARTMENT				
5101	Salaries - Full-Time	430,375.84	607,789.50	750,925.02	
5104	Salaries - Overtime	12,813.33	10,000.00	12,500.00	
5106	Social Security/Medicare	34,859.87	53,725.15	57,445.76	
5107	TMRS	58,299.46	73,810.63	67,583.25	
5108	Health & Life Insurance	34,684.74	69,960.00	99,900.00	
5109	Worker's Comp	-	28,313.38	33,341.07	
5110	Texas Workforce Commission	3,209.56	2,106.00	3,528.00	
5114	Benefits Admin Fees			1,008.00	
5115	Longevity Pay	300.00	300.00	840.00	
5117	Certification Pay	11,169.18	42,100.00	16,087.50	-
5126	Professional Services	6,100.00	7,000.00	7,000.00	-
5320	Supplies & Printing	2,128.52	3,500.00	3,000.00	-
5321	Postage	102.10	100.00	100.00	-
5322	Recruiting and Hiring Expenses	1,216.96	1,500.00	1,500.00	-
5324	Cell Phone	6,138.08	7,000.00	6,000.00	-
5325	Miscellaneous	1,761.87	4,900.00	2,000.00	-
5326	Uniforms	4,708.12	7,500.00	8,000.00	-
5410	Technology	10,822.86	18,000.00	20,000.00	-
5411	Travel & Training	(655.44)	5,000.00	5,000.00	-
5412	Radio Service	3,618.00	3,300.00	4,000.00	-
5413	Radio Equipment	1,314.03	2,000.00	2,000.00	-
5415	Building Maintenance	2,248.84	2,600.00	2,000.00	-
5450	Vehicle Equipment	(869.00)	5,000.00	-	-
5495	Association Dues	838.88	1,000.00	1,500.00	-
5498	Hospital Expense - Suspects	-	1,000.00	-	-
5499	Investigations	2,685.09	2,900.00	3,000.00	-
5720	Insurance - Liability & Property			8,000.00	-
5810	Vehicle Insurance	8,339.00	5,000.00	7,000.00	-
5820	Vehicle Repairs & Maint	14,068.14	13,000.00	10,000.00	-
5830	Fuel	21,175.12	30,000.00	30,000.00	-
5840	Equipment	8,761.51	10,000.00	5,000.00	-
5850	Vehicle Replacement Fund	-	47,200.00	49,000.00	-
TOTAL EXPENSE		680,214.66	1,065,604.66	1,217,258.61	-

Please note: In preparation for new Enterprise Resource Planning (ERP) Financial Software, some account numbers have been changed to align with a new (standardized) chart of accounts. Some expenses for Animal Control/Code Enforcement which were previously budgeted within the Police Department have been moved to a stand-alone Department for Animal

Account	Description	YTD Actual Thru 7-31-21	Previous Budget	Proposed Budget	Adopted Budget
EXPENSE					
21	Animal Control				
5101	Salaries - Full-Time	33,310.20	41,600.00	44,575.02	
5104	Salaries - Overtime			1,000.00	
5106	Social Security/Medicare			3,409.99	
5107	TMRS			4,011.75	
5108	Health & Life Insurance			7,400.00	
5109	Worker's Comp			1,583.30	
5110	Texas Workforce Commission			252.00	
5114	Benefits Admin Fees			72.00	
5115	Longevity Pay	-	-	60.00	
5320	Supplies & Printing	-	-	200.00	
5321	Postage	-	-	200.00	
5326	Uniforms	-	-	500.00	
5246	Dues & Memberships	-	-	300.00	
5411	Travel & Training	-	-	1,500.00	
5500	Humane Society	1,529.98	-	2,500.00	
5810	Vehicle Insurance	-	-	1,000.00	
5820	Vehicle Repairs & Maint	-	-	1,000.00	
5830	Fuel	-	-	1,000.00	
5840	Equipment	-	-	300.00	
5850	Vehicle Replacement Fund	-	-	7,000.00	
TOTAL EXPENSE		34,840.18	41,600.00	77,864.07	

Please note: In preparation for new Enterprise Resource Planning (ERP) Financial Software, some account numbers have been changed to align with a new (standardized) chart of accounts. Most of these expenses were previously budgeted within the Police Department.

Account	Description	YTD Actual Thru 7-31-21	Previous Budget	Proposed Budget	Adopted Budget
22	Emergency Management				
5322	Advertising/ Newsletters	-	-	2,000.00	
5320	Operation Supplies	310.78	-	2,000.00	
5096	Blackboard Service	-	-	1,000.00	
5411	Training & Travel	-	-	1,000.00	
5126	Professional/ Contract Services	2,545.00	-	5,000.00	
	TOTAL EXPENSE	2,855.78	-	11,000.00	

Please note: In preparation for new Enterprise Resource Planning (ERP) Financial Software, some account numbers have been changed to align with a new (standardized) chart of accounts. Most of these expenses were previously budgeted within the Police Department.

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Account	Description	YTD Actual Thru 7-31-21	Previous Budget	Proposed Budget	Adopted Budget
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EXPENSES

25	MUNICIPAL COURT				
5101	Salaries - Full-Time	43,393.62	62,681.00	93,668.64	
5104	Salaries - Overtime	2,762.36	2,500.00	2,000.00	
5106	Social Security/Medicare	3,271.63	3,725.63	7,165.65	
5107	TMRS	5,615.53	5,118.48	8,430.18	
5108	Health & Life Insurance	3,041.51	5,830.00	14,800.00	
5109	Worker's Comp	-	1,962.04	3,327.11	
5110	Texas Workforce Commission	344.76	162.00	504.00	
5114	Benefits Admin Fees			144.00	
5115	Longevity Pay	-	-	60.00	
5117	Certification Pay	1,015.30	1,200.00	1,200.00	
5210	Legal Delinquent Citations	-	5,000.00	-	
5216	Judge Court Fees	14,166.25	25,000.00	20,000.00	
5217	Prosecutor Fees	49,912.50	35,500.00	50,000.00	
5218	Interpreter	517.79	1,500.00	1,500.00	
5219	Professional Services - Muni Co	16,287.50	10,000.00	-	
5222	Court Security Exp	558.61	-	-	
5223	Court Technology Exp	1,396.42	-	-	
5321	Postage	62.80	500.00	500.00	
5326	Uniforms	-	-	500.00	
5411	Travel & Training	355.00	1,000.00	1,000.00	
5414	Jury Trial Expense	99.53	1,500.00	1,500.00	
5415	State Court Fees (40% of revenue)	124,079.73	80,000.00	120,000.00	
5500	Supplies & Equipment	1,470.19	4,200.00	3,000.00	
5730	Contract Services	6,261.00	4,735.12	6,800.00	
	TOTAL EXPENSES	274,612.03	252,114.27	336,099.58	

Please note: In preparation for new Enterprise Resource Planning (ERP) Financial Software, some account numbers have been changed to align with a new (standardized) chart of accounts. The Municipal Court Clerk position along with associated expenses have been moved from Admin to the Municipal Court departmental budget.

Account	Description	YTD Actual Thru 7-31-2021	Previous Budget	Proposed Budget	Adopted Budget
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EXPENSES

30	PUBLIC WORKS				
5101	Salaries - Full-Time	44,617.50	55,000.00	60,889.92	
5104	Salaries - Overtime	3,580.66	2,000.00	4,000.00	
5106	Social Security/Medicare	3,603.90	4,600.00	4,658.08	
5107	TMRS	5,935.34	5,990.70	5,480.09	
5108	Health & Life Insurance	4,509.54	5,830.00	7,400.00	
5109	Worker's Comp	-	2,400.00	2,162.81	
5110	Texas Workforce Commission	252.00	162.00	252.00	
5114	Benefits Admin Fees			72.00	
5115	Longevity Pay	-	-	60.00	
5320	Supplies	4,349.30	7,440.00	5,000.00	
5326	Uniforms	10.81	-	1,000.00	
5451	Roads/ Bridges/ Drainage	48,951.59	325,000.00	325,000.00	
5452	Mowing Roads	53,000.00	60,000.00	60,000.00	
5453	Special Road Work	-	-	15,000.00	
5454	Bridge Replacement	-	30,000.00	15,000.00	
5455	Signs & Postings	5,794.99	8,000.00	8,000.00	
5456	Public Works Maintenance	12,500.84	25,000.00	20,000.00	
5810	Vehicle Insurance	738.00	-	1,000.00	
5820	Vehicle Repairs & Maint	2,036.81	6,800.00	3,000.00	
5830	Fuel	2,628.59	5,000.00	4,000.00	
5840	Equipment	17,324.27	24,000.00	8,000.00	
5841	Equipment Rental	-	-	15,000.00	
5850	Vehicle Replacement Fund	-	3,500.00	7,000.00	
5860	ROW Maintenance	-	5,000.00	5,000.00	
	TOTAL EXPENSES	209,834.14	575,722.70	576,974.90	

Please note: In preparation for new Enterprise Resource Planning (ERP) Financial Software, some account numbers have been changed to align with a new (standardized) chart of accounts.

Account	Description	YTD Actual Thru 7-31-21	Previous Budget	Proposed Budget	Adopted Budget
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EXPENSES

32	PARKS & REC				
5320	Supplies			2,500.00	
5326	Uniforms			1,000.00	
5455	Signs & Postings			500.00	
5461	Park Improvements	-	35,000.00	35,000.00	
5462	Park Maintenance	46,903.93	70,000.00	70,000.00	
5730	Contract Services				
	Fireworks Display			25,000.00	
	Other Contract services			8,000.00	
TOTAL EXPENSES		46,903.93	105,000.00	142,000.00	

NOTE: This department did not appear in previous budgets, and is created primarily for the purpose of tracking expenses and planning activities associated with the City's parks and community events. The Iowa Colony Parks and Recreation Advisory Board assists with planning events with the assistance of a staff liaison.

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Account	Description	YTD Actual Thru 7-31-21	Previous Budget	Proposed Budget	Adopted Budget
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EXPENSES

35	COMMUNITY DEVELOPMENT				
5101	Salaries - Full-Time	32,340.00	40,040.00	43,492.80	
5104	Salaries - Overtime	826.45	1,500.00	1,500.00	
5106	Social Security/Medicare	6,558.55	9,297.81	3,327.20	
5107	TMRS	10,841.74	12,773.85	3,914.35	
5108	Health & Life Insurance	9,205.00	8,745.00	7,400.00	
5109	Worker's Comp	-	5,234.05	1,544.86	
5110	Texas Workforce Commission	648.00	324.00	252.00	
5114	Benefits Admin Fees	-	-	72.00	
5115	Longevity Pay	120.00	240.00	240.00	
5117	Certification Pay	-	480.00	-	
5212	Early Platting Escrow Exp. INV	65,955.58	-	-	
5214	Engineering Services				
	35-5216 - Platting	93,885.14	150,000.00	120,000.00	
	35-5217 - Plan Review	45,530.88	100,000.00	95,000.00	
	35-5217 - Permits/ Inspections	169,967.04	195,000.00	200,000.00	
	35-5218 - Engineering Svcs - Other	50,065.40	80,000.00	75,000.00	
	Total 35-5214 Engineering Services	359,448.46	525,000.00	490,000.00	
5219	Professional Services	31,053.56	85,000.00	50,000.00	
5220	TIF Fund (70% of TIF revenue)	717,134.47	-	1,071,000.00	
	MUD 31 Expense	1,000,617.98	-	1,265,000.00	
5221	ICVFD Contract Services/ Equip	-	6,000.00		
5246	Software Subscription/ License	3,677.28	-	14,000.00	
5320	Supplies	2,106.75	-	1,000.00	
5326	Uniforms	4,055.87	-	500.00	
5410	Technology	1,171.37	-	-	
5455	Signage & Postings	322.50	4,000.00	500.00	
5722	Credit Card Fees	11,631.40	10,000.00	-	
	TOTAL EXPENSES	2,257,714.96	708,634.71	2,953,743.22	

Please note: In preparation for new Enterprise Resource Planning (ERP) Financial Software, some account numbers have been changed to align with a new (standardized) chart of accounts. Expenses associated with the TIRZ and MUD31 tax rebates are included in this departmental budget but were not previously identified as revenue and expense. New Permit Department software is being implemented and represents the largest increase herein.

Account	Description	YTD Actual Thru 7-31-21	Previous Budget	Proposed Budget	Adopted Budget
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EXPENSES

36	FIRE MARSHAL/BUILDING OFFICIAL				
5101	Salaries - Full-Time	58,968.81	80,000.00	88,980.72	
5106	Social Security/Medicare			6,807.03	
5107	TMRS			8,008.26	
5108	Health & Life Insurance			7,400.00	
5109	Worker's Comp			3,160.60	
5110	Texas Workforce Commission	-	162.00	252.00	
5114	Benefits Admin Fees			72.00	
5215	Building Inspector Fees	674,701.00	295,500.00	300,000.00	
5246	Dues & Memberships	-	-	4,000.00	
5320	Office Supplies	-	-	500.00	
5321	Postage	-	-	200.00	
5322	Investigation Supplies	-	-	1,000.00	
5323	Fire Prevention Supplies	-	-	3,000.00	
5326	Uniforms/Police supplies	-	-	1,000.00	
5411	Travel & Training	85.00	-	4,000.00	
5810	Vehicle Insurance	-	-	1,000.00	
5820	Vehicle Repairs & Maint	3,580.39	-	1,500.00	
5830	Fuel	910.50	-	2,000.00	
5840	Equipment	8,937.28	-	2,000.00	
5850	Vehicle Replacement Fund	-	3,500.00	7,000.00	
	TOTAL EXPENSES	747,182.98	379,162.00	441,880.61	

Please note: In preparation for new Enterprise Resource Planning (ERP) Financial Software, some account numbers have been changed to align with a new (standardized) chart of accounts. This position was added in the previous year but no departmental budget was included. Most of these expenses were previously budgeted in Admin or Comm Dev.

Account	Description	YTD Actual Thru 7-31-21	Previous Budget	Proposed Budget	Adopted Budget
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EXPENSES

90	CAPITAL AND PLANNING PROJECTS				
	Public Safety Building Reserve	-	500,000.00	500,000.00	
	Purchase of Prop. Next to CH	5,212.31	-	-	
	990 - Contingency	-	35,000.00	35,000.00	
	991 - PD-Vehicle	15,000.00	35,000.00	-	
	993 - Planning Projects	44,975.00	200,000.00	180,000.00	
	994 - Public Works Vehicle	-	-	-	
	90- CAPITAL AND PLANNING PROJECTS	-	175,000.00	200,000.00	
	TOTAL EXPENSES	65,187.31	945,000.00	915,000.00	

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Account	Description	YTD Actual Thru 7-31-21	Previous Budget	Proposed Budget	Adopted Budget
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EXPENSES

95	BOND	-	-	-	
5211	Legal	-	-	-	
6100	Interest Expense	18,276.98	-	24,000.00	
6105	Bond Premium	80,000.00	-	75,000.00	
95	BOND - Other	-		-	
TOTAL EXPENSES		98,276.98	-	99,000.00	

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FY2021-2022
Crime Control and Prevention Proposed Budget

Code	Description	Approved FY20-21	Proposed FY21-22	Difference
	<u>Overtime</u>			
42-5125	Overtime	\$ 5,000.00	\$ 5,000.00	\$ -
	<u>Community Relations</u>			
42-5320	Supplies & Printing	\$ 10,000.00	\$ 6,000.00	\$ 4,000.00
42-5325	Miscellaneous	\$ 5,000.00	\$ 5,000.00	\$ -
	<u>Technology</u>			
42-5410	Technology	\$ 20,000.00	\$ 5,000.00	\$ 15,000.00
	<u>Investigative Equipment</u>			
42-5499	Investigations	\$ 12,000.00	\$ 5,000.00	\$ 7,000.00
	<u>Body Cam</u>			
42-5840	Equipment	\$ 10,000.00	\$ -	\$ -
	<u>Training</u>			
42-5411	Travel & Training	\$ 10,000.00	\$ 10,000.00	\$ -
	<u>Patrol Equipment</u>			
42-5840	Equipment	\$ 6,000.00	\$ 4,000.00	\$ 2,000.00
	<u>Capital Project(s)</u>			
42-5840	Equipment	\$ 26,000.00	\$ 140,000.00	\$ 114,000.00
Totals		\$ 104,000.00	\$ 180,000.00	\$ 76,000.00

FY2021-2022
Crime Control and Prevention Proposed Budget

Overtime Funds: Funds allocated will provide for patrols in neighborhoods identified as needing special attention by law enforcement. These patrols will focus on reducing the crime rate and improving quality of life for citizens in the affected areas. Funds allocated will also provide for necessary overtime during community relation projects and events.

Community Relations: The department will utilize funds for community relations and involvement. Programs including neighborhood watch, crime prevention, and others will be created. Funds will be also be used to purchase public relation items for giveaway at community events.

Technology: Funds will be used to upgrade and enhance technology within the department. This includes upgrades to computers and servers, new computer programs, and various other needs.

Investigative Equipment: Funds allocated will be used to provide equipment and training to conduct complex criminal investigations. Purchase of these items will reduce the dependency on outside agencies for assistance and

Training: The department will utilize these funds to pay tuition, per-diam, and travel related expenses for officers to attend specialized training in various topics.

Patrol Equipment: These funds will purchase upgraded and new equipment, and maintain existing equipment for patrol officers. Items include window tint meters, portable breath testers, speed lidars, and other equipment for use by officers in the field.

Capital Projects: These funds will be used or encumbered for larger projects such as radio system enhancements, starting a new communications division, enhancements or purchase of new records management system, police department vehicles with associated equipment and/or other larger projects.

AMERICAN RESCUE PLAN ACT ADMINISTRATION SERVICES

THIS AGREEMENT, MADE THIS JULY 19, 2021 BY AND BETWEEN THE CITY OF IOWA COLONY, TEXAS, hereinafter referred to as Client ("Client"), and GRANTWORKS, INC., Austin, Texas, hereinafter referred to as Consultant ("Consultant"), procured in conformance with Texas Government Code Chapter 2254, Subchapter A, "Professional Services".

I. SCOPE OF BASIC SERVICES

Consultant agrees to render administration services for Client's American Rescue Plan Act of 2021 ("ARPA") award (the "Contract"), as administered by the U.S. Department of Treasury (the "Department"), as provided in the provisions titled, "Part III, Scope of Basic Services" and attached hereto and incorporated by reference herein (the "Services").

II. TIME OF PERFORMANCE

The time of services of the Consultant shall commence no earlier than the date of this agreement. In any event, Consultant shall use commercially reasonable efforts to perform all services required and performed hereunder within either December 31, 2026, or the completion date of this program, whichever is sooner.

III. COMPENSATION AND METHOD OF PAYMENT

For and in consideration of the foregoing, Client agrees to pay Consultant a firm fixed price of Fifty-Seven Thousand Eight Fifty-Five and no/100 Dollars, (\$57,855.00) in accordance with the following schedule. Listing of specific milestones shall not be construed as a representation or warranty, and Consultant makes no representations or warranties, that these milestones measure overall contract progress facilitated by the Consultant's performance of the services, and any particular milestone will be achieved or that any specific Department or other requirements ultimately will be met. The fee schedule shall be based upon identified contract milestones, as follows:

Milestone		Billable Amount	Project Deliverable
Project Selection completed	15%	\$8,678.00	List of projects created and assigned preliminary budgets
Policies/Procedures and/or implementation strategy established	16%	\$9,257.00	P&P documentation (where appropriate), procurement documents, documentation supporting eligibility of each expense / project
25% of allocated funds expended	16%	\$9,257.00	\$185,809.24 expended
50% of allocated funds expended	16%	\$9,257.00	\$371,618.49 expended
75% of allocated funds expended	16%	\$9,257.00	\$557,427.73 expended
All allocated funds expended	16%	\$9,257.00	\$743,236.97 expended
Transfer of all close-out docs	5%	\$2,892.00	All reports filed with TDEM / USDT, all docs and records transferred. Closeout meeting complete
Total of all milestones		\$57,855.00	

Note: Administrative Activities include General Administration, Financial Management, Basic Acquisition, and Construction Phase Management services as referenced in Part III—Scope of ARPA Administration Services.

IV. ADDITIONAL SERVICES

Section III above discusses compensation for the administration of ARPA direct allocation under Subtitle M section 603 of the American Rescue Plan Act. Rates and/or Fee for application, administration, or management of activities funded under other provisions of the ARP Act will be negotiated and provided as an addendum to this contract.

Fees for any professional services required to carry out project-related activities that must be furnished by a third-party professional including but not limited to accountant, appraiser, archaeologist, architect, attorney, auditor, biologist or other natural scientist, engineer, historic preservationist, or surveyor, shall be in addition to the base fee payable to Consultant specified in Section III. Expenditures for such services shall require prior approval by Client.

V. CHANGES AND AMENDMENTS

The Client may, from time to time, request changes in the scope of services of the consultant to be performed hereunder. Such changes, including any increase or decrease in the amount of the Consultant's compensation, must be mutually agreed upon by and between the Client and the Consultant and shall be incorporated in written amendments to this Agreement. If a change is requested but the parties cannot agree on the specific terms of such change, the parties may mutually agree to terminate this Agreement. Absent such agreement to terminate, the Agreement will continue without the change.

VI. ASSIGNABILITY

Neither party shall assign any interest in this Agreement or transfer any interest in the same, without the prior written consent of the other party, not to be unreasonably withheld, provided, however, that claims for money by the Consultant from the Client under this Agreement may be assigned to a bank, trust company, or other financial institution without such approval. Written notice of any such assignment or transfer shall be furnished reasonably promptly to the Client.

VII. RECORDS AND AUDITS

During the term of this Agreement, the Consultant shall assist the Client in maintaining fiscal records and supporting documentation for all expenditures of funds made under the Contract. Such records must include data on racial, ethnic, and gender characteristics of persons who are applicants for, participants in, or beneficiaries of the funds provided under the Contract. Client shall retain such records, and any supporting documentation, for the greater of three years from closeout of the Contract or the period required by other applicable laws and regulations.

VIII. MISCELLANEOUS PROVISIONS

- A. Governing Law and Venue. This Agreement shall be governed and construed under and in accordance with the laws of the State of Texas, without regard to the conflicts of law provisions. The venue of any suit arising under the contract is fixed in any court of competent jurisdiction of Travis County, Texas, unless the specific venue is otherwise identified in a statute which directly names or otherwise identifies its applicability to the Client.
- B. Binding Effect; No Third-Party Beneficiaries. This Agreement shall inure to the benefit of, be binding upon, and be enforceable against, each Party and their respective successors, assigns, transferees and delegates.
- C. Severability. If any provision of this Agreement is construed to be illegal or invalid, such construction will not affect the legality or validity of any of its other provisions. The illegal or invalid provision will be deemed severable and stricken from the contract as if it had never been incorporated herein, but all other provisions will continue in full force and effect.
- D. Attorneys' Fees. If any action at law or in equity is necessary to enforce or interpret the terms of this Agreement, the prevailing party shall be entitled to reasonable attorneys' fees, costs, and necessary disbursement in addition to any other relief to which such party may be entitled.
- E. Provision of Information. It is agreed that all information, data, reports and records and maps as are existing, available and necessary for the carrying out of the work outlined in this Agreement shall be

furnished to the Consultant by the Client and its agencies. No charge will be made to Consultant for such information and the Client and its agencies will cooperate with Consultant in every way possible to facilitate the performance of the work described in this Agreement.

- F. Local Program Liaison. For purposes of this Contract, the Client shall designate an authorized person to serve as the Local Program Liaison and primary point of contact to the Consultant. All required progress reports and communication regarding the project shall be directed to this liaison and other local personnel as appropriate.
- G. Waiver of Consequential Damages. Notwithstanding any other provision to the contrary herein, neither party shall be liable to the other for any indirect, incidental, special or consequential damages or loss of profits, anticipated or otherwise, or loss of revenues in connection with or arising out of, or in connection with, the subject matter of this Agreement.
- H. Limitation of Liability. Each party agrees that, regardless of the type, nature or number of causes of action or claims by the Client (including without limitation claims for indemnity under this Agreement) or any third party claiming by, through or under the Client, the maximum amount of damages, individually or in the aggregate, that either party will be liable for or can be required to pay to the other or any other claimant is the amount of fees to be paid to the Consultant by the Client under this Agreement. The parties agree that this limitation of damages is reasonable and acknowledge that but for this limitation, neither party would enter into this Agreement.
- I. Entire Agreement. This Agreement constitutes the sole and entire agreement of the parties with regard to contemporaneous understandings or written or oral agreements between the parties respecting the subject matter of this Agreement.
- J. Negotiated Terms. The parties agree that the terms and conditions of this Agreement are the result of negotiations between the parties and that this Agreement shall not be construed in favor of or against either party by reason of the extent to which such party or its professional advisors participated in the preparation of this Agreement.
- K. Ownership of Work and Copyright. The parties agree that the Consultant retains all ownership rights to forms, reports, and other documents produced in whole or in part under this Agreement until such documents are completed as contemplated under this Agreement and placed in the official Contract record or submitted as final documents to the Client or the Department. Consultant shall retain all ownership rights to templates, internal tracking systems, and other documents produced by Consultant that have a common use applicable to multiple clients and are not produced specifically for the Client under this Agreement. No report, maps, or other documents produced in whole or in part under this Agreement shall be the subject of an application for copyright by or on behalf of the Consultant.
- L. Remedies, Alternative Dispute Resolution, and Program Non-Compliance. The parties hereto agree to resolve all disputes arising hereunder in accordance with this section. If a dispute arises out of or relates to this Agreement or any alleged breach hereof, including determination of responsibility for any costs disallowed as a result of non-compliance with federal, state or ARPA program requirements, the party desiring to resolve such dispute shall deliver a written notice of the dispute, including the specific claim in the dispute to the other party. Following the delivery of such notice, the parties involved in the dispute shall meet at least twice within the thirty (30) day period commencing with the date of the notice and in good faith shall attempt to resolve such dispute through negotiation. If any dispute is not resolved or settled by the parties as a result of such negotiation, the parties in good faith shall submit the dispute to non-binding mediation before a retired judge of a federal district court or Texas district court or a similarly qualified, mutually agreeable individual in Austin, Texas. The parties shall bear the costs of such mediation equally. If the dispute is not resolved through such mediation, either party may proceed to file suit.

M. Force Majeure. A "Force Majeure Event" means any event or cause beyond a party's reasonable control (including without limitation, construction delays, fire, flood, rain, weather, casualty, explosions, damage by third parties whether negligently or intentionally caused, strikes, work stoppages, picketing, acts of God or other casualties, or the laws or actions of any governmental authority), as a result of which at any time a party is unable to perform any of its obligations under this Agreement. If a Force Majeure Event occurs during the term of this Agreement that prevents the Consultant from performing its obligations hereunder, the Consultant and the Client will in good faith mutually agree on one of the following alternatives: (1) extend the time for performance, or (2) terminate this Agreement and, as mutually agreed, cause the payment to Consultant of fees not yet paid for services performed prior to the occurrence of the Force Majeure Event or cause the refund to Client of fees previously paid for services that were not performed prior to the occurrence of the Force Majeure Event.

IX. TERMS AND CONDITIONS

This Agreement is subject to the provisions titled "Part II Terms and Conditions" and "Part III Scope of Basic Services," which each are attached hereto and hereby are incorporated by reference.

IN WITNESSETH HEREOF, the Client and the Consultant have executed this Agreement as of the effective date indicated above.

**GrantWorks, Inc.
2201 Northland Drive
Austin, Texas 78756**

**City of Iowa Colony, Texas
12003 Iowa Colony Blvd
Iowa Colony, Texas 77583-5719**

BY:

BY:

**Bruce J. Spitzengel
President**

**Michael Byrum-Bratsen
Mayor**

DATE: _____

DATE: _____

ATTEST:

BY: _____
City Secretary

**AGREEMENT FOR ADMINISTRATIVE MANAGEMENT SERVICES
PART II - TERMS AND CONDITIONS**

1. **USE OF FUNDS.** a. Recipient understands and agrees that the funds disbursed under this award may only be used in compliance with section 603(c) of the Social Security Act (the “Act”), Treasury’s regulations implementing that section, and guidance issued by Treasury regarding the foregoing.
b. Recipient will determine prior to engaging in any project using this assistance that it has the institutional, managerial, and financial capability to ensure proper planning, management, and completion of such project.
2. **PERIOD OF PERFORMANCE.** The period of performance for this award begins on the date hereof and ends on December 31, 2026. As set forth in Treasury’s implementing regulations, Recipient may use award funds to cover eligible costs incurred during the period that begins on March 3, 2021 and ends on December 31, 2024.
3. **REPORTING.** Recipient agrees to comply with any reporting obligations established by the Treasury as they relate to this award.
4. **ACCESS TO RECORDS.** In accordance with 2 CFR 200.337, during the Agreement’s time of performance the grantee, the subgrantee, the Federal grantor agency, the Comptroller General of the United States, or any of their duly authorized representatives will have access to any books, documents, papers, and records maintained by the Consultant which are directly pertinent to the Contract for the purpose of making audit, examination, excerpts, and transcriptions.
5. **PRE-AWARD COSTS.** Pre-award costs, as defined in 2 C.F.R. § 200.458, may not be paid with funding from this award.
6. **ADMINISTRATIVE COSTS.** Recipient may use funds provided under this award to cover both direct and indirect costs.
7. **COST SHARING.** Cost sharing or matching funds are not required to be provided by the Recipient.
8. **CONFLICTS OF INTEREST.** Recipient understands and agrees it must maintain a conflict-of-interest policy consistent with 2 C.F.R. § 200.318(c) and that such conflict-of-interest policy is applicable to each activity funded under this award. Recipient and subrecipients must disclose in writing to the Treasury or the pass-through entity, as appropriate, any potential conflict of interest affecting the awarded funds in accordance with 2 C.F.R. § 200.112.
9. **COMPLIANCE WITH APPLICABLE RULES AND REGULATIONS.** a. Recipient agrees to comply with the requirements of section 603 of the Act, regulations adopted by Treasury pursuant to section 603(f) of the Act, and guidance issued by Treasury regarding the foregoing. Recipient also agrees to comply with all other applicable federal statutes, regulations, and executive orders, and Recipient shall provide for such compliance by other parties in any agreements it enters into with other parties relating to this award. b. Federal regulations applicable to this award include, without limitation, the following: i. Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, 2 C.F.R. Part 200, other than such provisions as Treasury may determine, are inapplicable to this Award and subject to such exceptions as may be otherwise provided by Treasury. Subpart F – Audit Requirements of the Uniform Guidance, implementing the Single Audit Act, shall apply to this award. ii. Universal Identifier and System for Award Management (SAM), 2 C.F.R. Part 25, pursuant to which the award term set forth in Appendix A to 2 C.F.R. Part 25 is hereby incorporated by reference. iii. Reporting Subaward and Executive Compensation Information, 2 C.F.R. Part 170, pursuant to which the award term set forth in Appendix A to 2 C.F.R. Part 170 is hereby incorporated by reference. iv. OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Non-procurement), 2 C.F.R. Part 180, including the requirement to include a term

or condition in all lower tier covered transactions (contracts and subcontracts described in 2 C.F.R. Part 180, subpart B) that the award is subject to 2 C.F.R. Part 180 and Treasury's implementing regulation at 31 C.F.R. Part 19. v. Recipient Integrity and Performance Matters, pursuant to which the award term set forth in 2 C.F.R. Part 200, Appendix XII to Part 200 is hereby incorporated by reference. vi. Governmentwide Requirements for Drug-Free Workplace, 31 C.F.R. Part 20. vii. New Restrictions on Lobbying, 31 C.F.R. Part 21. viii. Uniform Relocation Assistance and Real Property Acquisitions Act of 1970 (42 U.S.C. §§ 4601-4655) and implementing regulations. ix. Generally applicable federal environmental laws and regulations. c. Statutes and regulations prohibiting discrimination applicable to this award include, without limitation, the following: i. Title VI of the Civil Rights Act of 1964 (42 U.S.C. §§ 2000d et seq.) and Treasury's implementing regulations at 31 C.F.R. Part 22, which prohibit discrimination on the basis of race, color, or national origin under programs or activities receiving federal financial assistance; ii. The Fair Housing Act, Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§ 3601 et seq.), which prohibits discrimination in housing on the basis of race, color, religion, national origin, sex, familial status, or disability; iii. Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of disability under any program or activity receiving federal financial assistance; iv. The Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101 et seq.), and Treasury's implementing regulations at 31 C.F.R. Part 23, which prohibit discrimination on the basis of age in programs or activities receiving federal financial assistance; and v. Title II of the Americans with Disabilities Act of 1990, as amended (42 U.S.C. §§ 12101 et seq.), which prohibits discrimination on the basis of disability under programs, activities, and services provided or made available by state and local governments or instrumentalities or agencies thereto.

10. **REMEDIAL ACTIONS.** In the event of Recipient's noncompliance with section 603 of the Act, other applicable laws, Treasury's implementing regulations, guidance, or any reporting or other program requirements, Treasury may impose additional conditions on the receipt of a subsequent tranche of future award funds, if any, or take other available remedies as set forth in 2 C.F.R. § 200.339. In the case of a violation of section 603(c) of the Act regarding the use of funds, previous payments shall be subject to recoupment as provided in section 603(e) of the Act.
11. **HATCH ACT.** Recipient agrees to comply, as applicable, with requirements of the Hatch Act (5 U.S.C. §§ 1501-1508 and 7324-7328), which limit certain political activities of State or local government employees whose principal employment is in connection with an activity financed in whole or in part by this federal assistance.
12. **FALSE STATEMENTS.** Recipient understands that making false statements or claims in connection with this award is a violation of federal law and may result in criminal, civil, or administrative sanctions, including fines, imprisonment, civil damages and penalties, debarment from participating in federal awards or contracts, and/or any other remedy available by law.
13. **PUBLICATIONS.** Any publications produced with funds from this award must display the following language: "This project [is being] [was] supported, in whole or in part, by federal award number [enter project FAIN] awarded to [name of Recipient] by the U.S. Department of the Treasury."
14. **DEBTS OWED THE FEDERAL GOVERNMENT.** a. Any funds paid to Recipient (1) in excess of the amount to which Recipient is finally determined to be authorized to retain under the terms of this award; (2) that are determined by the Treasury Office of Inspector General to have been misused; or (3) that are determined by Treasury to be subject to a repayment obligation pursuant to section 603(e) of the Act and have not been repaid by Recipient shall constitute a debt to the federal government. b. Any debts determined to be owed the federal government must be paid promptly by Recipient. A debt is delinquent if it has not been paid by the date specified in Treasury's initial written demand for payment, unless other satisfactory arrangements have been made or if the Recipient knowingly or improperly retains funds that are a debt as defined in paragraph 14(a). The Treasury will take any actions available to it to collect such a debt.

15. **DISCLAIMER.** a. The United States expressly disclaims any and all responsibility or liability to Recipient or third persons for the actions of Recipient or third persons resulting in death, bodily injury, property damages, or any other losses resulting in any way from the performance of this award or any other losses resulting in any way from the performance of this award or any contract, or subcontract under this award. b. The acceptance of this award by Recipient does not in any way establish an agency relationship between the United States and Recipient.
16. **PROTECTIONS FOR WHISTLEBLOWERS.** a. In accordance with 41 U.S.C. § 4712, Recipient may not discharge, demote, or otherwise discriminate against an employee in reprisal for disclosing to any of the list of persons or entities provided below, information that the employee reasonably believes is evidence of gross mismanagement of a federal contract or grant, a gross waste of federal funds, an abuse of authority relating to a federal contract or grant, a substantial and specific danger to public health or safety, or a violation of law, rule, or regulation related to a federal contract (including the competition for or negotiation of a contract) or grant. b. The list of persons and entities referenced in the paragraph above includes the following: i. A member of Congress or a representative of a committee of Congress; ii. An Inspector General; iii. The Government Accountability Office; iv. A Treasury employee responsible for contract or grant oversight or management; v. An authorized official of the Department of Justice or other law enforcement agency; vi. A court or grand jury; or vii. A management official or other employee of Recipient, contractor, or subcontractor who has the responsibility to investigate, discover, or address misconduct. c. Recipient shall inform its employees in writing of the rights and remedies provided under this section, in the predominant native language of the workforce.
17. **TERMINATION OF AGREEMENT FOR CAUSE.** In accordance with 2 CFR 200 APPENDIX II (B), if the Consultant shall fail to fulfill in a timely and proper manner his/her obligations under this Agreement, or if the Consultant shall violate any of the covenants, agreements, or stipulations of this Agreement, the Client shall provide written notice to Consultant reasonably specifying the failure or violation. If Consultant fails to cure such failure or violation within five (5) business days of receiving such notice or, if the failure or violation is incapable of cure within such time frame, to begin to take actions to cure such failure or violation and to diligently pursue them to completion, Client thereupon shall have the right to terminate this Agreement immediately by giving written notice to the Consultant. Consultant shall be entitled to receive just and equitable compensation for any work satisfactorily completed hereunder. In such event, all finished documents, data, studies, surveys, drawings, maps, models, photographs and reports prepared by the Consultant under this Agreement shall, at the option of the Client, become its property.
18. **TERMINATION OF AGREEMENT FOR CONVENIENCE.** Either the Client or the Consultant may terminate this Agreement at any time by providing at least ten (10) days' notice in writing to the other party to this Agreement. If the Agreement is terminated as provided herein, the Consultant will be paid for the time provided and expenses incurred up to the termination date. In such event, all finished documents, data, studies, surveys, drawings, maps, models, photographs, and reports prepared by the Consultant under this Agreement shall, at the option of the Client, become its property.
19. **DEBARMENT AND SUSPENSION (EXECUTIVE ORDERS 12549 AND 12689, 2 CFR part 180).** The Consultant certifies, by entering into this Agreement, that neither it nor its principals are presently debarred, suspended, or otherwise excluded from or ineligible for participation in federally assisted programs under Executive Orders 12549 (1986) and 12689 (1989). The term "principal" for purposes of this Agreement is defined as an officer, director, owner, partner, key employee, or other person with primary management or supervisory responsibilities, or a person who has a critical influence on or substantive control over the operations of the Consultant. The Consultant understands that it must not make any award or permit any award (or contract) at any tier to any party which is debarred or suspended or is otherwise excluded from or ineligible for participation in Federal assistance programs under Executive Order 12549, "Debarment and Suspension."

20. **FEDERAL COMPLIANCE.** During the term of this Agreement, the parties shall comply with all Federal laws, regulations, and rules including the following:
- a. **CIVIL RIGHTS ACT OF 1964.** Under Title VI of the Civil Rights Act of 1964, no person shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits, or be subjected to discrimination under any program or activity receiving Federal financial assistance.
 - b. **Section 504 Rehabilitation Act of 1973, as amended.** The Consultant agrees that no otherwise qualified individual with disabilities shall, solely by reason of his/her disability, be denied the benefits of, or be subjected to discrimination, including discrimination in employment, under any program or activity receiving federal financial assistance.
 - c. **AGE DISCRIMINATION ACT OF 1975.** The Consultant shall comply with the Age Discrimination Act of 1975 which provides that no person in the United States shall on the basis of age be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.
 - d. **SECTIONS 106(b), 102(a)(4) and A109 OF THE HOUSING & COMMUNITY DEVELOPMENT ACT OF 1974.**
 - i. Under Title VI of the Civil Rights Act of 1964, no person shall on the ground of race, color, religion, national origin or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with funds made available under this Title.
 - e. **EQUAL OPPORTUNITY CLAUSE.** During the performance of this Agreement, the Consultant agrees as follows:
 - i. The Consultant will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The Consultant will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Consultant agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.
 - ii. The Consultant will, in all solicitations or advertisements for employees placed by or on behalf of the Consultant, state that all qualified applicants will receive considerations for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.
 - iii. The Consultant will not discourage or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the Consultant's legal duty to furnish information.
 - iv. The Consultant will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the Consultant's commitments under this section and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

- v. The Consultant will comply with all provisions of Executive Order 11246 of September 24, 1965, "Equal Employment Opportunity," and of the rules, regulations, and relevant orders of the Secretary of Labor.
- vi. The Consultant will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- vii. In the event of the Consultant's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the Consultant may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
- viii. The Consultant will include the portion of the sentence immediately preceding paragraph (i) and the provisions of paragraphs (i) through (vii) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Consultant will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance: Provided, however, that in the event a Consultant becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency the Consultant may request the United States to enter into such litigation to protect the interests of the United States.

21. **CONTRACTING WITH SMALL AND MINORITY BUSINESSES, WOMEN'S BUSINESS ENTERPRISES, AND LABOR SURPLUS AREA FIRMS.**

- a. The Consultant must take all necessary affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible.
- b. Affirmative steps must include:
 - i. Placing qualified small and minority businesses and women's business enterprises on solicitation lists;
 - ii. Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;
 - iii. Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises;
 - iv. Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises;
 - v. Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce; and
 - vi. Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed in paragraphs (1) through (5) of this section.

22. **PATENT RIGHTS AND INVENTIONS.** The Consultant shall comply with the requirements and regulations pertaining to patent rights with respect to any discovery or invention which arises or is

developed in the course of or under such contract. (2 CFR 200 Appendix II (f) and Rights to Inventions in 37 CFR Part 401).

23. **RIGHTS TO INVENTIONS MADE UNDER A CONTRACT OR AGREEMENT.** If the Federal award meets the definition of “funding agreement” under 37 CFR §401.2 (a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding agreement,” the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” and any implementing regulations issued by the awarding agency. (2 CFR 200 Appendix II (B))
24. **ENERGY EFFICIENCY.** The Consultant shall comply with the mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub. L. 94A 163, 89 Stat. 871). (2 CFR 200 APPENDIX II (H) and 42 U.S.C. 6201).
25. **VERIFICATION NO BOYCOTT ISRAEL.** As required by Chapter 2271.002, Texas Government Code, the Consultant hereby verifies that it does not boycott Israel and will not boycott Israel through the term of this Agreement. For purposes of this verification, “boycott Israel”, as defined by §808.001(1) of the Texas Government Code, means refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations specifically with Israel, or with a person or entity doing business in Israel or in an Israeli-controlled territory, but does not include an action made for ordinary business purposes.
26. **NO FOREIGN TERRORIST ORGANIZATIONS.** Pursuant to Chapter 2252.152, Texas Government Code, the Consultant represents and certifies that, at the time of execution of this Agreement neither the Consultant, nor any wholly owned subsidiary, majority-owned subsidiary, parent company or affiliate of the same (i) engages in business with Iran, Sudan, or any foreign terrorist organization as described in Chapters 806 or 807 of the Texas Government Code, or Subchapter F of Chapter 2252 of the Texas Government Code, or (ii) is a company listed by the Texas Comptroller of Public Accounts under Sections 806.051, 807.051, or 2252.153 of the Texas Government Code. The term “foreign terrorist organization” in this paragraph has the meaning assigned to such term in Section 2252.151 of the Texas Government Code.

AGREEMENT FOR ARPA ADMINISTRATION SERVICES PART III - SCOPE OF BASIC SERVICES

Depending on the selected project(s), some provisions may not apply. The type(s) of project(s) selected will determine the type(s) of service(s) necessary to implement the project(s). See below for project types.

A. Projects with Beneficiaries including Households, Non-profits, Businesses, and Industries:

1. Identify the need for this program.
2. Project planning, design, and startup: Assist recipient with procuring necessary vendors as needed.
3. Intake meetings: Advertise, schedule, and conduct intake with interested potential beneficiaries. During intake meetings case managers will collect all available documentation necessary to determine eligibility.
4. Eligibility verification: Management staff will review all intake documentation and verify eligibility; If applicable, verify duplicative benefits (DOB); Maintain recipient data in a secure system and comply with all record-keeping requirements: Assistance package generation and approval; Review change requests and all required documentation related to any change requests; and Final Documentation

of recipients: File, audit, and closeout; and Complete final audit to ensure all procedures were properly followed.

B. Premium Pay to Eligible Workers and Eligible Employers:

1. Identify the need for this program.
2. Project planning, design, and startup.
3. Advertise, schedule, and conduct intake with interested potential eligible employers: During intake meetings case managers will collect all available documentation necessary to determine eligibility.
4. Eligibility verification: Management staff will review all intake documentation and verify eligibility; If applicable, verify duplicative benefits (DOB); and Maintain recipient data in a secure system and comply with all record-keeping requirements.
5. Assistance package generation and approval.
6. Review change requests and all required documentation related to any change requests.
7. Final Documentation of recipients: File, audit, and closeout; and Complete final audit to ensure all procedures were properly followed.

C. Reconciliation of Revenue Reductions:

1. Identify the need for this program.
2. Project planning, design, and startup.
3. Calculate revenue loss in accordance with Department of Treasury guidance.
4. Review change requests and all required documentation related to any change requests.
5. Final Documentation of recipients.
6. File, audit, and closeout.
7. Complete final audit to ensure all procedures were properly followed.

D. Necessary Water, Sewer, or Broadband Infrastructure:

1. Identify the need for this program.
2. Project planning, design, and startup: Assist recipient with procuring necessary vendors as needed.
3. Assist with developing contract/bid packages that meet ARP program requirements.
4. Assist with monitoring and reporting contractor's performance.
5. Receive, review, recommend, and process any change orders as appropriate to the individual projects.
6. Assist the recipient with vendor Draws/Close Out.
7. Compile and review for completeness contract/closeout packages that meet ARP program requirements.
8. Labor Standards duties (as required): Monitor compliance with all relevant labor standards regulations; and Maintain document files to support compliance.
9. Environmental Services: Review each project description to ascertain and/or verify the level of environmental review requirements; Prepare, complete, and submit required forms for environmental review and provide all documentation to support environmental findings; Consult and coordinate with oversight/regulatory agencies to facilitate environmental clearance; and Reporting.
10. Acquisition Duties: Submit acquisition reports and related documents; Establish acquisition files (if necessary); and Complete acquisition activities (if necessary).

E. General Administration

1. Provide general advice to the Client and its staff with respect to the implementation of the project and regulatory matters.
2. Furnish forms, policies, and procedures for implementation of the project.
3. Provide technical assistance to Client personnel who will be directly involved in the program for routine tasks, using the American Rescue Plan Act of 2021 ("ARPA") - Project Implementation Guidelines.
4. Assist Client in developing a record keeping system consistent with program guidelines, including the establishment and maintenance of program files.

5. Serve as liaison for the Client during normal monitoring visits by staff representatives from either the U.S. Department of Treasury ("USDT") or the state agency that oversees ARPA.
6. Prepare and submit to Department Client's required Periodic Progress Reports.
7. Assist Client in meeting 2 C.F.R. 200, Uniform Relocation Act, Section 504 of the Rehabilitation Act of 1973, as amended and other applicable requirements as may be required for participation in the ARPA program.
8. Assist Client in preparing Contract and/or Program Amendments and Modifications along with related documentation, public hearings, and notices as requested by Client.
9. Other general administration tasks not listed here that are requested by Client and agreed to in writing by Consultant.

F. Financial Management

1. Assist Client in establishing and maintaining a Direct Deposit account and/or separate local bank account, journals and ledgers.
2. Assist Client in submitting the Direct Deposit Authorization Form and/or Depository/Authorized Signatory form to Department.
3. Assist Client in preparation of drawdown requests from Department and disbursements of funds within the allotted time period.

G. Environmental Review

1. Assist Client in preparing environmental documents as necessary.

H. Audit/Close-out Procedures

1. Prepare final Reports, including any General Report, Financial Reports and Completion Reports, as required.
2. Assist Client in responding to any monitoring and audit findings and resolving any third-party claims.

Additional General Terms Regarding Third-Party Services

Some services will be performed by third-party service providers. See Section IV of this Agreement regarding special services outside the scope of work.

Assistance by Consultant with (1) verification of equipment suppliers or other service contractors, (2) selection of bid award winners, or (3) any other activity relating to contractors, subcontractors, bid award winners or any other third party not directly engaged through a written agreement with Consultant to provide services required to be provided by Consultant under this Agreement (collectively "Third Parties") is not intended to be and shall not be construed as an endorsement, representation or warranty by Consultant of any kind relating to such Third Party Service Providers or of the quality of such Third Parties work, and all such endorsements, representations or warranties hereby are expressly disclaimed.

Assistance by Consultant with the fulfillment of any requirements imposed by Third Parties, governmental or otherwise, shall not be construed as a representation or warranty, and Consultant makes no representations or warranties, that any particular requirement will be achieved or met, and Consultant assumes no responsibility for the achievement or failure to achieve such requirements.

All assistance by Consultant described in this Agreement based on information provided by Third Parties shall be considered information provided by Client, and Consultant shall be entitled to rely on such information without any additional duty of inquiry or investigation.

**ADDENDUM TO AGREEMENT
BETWEEN THE CITY OF IOWA COLONY AND
GRANTWORKS, INC.**

1. Introduction.

This Addendum is a part of, and is hereby expressly incorporated into, the agreement of approximately even date herewith, between the City of Iowa Colony (“City,” “Client, or “Owner”) and Grantworks, Inc. (“Grantworks,” “Consultant,” or “Contractor”), which agreement also includes the American Rescue Plan Act Administration Services, the Agreement for Administrative Management Services Part II – Terms and Conditions, the Agreement for ARPA Administration Services part III – Scope of Basic Services, and any other parts of that agreement. Any reference to “the Contract” or “the Agreement” shall include all parts of that agreement, including but not limited to this Addendum.

2. Addendum Governs and Controls.

This Addendum shall govern and control over any conflicting terms in any other part of the Contract.

3. Jurisdiction and Venue.

Exclusive venue shall lie in Brazoria County, Texas, or if there is federal jurisdiction, then also in a United States Court for the Southern District of Texas, for any dispute between City and Contractor concerning this Contract or the subject matter hereof.

4. Insurance.

A. During the term of this agreement and for two years thereafter, Contractor shall carry the following minimum insurance:

1. Full coverage and compliance under the Worker’s Compensation laws of the State of Texas;
2. Comprehensive General Liability Insurance in the minimum amount of \$1,000,000.00 for any one person in any one incident and in the minimum amount of \$1,000,000.00 for any one incident;
3. Excess liability umbrella insurance in the amount of \$1,000,000;
4. Upon each and every unit of automotive equipment operated or used by Contractor in the performance of this contract, as follows:

- i. Automotive Public Liability Insurance in the amount of \$1,000,000.00 for any one person in any one incident, and \$1,000,000.00 for any one incident;
- ii. Automotive Property Damage Insurance in the amount \$1,000,000.00.

B. All Certificates of Insurance shall be furnished to and approved by Client.

C. All such insurance shall be carried in or by companies licensed to provide insurance in the State of Texas by the State Board of Insurance and approved by Client. Contractor shall furnish Client a certificate or certificates properly executed by the insurance carrier, showing all such insurance to be in force, with no reductions to coverage due to any pending claim or claims paid, insured, and said certificate or certificates shall include the following statement: "The General Liability Insurance certified hereunder includes Contractor's Assumed Liability Coverage for liability assumed by the Insured under all written contracts between the City of Iowa Colony and the Insured." The certificate or certificates shall permit the cancellation or amendment of such policies only after thirty (30) days' written notice to Client, which such certificate or certificates shall be furnished Client prior to the commencement of any operations under this Agreement. The insurance required by this contract shall provide that it is the primary coverage.

The insurance policies that the Contract requires Contractor to maintain shall be issued by insurance companies in good standing and licensed to do business in Texas and reasonably acceptable to City. All insurance policies shall waive subrogation against City and its personnel and shall provide that these policies are the primary coverage. Contractor shall deliver to Client certificates of insurance showing such insurance before commencing any work hereunder.

5. Agreed Remedies.

- a. In recognition of the relative risks and benefits of the Project to both the Client and the Contractor, and acknowledging that the allocation of risks and limitations of remedies are business understandings between the parties, these risks and remedies shall apply to all possible legal theories of recovery. Client further agrees, to the fullest extent permitted by law, and notwithstanding any other provisions of this Agreement, that the total liability, in the aggregate, of the Contractor and Contractor's officers, directors, employees, agents, and subconsultants to the Client or to anyone claiming by, through or under the Client, for any and all claims, losses, costs or damages whatsoever arising out of, resulting from, or in any way related to, the services under this Agreement from any cause or causes of the Contractor or the Contractor's officers, directors, employees, agents, and subconsultants, shall not exceed the amounts of insurance that Contractor is required to have under this Agreement, regardless whether Contractor actually has that insurance, and regardless whether the insurance actually covers the claim.

- b. Without limiting the generality of the foregoing, this section replaces Section G. Waiver of Consequential Damages, and Section H. Limitation of Liability.

6. Attorneys' Fees.

In the event of litigation between the parties to this Contract arising out or relating to this Contract or the breach thereof ("disputes"), the prevailing party shall be entitled to recover from the nonprevailing party all of the prevailing party's reasonable attorneys' fees, court costs, and other costs of litigation. For purposes of this section, attorneys' fees and other costs incurred in connection with an unsuccessful attempt to settle, either informally or in mediation, are recoverable as costs of litigation. However, if the parties settle a dispute at any time or in any manner, then attorney's fees are recoverable from the other party to the settlement only if, and to the extent, provided in the settlement agreement. For purposes of this section, a "prevailing party" shall include a party who successfully defends against a claim, even if that defending party does not affirmatively recover on any claim of its own.

7. Independent Contractor.

Contractor shall be an independent Contractor under the terms of this Contract and shall assume all of the rights, obligations, and liabilities applicable to it as an independent Contractor hereunder, and any provision in this Contract which may appear to give City the right to direct Contractor as to the details of doing the work herein covered shall be deemed to mean that Contractor shall follow the desires of the City in the results of the work only.

8. Notices.

All notices between the parties under this Contract must be in writing and are effective when hand-delivered, actually received by any method, mailed by certified mail return receipt requested, or emailed to the party's address or email address stated below, whichever is earliest.

Notice to City: City of Iowa Colony
Attention: City Manager
12003 Iowa Colony Boulevard
Iowa Colony, TX 77583-5719
e-mail: rhemminger@iowacolonytx.com

With a copy to:
City of Iowa Colony
Attention: City Secretary
12003 Iowa Colony Boulevard
Iowa Colony, TX 77583-5719
e-mail: krosser@iowacolonytx.com

Notice to Consultant: GrantWorks, Inc.
Attention: President
2201 Northland Drive
Austin, TX 78756
e-mail: _____

A person may designate a different address by giving the other party written notice, as herein provided.

CITY OF IOWA COLONY

By: _____ Date Signed: _____
Robert Hemminger,
City Manager

Attest:

Kayleen Rosser, City Secretary

Copy

GRANTWORKS, INC.
By: _____ Date Signed: _____
Bruce J. Spitzengel, President

Attest by Another Authorized Officer:

Signature
Printed Name: _____
Title: _____

Bickerstaff Heath Delgado Acosta LLP

3711 S. MoPac Expy., Building 1, Suite 300, Austin, Texas 78746

ENGAGEMENT AGREEMENT

This agreement sets forth the standard terms of our engagement as your attorneys. Unless modified in writing by mutual agreement, these terms will be an integral part of our agreement with you. Therefore, we ask that you review this agreement carefully and contact us promptly if you have any questions. Please retain this agreement in your file.

Identity of Client. We will be representing the interests of the City of Iowa Colony, Texas (the "City").

Attorneys. Bickerstaff Heath Delgado Acosta LLP is engaged by you as your attorneys, and I, David Méndez, will be the partner who will coordinate and supervise the services we perform on your behalf. We routinely delegate selected responsibilities to other persons in our Firm when, because of special expertise, time availability or other reasons, they are in a better position to carry them out. In addition, we will try, where feasible and appropriate, to delegate tasks to persons who can properly perform them at the least cost to you.

The Scope of Our Work. You should have a clear understanding of the legal services we will provide. We will provide services related only to matters as to which we have been specifically engaged. Although in the future we may from time to time be employed on other matters, our present relationship is limited to representing the above-named client in the matters described in **Exhibit A**. We will at all times act on your behalf to the best of our ability. Any expressions on our part concerning the outcome of your legal matters are expressions of our best professional judgment, but are not guarantees. Such opinions are necessarily limited by our knowledge of the facts and are based on the state of the law at the time they are expressed. We cannot guarantee the success of any given matter, but we will strive to represent your interests professionally and efficiently.

Fees for Legal Services. Our charges for professional services are customarily based on the time devoted to the matter, the novelty and difficulty of the questions presented, the requisite experience, reputation and skill required to deal with those questions, time limitations imposed by the circumstances, and the amount involved and the results obtained. Unless otherwise indicated in writing, our fees for legal services are determined on the basis of the hourly rates of the respective lawyers and other timekeepers who perform the services. These rates vary depending on the expertise and experience of the individual. We will only adjust these rates with your consent and will notify you in writing if this fee structure is modified. The initial agreed billing rates for attorneys and other timekeepers engaged on your work are attached as **Exhibit B**.

Other Charges. All out-of-pocket expenses (such as copying charges, travel expenses, messenger expenses, filing and other court costs, and the like) incurred by us in connection with our representation of you will be billed to you as a separate item on your statement. A description of the most common expenses is included as **Exhibit C** and agreed to as part of this agreement.

Billing Procedures and Terms of Payment. Our billing period begins on the 16th of the month and ends on the 15th of the following month. We will render periodic invoices to you for legal services and expenses. We usually mail these periodic invoices on or before the last day of the month following the latest date covered in the statement. Each invoice is due upon receipt, must be paid in U.S. Dollars, and is considered delinquent if not paid in full within 30 days of its stated date. Payment must be made to the Firm at 3711 S. MoPac Expressway, Building One, Suite 300, Austin, Texas, 78746. We will include all information reasonably requested by you on all invoices and will reference any purchase order number provided by you. Payment and interest, if any, will comply with the Prompt Payment Act (Texas Government Code Chapter 2251), if applicable, for any final invoices. If you have any question or disagreement about any invoice that we submit to you for payment, please contact me at your earliest convenience so that we can resolve any problems without delay. Typically, such questions or disagreements can be resolved to the satisfaction of both sides with little inconvenience or formality.

Termination of Services. You have the right at any time to terminate our employment upon written notice to us, and if you do we will immediately cease to render additional services. We reserve the right to discontinue work on pending matters or terminate our attorney-client relationship with you at any time that payment of your account becomes delinquent, subject to Court approval if necessary. In the event that you fail to follow our advice and counsel, or otherwise fail to cooperate reasonably with us, we reserve the right to withdraw from representing you upon short notice, regardless of the status of your matter. No termination, whether by you or by us, will relieve you of the obligation to pay fees and expenses incurred prior to such termination.

Retention of Documents. Although we generally attempt to retain for a reasonable time copies of most documents in the possession of this Firm related to the matter(s) described in **Exhibit A**, we are not obligated to do so indefinitely, and we hereby expressly disclaim any responsibility or liability for failure to do so. We generally attempt to furnish copies of all documents and significant correspondence to you at the time they are created or received, and you agree to retain all originals and copies of documents you desire among your own files for future reference. This document serves as notice to you that we will destroy such materials in accordance with the Firm's record retention policy, which may be amended from time to time and a copy of which will be provided at your request. It is our Firm's policy to destroy all copies, whether in paper or electronic form, of materials in connection with the representation seven (7) years after the completion of our work relating to this engagement or the completion of a particular project under this engagement, unless and to the extent an exception recognized in our document retention policy or other legal requirement applies to some or all of the subject materials and requires retention for a longer period of time. The Firm also reserves the discretion to retain its records of pertinent documents relating to its ongoing representation of a client, e.g. in a general counsel capacity. If you would like to obtain copies of materials in the Firm's possession related to this matter prior to the scheduled destruction of the materials, please notify the Firm. Because you will have been furnished with copies of all relevant materials contained in our files during the course of the active phase of our representation, if you later ask us to retrieve and deliver materials contained in a file that has been closed, you agree that we will be entitled to be paid a reasonable charge for the cost of retrieving the file, and identifying, reproducing, and delivering the requested materials to you.

Fee Estimates. We are often requested to estimate the amount of fees and costs likely to be incurred in connection with a particular matter. Our attorneys do their best to estimate fees and expenses for particular matters when asked to do so. However, an estimate is just that, and the fees and expenses required are ultimately a function of many conditions over which we have little or no control, especially in litigation or negotiation situations where the extent of necessary legal services may depend to a significant degree upon the tactics of the opposition. Unless otherwise agreed in writing with respect to a specific matter, all estimates made by us will be subject to your agreement and understanding that such estimates do not constitute maximum or fixed-fee quotations and that the ultimate cost is frequently more or less than the amount estimated.

Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Texas, United States of America, without giving effect to its choice of law's provisions. Venue of any case or controversy arising under or pursuant to this Agreement will be exclusively in Brazoria County, Texas, United States of America.

Standards of Professionalism and Attorney Complaint Information. Pursuant to rules promulgated by the Texas Supreme Court and the State Bar of Texas, we hereby advise you that the State Bar of Texas investigates and prosecutes complaints of professional misconduct against attorneys licensed in Texas. Information on the grievance procedures is available from the State Bar of Texas, and any questions you have about the disciplinary process should be addressed to the Office of the General Counsel of the State Bar of Texas, which you may call toll free at 1-800-932-1900.

Questions. If you have any questions from time to time about any aspect of our arrangements, please feel free to raise those questions. We want to proceed in our work for you with your clear and satisfactory understanding about every aspect of our billing and payment policies; and we encourage an open and frank discussion of any or all of the matters addressed in this agreement.

Acceptance of Terms. If this arrangement is acceptable to the City, please sign the enclosed duplicate original of this agreement and return it and the required retainer to us at your earliest convenience. We truly appreciate the opportunity to be of service to you and look forward to working with you in a mutually beneficial relationship.

AGREED TO AND ACCEPTED

CITY OF IOWA COLONY, TEXAS

By: _____
Michael Byrum-Bratsen

Title: Mayor

Date: _____

cc: Billing Department

BICKERSTAFF HEATH DELGADO ACOSTA LLP

By: D. M. P.
David Méndez

Date: August 26, 2021

Copy

Exhibit A — Scope of Services
Bickerstaff Heath Delgado Acosta LLP

While we agree that in the future we may from time to time be employed on other matters, this agreement provides that our relationship is limited to representing and counseling you in connection with the following:

- Redistricting services after release of 2020 Census for the City of Iowa Colony, Texas; and
- Other legal services assigned or requested, only if the scope of which is confirmed by you in writing at the time of assignment.

Other legal services not assigned or requested, and confirmed in writing, are specifically not within the scope of our representation.

Copy

Exhibit B — Billing Rates
Bickerstaff Heath Delgado Acosta LLP

Initial Assessment

\$4,500.00

The initial assessment will consist of the pre-census tasks, post-census initial data analysis, and a presentation and discussion of the Firm's findings with the Charter Commission. If the city council districts are determined to be out of balance, we will outline the City's obligations, and produce a timeline for completing the remainder of the redistricting process. We charge \$4,500 for the preparation and presentation of the initial assessment, plus out-of-pocket expenses. If the initial assessment reveals that the city council districts are balanced, and the City decides not to redistrict, no other fees will be assessed unless additional services are requested.

Redistricting Process

Hourly Fee Basis (plus out of pocket expenses)

Unless otherwise indicated in writing, our fees for legal services related to redistricting are determined on the basis of the hourly rates of the respective lawyers, paralegals and specialists who perform the services, plus out-of-pocket expenses. These rates vary depending on the expertise and experience of the individual and are indicated below:

Senior Attorneys: \$420-\$480 per hour

Other Attorneys: \$250-\$375 per hour

Senior GIS Specialist: \$230 per hour

GIS Specialist: \$180 per hour

Paralegal: \$180 per hour

Exhibit C—Client Costs Advanced

Bickerstaff Heath Delgado Acosta LLP

The firm incurs expenses on behalf of clients only when required by the legal needs of the clients. Some cases or matters require extensive use of outside copy facilities, and other cases may not be so paper-intensive. Standard services handled within the firm are not charged, and client specific expenses are billed to the client needing those services. An explanation of the billing structure is as follows:

Not Charged

Secretarial and word processing time, routine postage, file setup, file storage, local or ordinary long distance charges, fax charges, and computerized legal research data charges.

Delivery Services

Outside delivery services are used for pickup and delivery of documents to the client as well as to courts, agencies, and opposing parties. Outside delivery fees are charged to the client at the rate charged to the firm. Overnight delivery services are also charged at the rate charged to the firm. Firm Office Services Department personnel may provide delivery service in urgent situations and charges for such in-house service will not exceed the charge that would be made by an outside service in a similar situation.

Postage

Our postal equipment calculates exact U.S. postage for all sizes and weights of posted material. The rate charged for postage is the same as the amount affixed to the material that is mailed. We will not charge clients for postage on routine correspondence; however, the cost of large-volume mail, certified mail, or other additional mail services will be charged to the client.

Copies and Prints

Our standard rate for black and white copies and prints made by firm personnel is \$0.15 per page. Color copies and prints are charged at a standard rate of \$0.55 per page. These charges cover paper, equipment costs, and other supplies. If savings can be realized within the required time frame by sending copy jobs to subcontractors, the firm uses only qualified legal services copiers and the cost charged to the client is the same as the amount billed to the firm.

Phone Charges

Only charges for conference calls or international calls are charged, and charges are billed at the same amount billed to the firm by the outside provider.

Travel

Attorney and other timekeeper time spent traveling on behalf of a client is billed to the client. Hotel, meals, local transportation, and similar expenses are charged based on receipts and travel expense forms submitted by the attorney. Documentation is available to the client if requested.

Maps

Maps produced in conjunction with a project will be billed at \$50 for each 34 x 44 inch map and \$20 for each smaller map, plus cost (time fees) for preparation.

Other Expenses

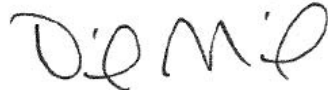
Expenses incurred with outside providers in connection with the client's legal services will be paid by the client directly to the outside provider unless specifically arranged in advance. If the firm agrees to pay outside providers, the cost charged to the client is the same as the amount billed to the firm. Examples of such charges include: court reporter fees, filing fees, newspaper charges for publication notices, expert witness fees, consultants and other similar expenses.

Exhibit D—Verification Required by Texas Government Code Chapter 2271
Bickerstaff Heath Delgado Acosta LLP

By signing below, Bickerstaff Heath Delgado Acosta LLP hereby verifies the following:

1. The Firm does not boycott Israel; and
2. The Firm will not boycott Israel during the term of this Engagement Agreement.

SIGNED BY:



David Méndez

Date: August 26, 2021

This Verification is incorporated and made a part of the Engagement Agreement between Bickerstaff Heath Delgado Acosta LLP and the City of Iowa Colony, Texas.

Copy

City of Iowa Colony, Texas

STATEMENT OF QUALIFICATIONS 2021 REDISTRICTING SERVICES

Submitted by:



August 27, 2021

Contact: David Méndez
3711 South MoPac Expressway
Building One, Suite 300
Austin, TX 78746
P: 512-472-8021
F: 512-320-5638
dmendez@bickerstaff.com
www.bickerstaff.com

Firm Qualifications

Bickerstaff Heath Delgado Acosta LLP (“Firm”) is an Austin-based law firm founded in 1980 that represents Texas cities, counties, school districts, special districts, and other government entities. Since it was founded, the Firm has been involved with redistricting for the State of Texas as well as hundreds of Texas local government entities. The Firm proposes a comprehensive solution to the City of Iowa Colony’s (“City”) redistricting needs and has the expertise and technology to provide full-scope redistricting services. Although other firms offer redistricting services, we differ in several key areas:

More Experience – 2021 will mark the fifth decennial redistricting cycle that our firm has provided redistricting services since our founding in 1980. We have worked for some of the largest cities in Texas – including (among others) Houston, Dallas, San Antonio, El Paso, and Austin, along with numerous small and medium-sized cities throughout Texas. The geographic reach of our redistricting practice is statewide, and our attorneys present redistricting topics at state and national conferences. For example, firm co-founder and attorney Bob Heath presented the topic *Decision #1: Data* (addressing the data available to redistricting professionals and the critical choices that must be made) at the 2019 National Conference of State Legislatures Capitol Forum in Phoenix as well as the topic *Evenwel v. Abbott: Redistricting and the Meaning of Political Representation* at the 2016 American Bar Association Conference in San Francisco. Additionally, our firm has extensive experience representing government clients regarding the federal Voting Rights Act, a critical component of the redistricting process.

Governmental Focus – We have substantial legal practice experience with Texas local government entities and thus are sensitive to the complex legal issues they face -- including the often unique election, governance, and open government law issues dealt with on a regular basis by cities, counties, and other types of local governments in Texas.

Higher Capacity – With 25 attorneys and 26 support staff, our firm is one of the largest in the state with extensive, longstanding, statewide, redistricting practice experience. We will assign a dedicated team of attorneys, GIS specialists, and other support staff to ensure the full redistricting process is completed according the City’s schedule and specific needs.

Customized Approach – We recognize the redistricting needs of cities will vary greatly, which is why we will work with the Charter Commission (“Commission”) to prepare plans based on the specific concerns of the City. The redistricting process typically occurs only once per decade; therefore, it is vital for the City to capitalize on this opportunity to address a range of practical concerns under federal, state and local law, some of which may include:

- ◆ **Establishment of Process Within Home Rule City Charter Requirements and Redistricting Commission Structure**
- ◆ **Rebalance of Population in City Council Districts**
- ◆ **Review and Legal Analysis of Minority Majority Districts, if any**

◆ **Election Precinct Coordination and Adjustment**

The Firm will work closely with the City to assess specific needs and deliver a final product that will be useful for the decade following the 2021 redistricting cycle.

Technology – The Firm utilizes the latest technology in order to meet client needs in several areas, including:

- ◆ **Quality Maps** – The Firm utilizes Edge2020 Redistricting Software to evaluate the 2020 Census data in order to provide the City with an initial assessment. In previous years, we have used AutoBound Redistricting Software and Edge2020 represents the next generation of this redistricting software developed by Citygate GIS. Edge2020 exports seamlessly with ESRI map products and allows export of all redistricting data for use in most standard mapping software. This redistricting software is uniquely specialized to perform all types of analyses required for the development and evaluation of redistricting plans and exports data that is compatible with ArcGIS 10.0 software. In addition, we have the capability to produce a variety of printed map sizes, including large-format printing through the use of an in-house plotter. Our GIS staff can prepare detailed large-format maps and export those maps into both PDF and graphic formats if clients choose to do their own printing.
- ◆ **Virtual Meetings** – Some clients prefer to meet via videoconference in order to reduce travel costs. If requested, the Firm will utilize the GoToMeeting platform to present the initial redistricting assessment, host drawing sessions, or for other requested meetings.
- ◆ **In-Person Attendance** – We frequently attend meetings in person to deliver redistricting presentations. If needed, we have the capacity to bring laptops, a projector, and other technology to the meetings that may be useful to clients with limited on-site technology.
- ◆ **City Website Posts** – The Firm can assist the City in developing public notices, timelines, and map files for posting to the City’s website.

Savings – We first perform an “Initial Assessment”, where we consider the population in each district using the new Census data to determine whether current districts or wards have become sufficiently unbalanced in population as to require the City to engage in redistricting. We have developed pricing for the Initial Assessment phase of redistricting planning that minimizes costs to cities that may not require redistricting. We do not require fees in advance of the work performed. Other than for the Initial Assessment, our clients are billed on an hourly basis according to the work that is performed. Additionally, we offer cost-savings approaches, such as virtual meetings and drawing sessions, which some clients prefer to utilize. We believe clients should have the flexibility to develop a budget that works for their needs. We are happy to work with you to develop a budget and find additional ways of reducing costs.

Redistricting Team

The redistricting team below highlights our depth of experience and availability to staff the City's redistricting project.

David Méndez, Partner

Prior to joining the Firm, David Méndez worked as an Assistant Attorney General in the Taxation Division of the Office of the Attorney General of Texas. He graduated from the University of Texas School of Law in 1980. He is licensed to practice law by the Supreme Court of the State of Texas, U.S. District Courts for the Northern, Southern, Eastern and Western Districts of Texas, and U.S. Court of Appeals for the Fifth Circuit.

David has 30 years' experience in voting rights and redistricting issues, and he regularly advises cities, counties, colleges, and school districts in these areas. During the 1991 and 2001 redistricting cycles he represented some of the largest Texas counties in their redistricting and justice and constable realignment projects. David assisted extensively in the Firm's representation of the City of Houston in the 1991 *Campos* litigation, conducting substantial portions of the discovery, defending council members' depositions, preparing expert witnesses and analyzing and briefing legal issues. He also handled the redistricting for Bexar County during this cycle. During the 2001 cycle, he redistricted counties as diverse as Schleicher (population 3,283) and Dallas (population 2,554,632).

David has been the lead attorney or had substantial responsibility for many redistricting projects, including the following (among other) clients in the 2011 round of redistricting: City of San Antonio; City of Midland; City of El Paso; City of San Angelo; City of Corpus Christi; El Paso County; Brazos County; Randall County; Dallas County Community College District; Alamo Colleges District; Dallas ISD and Midland ISD.

Additionally, David assisted the City of Fulshear in their creation of single-member electoral districts after the city's home rule charter was adopted in May 2016. He also works frequently on election contests, recounts and other election law matters before the courts and the Texas Legislature.

David is fluent in Spanish and speaks and writes extensively on election law, voting rights and redistricting issues. He has presented or published papers on election law and voting rights topics for the Texas Secretary of State's office, Texas Association of Counties, Texas Conference of Urban Counties, Texas Municipal League, Texas Association of School Board Attorneys, V.G. Young Institute of County Government (a part of the Texas A&M Agri-Life Extension Service and the Texas A&M University System), University of Texas School of Law, and Texas Association of Community College Attorneys.

C. Robert “Bob” Heath, Partner

Prior to co-founding the firm Bickerstaff & Heath, Bob Heath worked as Chair of the Opinion Committee at the Office of the Attorney General of Texas. He graduated from the University of Texas School of Law in 1972. He is licensed to practice law by the Supreme Court of the State of Texas, U.S. District Courts for the Northern, Southern, Eastern and Western Districts of Texas, U.S. Court of Appeals for the Fifth Circuit, and the Supreme Court of the United States.

Bob has 38 years’ experience as a redistricting attorney. He has been the lead counsel on many redistricting cases and is a frequent speaker on redistricting topics at state and national conferences. Notable examples of his publications and presentations include:

- ◆ *America Votes! Challenges Facing Modern Election Law & Voting Rights*, Co-author of the second, third, and fourth editions of the ABA publication
- ◆ *Decision #1: Data*, 2019 National Conference of State Legislatures Capitol Forum (Phoenix)
- ◆ *Evenwel v. Abbott: Redistricting and the Meaning of Political Representation*, 2016 American Bar Association Conference (San Francisco)
- ◆ *Applying a Bi-Racial Jurisprudence in a Tri-Ethnic World*, 2015 American Bar Association Conference (Chicago)
- ◆ Panelist at St. Mary’s Law Voting Rights Symposium

Bob has extensive experience representing governmental entities in voting rights lawsuits. A notable suit includes *Chen v. City of Houston*, 206 F.3d 502 (5th Cir. 2000), in which the city obtained a summary judgement dismissing a *Shaw v. Reno* challenge to its council districts.

Bob authored an amicus brief on behalf of Harris County in the U.S. Supreme Court Case *Evenwel v. Abbott*. The suit attempted to require the use of voter-eligible population (e.g., citizen-voting-age population) in the allocation of state legislative seats. If the plaintiffs had been successful, it would have resulted in the county losing 2-3 state representative seats. Additionally, it would have made it more difficult to draw districts where Hispanics had an equal opportunity to be elected. The constitutional issue of the appropriate measure of population was one that the Firm had successfully litigated in the Fifth Circuit and in defending against petitions for certiorari in *Chen* and in *Lepak v. City of Irving*. The U.S. Supreme Court sustained Harris County’s position.

Bob has spoken and delivered papers on redistricting throughout the United States and is recognized as an expert in this area of law. His article, *Managing the Political Thicket: Developing Objective Standards in Voting Rights Litigation*, 21 Stetson L. Rev. 819 (1992) was quoted and cited by the United States Supreme Court in *Holder v. Hall*, 512 U.S. 874, 889 (1994) (O’Connor, J., concurring).

Sydney W. Falk, Jr., Partner

Prior to joining the Firm, Syd Falk worked as a briefing attorney to Hon. Will Garwood at the United States Court of Appeals for the Fifth Circuit. Syd graduated from the University of Texas School of Law in 1984, and he is licensed to practice law by the Supreme Court of the State of Texas, U.S. District Courts for the Northern, Southern, Eastern, and Western Districts of Texas, U.S. Courts of Appeals for the Fifth and Ninth Circuits, and Supreme Court of the United States.

As one of the Firm's senior redistricting attorneys, Syd has substantial experience having served as a redistricting attorney or team leader on dozens of redistricting projects in 1991, 2001, and 2011. He has been responsible for redistricting by Texas local government entities of all types, including cities, counties, school districts, and special districts. In the 2001 redistricting cycle, he worked on the redistricting of Missouri City, Bexar County, Dallas County, Tarrant County, Dallas ISD, Austin ISD, and dozens of others. In the 2011 cycle, he represented (among others): the cities of Colorado City, Lockhart, Bryan, Brenham, and Stockdale; Bexar, Wilson, Brazos, Waller, Llano, and Schleicher counties; and Bryan ISD.

Syd also has experience handling voting rights litigation, both through his work on cases handled by the Firm and as a former Fifth Circuit briefing attorney. He defended Dallas County and Bexar County in lawsuits challenging abolishment of justice precincts (from which JPs and constables are elected) -- the counties prevailed in those cases. He was co-counsel with Bob Heath in the *Chen v. City of Houston* case, and participated with other Firm attorneys in the 1991 *Campos v. City of Houston* litigation -- the City of Houston prevailed in those cases. More recently, he defended Bexar County in a case challenging the County's elimination of a Justice of the Peace position -- that case settled, and the abolition of the JP position stood.

Prior to obtaining his law degree, Syd received a Ph.D. in theoretical astrophysics from the University of Texas at Austin, and he performed post-doctoral work at CalTech and the University of Chicago. He was an Assistant Professor of Astronomy at the University of Texas at Austin for four years, and a science consultant at the Los Alamos National Laboratory from 1980-1986. His background in mathematics and statistics is valuable in analyzing relevant redistricting statistics and the expert testimony in voting rights cases.

Gunnar P. Seaquist, Partner

Prior to joining the Firm, Gunnar Seaquist worked as an Assistant Attorney General in the General Litigation Division of the Office of the Attorney General of Texas. He graduated from Baylor University School of Law in 2006, and he is licensed to practice law by the Supreme Court of the State of Texas, U.S. District Courts for the Northern, Southern, Eastern, and Western Districts of Texas, and U.S. Court of Appeals for the Fifth Circuit. Gunnar currently counsels two Texas cities on voting-related charter amendments.

Gunnar regularly assists the Firm's senior redistricting team with voting rights and litigation issues, as noted by the examples described below:

- ◆ Assisted Bob Heath in defending the City of Grand Prairie in a redistricting challenge under the U.S. Constitution and Section 2 of the Voting Rights Act; drafting of an amicus curie brief on behalf of Harris County in the *Evenwel v. Abbott* U.S. Supreme Court Case; and defending the City of Pasadena in a redistricting challenge under the U.S. Constitution and Section 2 of the Voting Rights Act.
- ◆ Assisted David Méndez in the redistricting of Beaumont ISD with a specific focus on ensuring compliance with federal voting rights laws and analyzing and preventing litigation risks.
- ◆ Led the Firm's efforts in a mid-decade redistricting project for the City of Mesquite.

Sherry McCall, Senior GIS Specialist

Sherry McCall is the Firm's senior redistricting and GIS specialist. She handles or supervises the technical drawings of maps, and she works closely with our attorneys and election specialists to compile the various technical reports and maps required for our redistricting clients.

Prior to joining the Firm 23 years ago, Sherry was a research analyst at the Texas Education Agency, where she helped implement the agency's first GIS system. She has data programming experience and has worked extensively with data from the Texas Education Agency, the U.S. Census Bureau and the Texas Legislative Council. She will be responsible for the preparation of all data used for a redistricting project. She assists our attorneys in analyzing population/voting data and relevant historical elections, and developing the analyses needed for redistricting projects. She also provides analyses, exhibits, and support for the Firm's redistricting and other litigation. Sherry graduated from the University of North Texas with a B.A. in Biology in 1991. (She is not an attorney and is not licensed to practice law.)

Scope of Services

1. Initial schedule planning. The Firm will consult with the Commission and establish a schedule for performance of the various tasks for which the Firm has been engaged. This would include scheduling Commission meetings, work sessions and public meetings; establishing target dates for presentation of proposed plans for the Commission's consideration and/or for public discussion; and establishing target deadlines for adoption of a redistricting plan. The Firm will advise the Commission and clearly define the Commission's responsibility in the redistricting process.
2. Identify and begin other census release tasks. Tasks in this category may include: (i) collecting data concerning existing city council member voting district boundaries to be input into the Firm's GIS/redistricting software databases and verified and any other demographic or boundary-related data or information the City may have; (ii) assisting the City with preparation of draft resolutions, public notices, and other documents likely to be needed during the process.

The Firm is experienced in the use of census data and Tiger/Line (census geography) files and is capable of drawing districts at various levels of geography. Where possible, the geographical units the Firm recommends be used are election (voting) precincts, which in census terminology are known as voting tabulation districts or VTDs. This is especially appropriate in the context of seeking to avoid *Shaw v. Reno* (racial gerrymandering and/or reverse discrimination) liability. In the event of unforeseen circumstances, as appropriate, the Firm can use other geography with census population data.

3. Performing an initial assessment. Upon release of the census data, the Firm will examine the new population data and determine whether current city council districts or wards have become sufficiently unbalanced in population as to require the City to engage in redistricting. This “initial assessment” will be presented to and discussed with the Commission and any other committees that may be assigned to the project.
4. Development and adoption of criteria for redistricting. If the council districts are determined to be out of balance, the Firm will assist the Commission or any responsible committees in identifying and adopting practical and legal criteria to be followed during the redistricting process. In light of *Shaw v. Reno*-type cases concerning gerrymandering and the standards that have emerged from them, this is a critical element of a successful redistricting process and important to establishing defensibility of an adopted plan against later litigation.
5. Develop redistricting plans. The Firm will develop redistricting plans for council districts using the Firm’s GIS and demographic capabilities. The Firm will work with the Commission to develop plans that take into account, consistent with the applicable legal requirements, the various practical and political considerations the client determines are relevant. Under our approach, we work within the City’s procedures and protocols for development of plans. We anticipate that a number of plans may be developed, each responding to a different set of considerations proposed by the Commission and that some modifications or refinements may be required before a plan is acceptable to the Commission. As desired, the Firm will provide written materials in support or explanation of any plans developed by the Firm at the Commission’s request.
6. Advise the City regarding the merits of plan(s). The Firm will advise the Commission of the relative legal and practical merits of particular plans under consideration. As requested, members of the Firm will attend meetings of the Commission at which plans are presented and discussed. The Firm will provide written materials in support or explanation of any plans evaluated by the Firm at the Commission’s request. In addition, the Firm will provide an independent assessment of any plans. This assessment will verify whether and how the plan under consideration satisfies the applicable legal standards and whether the adopted redistricting criteria appear to have been followed.

7. Conduct public presentation, discussion of proposed plans and adoption of final plan. Typically, one or more plans proposed by the Commission will be presented for public comment. The Firm will conduct public presentations of proposed plans and summarize public comments for the Commission. The Firm will assist the Commission in adopting a final plan considering public comments.
8. Litigation. A major goal of the redistricting process is to design a plan that will avoid litigation and liability. The Firm tries during the process to minimize the likelihood of a legal challenge by advising the client of the most legally defensible plan and by being sure that the process produces a record that can be used to demonstrate that the adopted plan complies with the applicable legal standards. Sometimes, however, when the opponents of a plan are unsuccessful in the political arena, they will move their battle to the courthouse. In those instances, the Firm is prepared to defend the plan as it has extensive experience in litigating Voting Rights Act and *Shaw v. Reno* issues. As described earlier, the Firm has unique experience in *Shaw v. Reno*-type cases, because of its success in the *Chen v. City of Houston* case. The members of the Firm are licensed in the U.S. Supreme Court and various lower federal courts, including in particular the U.S. Court of Appeals for the Fifth Circuit, and the U.S. District Courts for the Eastern, Western, Northern and Southern Districts of Texas.

References

The Firm has represented numerous cities, counties, school districts, college districts, and special districts across Texas in redistricting matters. We have included a representative listing of our city redistricting clients below. A more extensive list inclusive of the other types of governmental clients mentioned above is available upon request.

- ◆ City of San Antonio
- ◆ City of Brenham
- ◆ City of Bryan
- ◆ City of Colorado City
- ◆ City of El Paso
- ◆ City of Galveston
- ◆ City of Irving
- ◆ City of Lockhart
- ◆ City of McKinney
- ◆ City of Midland
- ◆ City of Tyler

THE CITY OF IOWA COLONY

PROPOSED TIMELINE FOR 2021 REDISTRICTING

Pre-Census Release Tasks (August 12 – early September 2021)

United States Census Bureau released census data on August 12, 2021, in a legacy format. We are converting the data into a usable format for our GIS software. This process will take approximately 15-20 days. We will collect data for current boundaries and verify the accuracy of this data with the City. Current data for district boundaries will be input into the Firm's GIS software to create the Initial Assessment.

Initial Assessment (mid-October 2021)

We will analyze whether current districts have become sufficiently unbalanced in population as to require the City to engage in redistricting. The Initial Assessment will consist of a presentation and discussion with the City Council in an open meeting. If the districts are determined to be out of balance, we will outline the City's legal obligations and adopt redistricting principals and guidelines that will guide the City through the redistricting process. This presentation should take around 30 minutes, plus any questions from the City Council.

Develop Redistricting Plans (Summer of 2022)

We will develop redistricting plans for the City in a series of work sessions. We propose two work sessions where we draw the maps in real time during an open meeting. The City may not require both sessions, but we would like to schedule them now and cancel them if they are no longer necessary. These meetings will take 2-3 hours each but can be customized to be longer or shorter.

Public Input, Deliberation, and Adoption of Final Plan (Summer/Fall of 2022)

Typically, one or more plans proposed by the City Council will be presented for public comment. Depending on the City's preferences and cost-savings approach, we will either conduct public presentations of proposed plans and summarize public comments or direct City staff to prepare a recording of the public input meeting in order for us to review the public input. Depending on the comments received, the City Council may wish to adopt a final plan directly following the public meeting or they may want to reconvene to make additional changes to the plan. A final plan must be adopted by January 18, 2023.

Proposed Iowa Colony
2021 Redistricting Budget

	Partner	Atty	Senior GIS	GIS	Para	Flat fee	Reimbursable Expenses
	\$420	\$300	\$230	\$180	\$180		
I. PRELIMINARY WORK							
Initial schedule planning							
Gather data and input benchmark							
Geocode incumbents							
Identify and begin other Census-related tasks							
II. INITIAL ASSESSMENT							
Preparation of initial assessment (flat fee)						\$4,500.00	
III. CONSULT WITH CLIENT AND DEVELOP AND ADOPT CRITERIA							
Initial consultation with City Council	4	1	2	4	1		
Notice of public meeting (criteria)/translate	0	1	0	0	2		\$50.00
Geocode locations (polling places, and facilities)	0	0	2	8	2		
Draft resolution on criteria & process	1	2	0	0	2		
ADVICE/CONSULTATION Total Hours	5	4	4	12	7		
ADVICE/CONSULTATION Total Cost	\$2,100	\$1,200	\$920	\$2,160	\$1,260		
IV. DEVELOP REDISTRICTING PLANS							
Build first Illustrative Plan for City Council Districts	3	1	2	6	2		
Revise Illustrative Plan for City Council Districts	3	1	2	6	2		
DEVELOP REDISTRICTING PLANS Total Hours	6	2	4	12	4		
DEVELOP REDISTRICTING PLANS Total Cost	\$2,520	\$600	\$920	\$2,160	\$720		
V. PUBLIC HEARINGS AND ADOPTION OF PLAN							
Prepare for and conduct public hearing/adoption of final plan	3	1	2	4	2		
Translate hearing notices/submission notice into Spanish	0	0	0	0	1		\$200.00
Large format maps for posting at public hearings (\$50.00 x 2 maps)							\$100.00
PUBLIC HEARINGS AND ADOPTION OF PLAN Total Hours	3	1	2	4	3		
PUBLIC HEARINGS AND ADOPTION OF PLAN Total Cost	\$1,260	\$300	\$460	\$720	\$540		
VI. REQUIRED DISSEMINATION OF REDISTRICTING PLANS							
Maps/demographic information to City	0	0	0	2	1		
Submit adopted redistricting plan to County Elections' Department	0	0	1	1	1		
Send digital mapping files as client directs	0	0	1	1	1		
Prepare any additionally requested maps	0	0	0	2	1		
DISSEMINATION OF PLANS Total Hours	0	0	2	6	4		
DISSEMINATION OF PLANS Total Cost	\$0	\$0	\$460	\$1,080	\$720		
Total Attorney Hours	21						
Total GIS Hours	46						
Total Paralegal Hours	18						
GRAND TOTALS	\$5,880	\$2,100	\$2,760	\$6,120	\$3,240	\$4,500.00	\$350.00
		TOTAL FOR ALL					
		\$24,950					
		TOTAL HOURS					
		85					

* Hours allocated to plans are for districts that follow existing Census geography.
This budget includes one City Council District plan with revisions.

Monday, August 30, 2021

Lacey Bell
EHRA Inc.
10555 Westoffice Dr.
Houston, TX 77042

**Re: Meridiana Section 76B Final Plat
Letter of Recommendation to Approve
City of Iowa Colony Project No. SFP 210809-1006
Adico, LLC Project No. 16007-2-213**


Dear Ms. Bell;

On behalf of the City of Iowa Colony, Adico, LLC has reviewed the second submittal of Meridiana Section 76B Final Plat, received on or about August 26, 2021. The review of the plat is based on the City of Iowa Colony Subdivision Ordinance No. 2019-09 dated August 2002, and as amended.

Based on our review, we have no objections to the final plat as resubmitted on August 26, 2021. Please provide two (2) mylars and ten (10) prints to Kayleen Rosser, City Secretary, by no later than Wednesday, September 1, 2021, for consideration at the September 7, 2021, Planning and Zoning Commission meeting.

Should you have any questions, please do not hesitate to call our office.

Sincerely,
Adico, LLC


Dinh V. Ho, P.E.
TBPE Firm No. 16423

Copy

Cc: Kayleen Rosser, COIC
Robert Hemminger, COIC
File: 16007-2-213

STATE OF TEXAS:

COUNTY OF BRAZORIA:

We, GR-M1, LTD., a Texas Limited Partnership, acting by and through Matt Lawson, President of Rise Communities, LLC, A Nevada Limited Liability Company, Authorized Agent for GR-M1, LTD., a Texas Limited Partnership, sole owner of the land shown on this plat and whose name is described thereto and in person or through a duly authorized agent dedicates to the public forever all streets, alleys, parks, water courses, drains, easements and public places thereon shown for the purposes and consideration herein expressed. The owners do hereby waive all claims for damages occasioned by the establishment of grades as approved for the streets and drainage easements dedicated or occasioned by the alteration of the surface, or any portion of the streets or drainage easements to conform to such grades, and do hereby bind ourselves, our heirs, successors and assigns, to warrant and defend the title to the land so dedicated.

Further, owners do hereby certify that we are the owners of all property immediately adjacent to the boundaries of the above and foregoing subdivision of Meridiana Section 76B where building setback lines or public utility easements are to be established outside of the boundaries of the above and foregoing subdivision and do hereby make and establish all building setback lines and dedicate to the use of the public, all public utility easements shown in said adjacent acreage.

IN TESTIMONY WHEREOF, GR-M1, LTD., a Texas limited partnership, has caused these presents to be signed by Matt Lawson, President of Rise Communities, LLC, a Nevada Limited Liability Company, Authorized Agent for GR-M1, LTD., a Texas Limited Partnership, thereunto authorized by this ____ day of _____, 2021.

OWNER

GR-M1, LTD., A Texas Limited Partnership
By: Rise Communities, LLC,
A Nevada Limited Liability Company,
Its Authorized Agent

BY: _____

Print Name: Matt Lawson

Title: President

METES AND BOUNDS DESCRIPTION
MERIDIANA SECTION 76B
9.027 ACRES OF LAND SITUATED IN
H. T. & B. R.R. COMPANY SURVEY, SECTION 53, ABSTRACT 287
BRAZORIA COUNTY, TEXAS

DESCRIPTION OF A 9.027 ACRE TRACT OF LAND SITUATED IN THE H. T. & B. R.R. COMPANY SURVEY, SECTION 53, ABSTRACT 287, BRAZORIA COUNTY, BRAZORIA COUNTY, TEXAS, BEING A PORTION OF THAT CERTAIN 59.855 ACRE TRACT OF LAND CONVEYED TO GR-M1, LTD BY DEED RECORDED UNDER BRAZORIA COUNTY CLERKS FILE NUMBER (B.C.C.F. No) 2015050942, A PORTION OF LOT 1 OF LULLING BROOK SECTION 1 (A SUBDIVISION AS PER PLAT RECORDED UNDER BRAZORIA COUNTY PLAT RECORD [B.C.P.R.] 2007037473) CONVEYED TO GR-M1, LTD. BY DEED RECORDED UNDER B.C.C.F. NO. 2015056564; SAID 9.027 ACRE TRACT BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS (BEARINGS BASED ON TEXAS STATE PLANE COORDINATE SYSTEM OF 1983, SOUTH CENTRAL ZONE 4204, AS DETERMINED BY GPS MEASUREMENTS):

BEGINNING at a found 5/8-inch capped iron rod stamped "E.H.R.A. 713-784-4500" marking the most east-northeasterly corner of Lot 21, Block 1 of Meridiana Section 76A a subdivision as per plat recorded under 2021016200 of the B.C.P.R. being in the southerly line of Meridiana Detention Reserves I & J as recorded under B.C.C.F. NO. 2018044266;

1) THENCE, North 87°22'46" East, along the southerly line of said Meridiana Detention Reserves I & J, for a distance of 782.73 feet to a 5/8-inch capped iron rod stamped "E.H.R.A. 713-784-4500" found marking a common corner;

2) THENCE, South 12°14'09" West, along a westerly line of said Meridiana Detention Reserve I & J, for a distance of 30.96 feet to a 5/8-inch capped iron rod stamped "E.H.R.A. 713-784-4500" set for corner;

3) THENCE, South 12°12'29" West, for a distance of 577.91 feet to a 5/8-inch capped iron rod stamped "E.H.R.A. 713-784-4500" marking the most east-southeasterly corner;

THENCE, with said Meridiana Section 76A the following eight (8) courses and distances:

4) South 87°19'32" West, for a distance of 597.18 feet to a 5/8-inch capped iron rod stamped "E.H.R.A. 713-784-4500" found for corner;

5) North 02°40'29" West, for a distance of 122.00 feet to a 5/8-inch capped iron rod stamped "E.H.R.A. 713-784-4500" found for corner;

6) North 87°19'31" East, for a distance of 34.62 feet to a 5/8-inch capped iron rod stamped "E.H.R.A. 713-784-4500" found for corner;

7) North 02°40'29" West, for a distance of 172.56 feet to a 5/8-inch capped iron rod stamped "E.H.R.A. 713-784-4500" found for corner;

8) South 87°22'47" West, for a distance of 22.68 feet to a 5/8-inch capped iron rod stamped "E.H.R.A. 713-784-4500" found for corner;

9) North 02°37'14" West, for a distance of 172.56 feet to a 5/8-inch capped iron rod stamped "E.H.R.A. 713-784-4500" found for corner;

10) South 87°22'46" West, for a distance of 41.38 feet to a 5/8-inch capped iron rod stamped "E.H.R.A. 713-784-4500" found for corner;

11) North 02°37'14" West, for a distance of 122.00 feet to the POINT OF BEGINNING and containing 9.027 acres of land.

BENCHMARK:

NGS MONUMENT # E 306 DISK SET IN TOP OF CONCRETE MONUMENT, LOCATED 2.0 MILES WEST OF MANVEL, 2 MILES WEST ALONG THE GULF, COLORADO AND SANTA FE RAILWAY FROM THE STATION AT MANVEL, BRAZORIA COUNTY, 0.2 MILE WEST OF A SHELL-ROAD CROSSING, 5-1/2 FEET NORTHWEST OF MILE POLE 38, 39 FEET SOUTH OF THE SOUTH RAIL, 33 FEET NORTH OF THE CENTERLINE OF A DIRT ROAD, 6.7 FEET NORTH OF THE RIGHT-OF-WAY FENCE, 3 FEET WEST OF A WHITE WOODEN WITNESS POST AND SET IN THE TOP OF A CONCRETE POST ABOUT FLUSH WITH THE GROUND.
ELEV.=52.00 (NAVD '88) 1991 ADJUSTMENT

STATE OF TEXAS

§

COUNTY OF _____

§

BEFORE ME, the undersigned authority, on this day personally appeared Matt Lawson, President of Rise Communities, LLC, a Nevada Limited Liability Company, Authorized Agent for GR-M1, LTD., a Texas Limited Partnership, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and considerations therein expressed, and as the act and deed of said limited liability company.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this ____ day of _____, 2021.

Notary Public in and for the
State of _____
My Notary Commission Expires _____

CITY OF IOWA COLONY APPROVAL

CITY COUNCIL APPROVAL

Michael Byrum-Bratsen, Mayor

David Hurst, Chairman
Planning Commission

Sydney Hargroder, Council Member

Les Hosey
Planning Commission Member

Arnetta Hicks-Murray, Council Member

Steven Byrum-Bratsen
Planning Commission Member

Marquette Greene-Young, Council Member

Vince Patterson
Planning Commission Member

Wil Kennedy, Council Member

Tim Varlack
Planning Commission Member

Chad Wilsey, Council Member

McLean Barnett
Planning Commission Member

Dinh Ho, P.E., City Engineer

Melanie Hampton
Planning Commission Member

Date

Date

Robert Boelsche, Registered Professional Land Surveyor
Texas Registration No. 4446

I, Robert Boelsche, am authorized under the laws of the State of Texas to practice the profession of surveying and hereby certify that the above subdivision is true and correct; was prepared from an actual survey of the property made under my supervision on the ground; that all boundary corners, angle points, points of curvature and other points of reference have been marked with iron rods having an outside diameter of not less than five-eighths of one inch (5/8) inch and a length of not less than three (3) feet; and that the plat boundary corners have been tied to the nearest street intersection.

FINAL PLAT MERIDIANA SECTION 76B

BEING A SUBDIVISION OF 9.027 ACRES OUT OF THE
H. T. & B. R.R. COMPANY SURVEY, SECTION 53, A-287,
IN THE CITY OF IOWA COLONY,
BRAZORIA COUNTY, TEXAS.

56 LOTS 2 BLOCKS 3 RESERVES (0.1862 ACRES)

OWNER

GR-M1, LTD.,
A TEXAS LIMITED PARTNERSHIP
1602 AVENUE D, SUITE 100
KATY, TEXAS 77493
PH (832) 437-7863

APRIL, 2021



10011 MEADOWGLEN LN
HOUSTON, TEXAS 77042
713-784-4500
WWW.EHRAINCO.COM
TBPE No. F-726
TBPELS No. 10092300

Copy

1. Bearing orientation is based on the Texas State Plane Coordinate System of 1983, South Central Zone, as determined by GPS measurements.

2. All boundary corners for the plat shown herein are set 5/8-inch iron rods 36-inches in length with cap stamped "E.H.R.A. 713-784-4500" set in concrete unless otherwise noted.
3. A- indicates Abstract
B.C.F.C. NO. indicates Brazoria County Clerk's File Number
B.L. indicates Building Line
E.S.M.T. indicates Easement
(F) indicates Found 5/8-inch iron rod with cap stamped "E.H.R.A. 713-784-4500"
H.L.&P. CO. indicates Houston Lighting and Power
P.O.B. indicates Point Of Beginning
P.U.I. indicates Public Utility Easement
R.O.W. indicates Right of Way
S.T.M.S.E. indicates Storm Sewer Easement
SQ. FT. indicates Square Feet
U.E. indicates Utility Easement

4. The property subdivided in the foregoing plat lies within Brazoria County, the City of Iowa Colony, Brazoria County M.U.D. 55, and Brazoria County Drainage District #5 (B.D.D.#5).

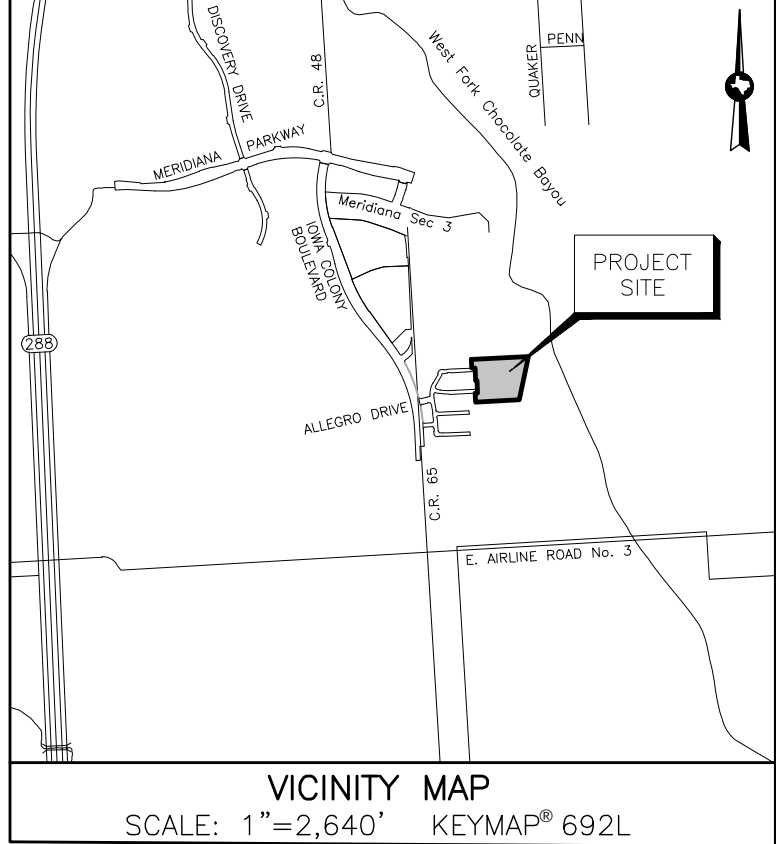
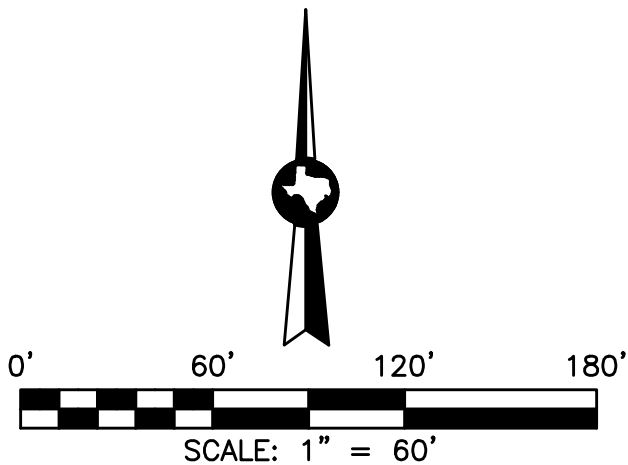
5. The boundary for this plat has a closure in excess of 1:15,000.
6. The terms and conditions of Amendment #1 of the City of Iowa Colony Ordinance #2007-7 may affect this plat. This plat is in conformance with Meridiano PUD Amendment No. 3.
7. No building permits will be issued until all storm sewer drainage improvements, if any, and which may include detention, have been constructed.
8. This final plat will expire two (2) years after final approval by City Council if construction of the improvements has not commenced within the two-year initial period or the one-year extension period granted by City Council.
9. Contour lines shown hereon are based on the NGS Benchmark E 306 being noted hereon.
10. All water and wastewater facilities shall conform to the city's design criteria.
11. This plat is subject to the conditions and restrictions of the Meridiano PUD Agreement, No. 3 as approved January 23, 2017.
12. According to the Federal Emergency Management Agency Flood Insurance Rate Map for County, Texas, Community Panel No. 4503500120H, dated June 5, 1989 and revised by the Letter of Map Revision (LOMR) issued May 13, 2015 and effective September 28, 2015. Lots within this subdivision were filled and removed from Zone "AE" and placed in unshaded Zone "X" in the Letter of Map Revision Based on fill (LOMR-F) effective September 6, 2019 under Case No. 19-06-3361A.

This flood statement does not imply that the property or structures thereon will be free from flooding or flood damage. On rare occasions floods can and will occur and flood heights may be increased by man-made or natural causes. The location of the flood zone was determined by scaling from said FEMA map. The elevation of the flood zone, as determined by elevation contours, may differ. Edminster, Hinshaw, Russ & Associates, Inc. d/b/a EHRA, assumes no liability as to the accuracy of the location of the flood zone limits. This flood statement shall not create liability on the part of Edminster, Hinshaw, Russ & Associates, Inc. d/b/a EHRA.

13. All sidewalks shall be a minimum of 4' wide and built in accordance to the Meridiana Planned Unit Development District Amendment #3 of the City of Lowell Colony Ordinance #2017-02.
14. This plot is subject to an old Roadway Easement not being shown hereon, recorded under Volume 350, Page 240 of the Brazoria County Deed Records and subject to a right-of-way of County Road 65. All existing road rights-of-way and roadway easements crossing through this tract are to be released and abandoned by this plot.
15. Homeowners Association shall be responsible for maintenance and operation of all easements and all restricted reserves.
16. The emergency access provided must be 20-feet in width and have a load rating of H=20 as specified by the American Association of State and Highway Officials (AASHTO).
17. This emergency access will be released and abandoned and revert to the dedicant when the adjacent property is subdivided in a recorded plat.
18. All fourteen foot (14') wide Utility Easements extend seven feet (7') on each side of the common line, unless otherwise indicated.
19. All front lot maintenance within this section shall be performed by the Homeowners Association per Meridiana PUD Amendment No. 3 as approved January 23, 2017.
20. Developer/Homeowners' Association shall be responsible for maintenance of all reserves.
21. Subject to Ordinance No. 2011-4 (Pipeline Setback Ordinance), no residential structures shall be constructed within 50' of the pipelines located inside of this plot boundary.

CURVE TABLE						
CURVE	RADIUS	DELTA	ANGLE	ARC LENGTH	CHORD BEARINGS	CHORD LENGTH
C1	500.00	84°12'24"	9.08	N 04°51'39" E	67.05	
C2	500.00	5°44'21"	7.50	N 00°14'56" E	9.06	
C3	2500.00	21°02'22"	9.18	N 76°51'35" E	51.36	
C4	500.00	26°27'24"	9.08	S 23°04'4" W	72.26	
C5	500.00	66°20'18"	28.98	S 42°24'35" W	27.39	
C6	2500.00	90°00'00"	39.27	S 59°26'45" W	35.36	
C7	525.00	5°44'21"	52.59	S 00°14'56" W	52.97	
C8	2500.00	29°55'35"	13.06	S 11°50'41" W	12.51	
C9	50.00	144°03'35"	12.50	S 12°52'2" E	98.17	
C10	2500.00	29°55'35"	13.06	N 77°42'41" E	12.91	
C11	2500.00	84°12'24"	36.74	N 85°13'19" E	33.52	
C12	475.00	5°44'21"	47.58	N 00°14'56" E	47.56	
C13	500.00	90°03'30"	39.27	S 59°26'45" W	35.36	
C14	500.00	13°53'28"	121.22	N 85°43'45" E	120.93	

RESERVE TABLE		
RESERVE	RESTRICTED TO	AREA
A	LANDSCAPE, OPEN SPACE, UTILITY PURPOSES, AND EMERGENCY ACCESS	1,525 SQ.FT. / 0.0350 ACRE
B	LANDSCAPE, OPEN SPACE, UTILITY PURPOSES, AND EMERGENCY ACCESS	1,715 SQ.FT. / 0.0394 ACRE
C	LANDSCAPE, OPEN SPACE, UTILITY PURPOSES, AND EMERGENCY ACCESS	4,869 SQ.FT. / 0.1118 ACRE
	TOTAL=	8,109 SQ.FT. / 0.1862 ACRE



NGS MONUMENT # E 306 DISK SET IN TOP OF CONCRETE MONUMENT, LOCATED 2.0 MILES WEST OF MANVEL, 2 MILES WEST ALONG THE GULF, COLORADO AND SANTA FE RAILWAY FROM THE STATION AT MANVEL, BRAZORIA COUNTY, 0.2 MILE SOUTH OF A SHELL-ROAD CROSSING, 5-1/2 FEET NORTHWEST OF MILE POLE 38, 39 FEET SOUTH OF THE SOUTH RAIL, 33 FEET NORTH OF THE CENTERLINE OF A 36' WIDE HIGHWAY, 10 FEET NORTH OF RIGHT-OF-WAY FENCE, 3 FEET WEST OF A WHITE WOODEN WITNESS POST AND SET IN THE TOP OF A CONCRETE POST ABOUT FLUSH WITH THE GROUND.
ELEV.=52.00 (NAVD '88) 1991 ADJUSTMENT

BEING A SUBDIVISION OF 9.027 ACRES OUT OF THE
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56 LOTS 2 BLOCKS 3 RESERVES (0.1862 ACRES)

OWNER

GR-M1, LTD.,
A TEXAS LIMITED PARTNERSHIP
1602 AVENUE D, SUITE 100
KATY, TEXAS 77493
PH (832) 437-7863

AUGUST, 2021



**10011 MEADOWGLEN LN
HOUSTON, TEXAS 77042
713-784-4500
WWW.EHRAINCO.COM
TBPE No. F-726
TBPELS No. 10092300**

Drafter's Note: The text will not be highlighted, and this note will not appear, in the final ordinance upon passage.

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF IOWA COLONY, TEXAS, AMENDING THE EMPLOYEE PERSONNEL POLICIES AND PROCEDURES HANDBOOK; PROVIDING FOR OTHER POLICIES; AND PROVIDING A SEVERANCE CLAUSE AND EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF IOWA COLONY, TEXAS:

1. The attached Employee Personnel Policies and Procedures Handbook of the City of Iowa Colony, Texas, is hereby adopted and is incorporated herein in full.

2. The Employee Personnel Policies and Procedures Handbook hereby adopted supersedes any prior personnel policies, by any name, of the City of Iowa Colony; provided, however, that any personnel policies and manuals of the Police Department shall remain in effect, to the extent that they do not contradict the attached Employee Personnel Policies and Procedures Handbook.

3. a. The Iowa Colony City Council has traditionally enacted by ordinance the Employee Personnel Policies and Procedures Handbook. However, Section 4.02 of the Home Rule Charter now provides for the City Manager to manage personnel, subject to the limited authority of the Council under sections 3.07 (various powers of Council), 4.01 (hiring certain personnel), and any other applicable provisions of the Charter. Accordingly, the City Manager is authorized to further amend, adopt, or replace the Employee Personnel Policies and Procedures Handbook and any City personnel policy, by any title, to the extent permitted by the Charter, without further approval by the City Council. The City Manager shall keep the City Council informed of any changes to any such personnel policy.

b. However, Charter section 3.07(m) reserves to the Council the authority to set the salaries and compensation of the City officers and employees, except to the extent that the Council delegates that authority to the City Manager. Nothing in subsection 3(a) or any other part of this ordinance delegates that authority to the City Manager.

4. If any part of this ordinance or the attached Employee Personnel Policies and Procedures Handbook, of whatever size, is ever declared invalid or unenforceable for any reason, the remainder of this ordinance shall remain in full force and effect.

5. This ordinance shall be effective immediately upon its passage, approval, and adoption.

PASSED AND APPROVED ON THE FIRST READING ON _____, 2021.

PASSED, APPROVED, AND ADOPTED ON THE SECOND AND FINAL READING
ON _____, 2021.

CITY OF IOWA COLONY

By: _____
MICHAEL BYRUM-BRATSEN,
MAYOR

ATTEST:

KAYLEEN ROSSER,
CITY SECRETARY

Iowa Colony/Ordinances/Personnel Policy (8-16-21)

**I hereby adopt the attached Employee Personnel Policies And Procedures Handbook,
effective immediately upon the passage, approval, and adoption of the foregoing ordinance.**

ROBERT HEMMINGER,
CITY MANAGER

ATTACHMENT

**EMPLOYEE PERSONNEL POLICIES AND
PROCEDURES HANDBOOK**

CITY OF IOWA COLONY, TEXAS

Copy

VIII. Attendance, Absences, and Compensation

8.06 Personal Leave (Vacation)

(a) Accruals.

Adding new paragraph within section (a), as follows:

In order to assist with curtailing the on-going global pandemic emergency, employees who are considered fully vaccinated from the COVID disease prior to the adoption of this policy, or who receive the full complement of COVID vaccine prior to November 1, 2021, are eligible to receive sixteen (16) hours of additional vacation accrual to be used before November 1, 2022. To receive this accrual, the employee shall provide acceptable proof of vaccination (preferably the COVID vaccination card) to the City Manager's Office on or before November 1, 2021. Use of this additional vacation leave must comply with the remainder of this policy.

This paragraph will be inserted immediately before the sentence:

"Regular, part-time, temporary, and seasonal employees do not earn personal leave."

Copy

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF IOWA COLONY, TEXAS, DESIGNATING SCHOOL ZONES; SETTING A 20 MILE PER HOUR SPEED LIMIT AND PROHIBITING CELL PHONE USE THEREIN; AUTHORIZING SIGNS; PROVIDING OFFENSES AND A PENALTY OF UP TO \$200 FOR A VIOLATION OF THIS ORDINANCE AND ADDITIONAL PENALTIES UNDER STATE LAW; AND CONTAINING RELATED PROVISIONS.

Whereas Chapters 542 and 545 of the Texas Transportation Code authorizes cities to designate speed limits and school zones and to authorize signs and markings therein; and

Whereas Section 545.425 of the Texas Transportation Code authorizes cities to post signs prohibiting the use of cell phones or other wireless communication devices in school zones; and

Whereas all requirements of law have been satisfied concerning the school zones, traffic regulations, signs, and markings established or authorized by this ordinance; and

Whereas this ordinance promotes the public health, safety, and welfare and helps to alleviate traffic hazards and to protect school children and others;

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF IOWA COLONY, TEXAS ("THE CITY"):

1. Elementary School Zones

a. School zones are hereby designated at the following locations in the City:

i. On Meridiana Parkway from a point 300 feet eastward along Meridiana Parkway from the east edge of the intersection of Meridiana Parkway with Iowa Colony Boulevard, to a point 300 feet westward along Meridiana Parkway from the west edge of the intersection of Meridiana Parkway with Iowa Colony Boulevard.

ii. On Iowa Colony Boulevard from the south edge of the intersection of Iowa Colony Boulevard with Meridiana Parkway, to a point 200 feet northward along Iowa Colony Boulevard from the north edge of the intersection of Iowa Colony Boulevard with the most northerly driveway of Meridiana Elementary School.

iii. On Sterling Lakes Drive and Sterling Lakes West Drive starting at the gate on Sterling Lakes Drive located approximately 170 feet eastward from the center line of Ames Boulevard, then extending westward for approximately 1102 feet from that gate along Sterling Lakes Drive and

Sterling Lakes West Drive to a point at the western end of an opening in the median of Sterling Lakes West Drive, which point is the western end of this school zone and is also located approximately 215 feet eastward along the center line of Sterling Lakes West Drive from the centerline of Green Paradise Drive.

- b. The school zones designated in this section shall be in effect from **7:00 a.m. until 8:15 a.m. and from 3:00 p.m. until 4:15 p.m.** on each day that the Alvin Independent School District conducts any class at Meridiana Elementary School or Bel Nafegar Sanchez Elementary School and at any time a light is flashing on the school zone sign for the location in question.
2.
 - a. The maximum prima facie speed limit for vehicles in a school zone established by this ordinance is hereby set at twenty miles per hour while the school zone is in effect.
 - b. The speed limits herein established are hereby determined and declared to be the maximum prima facie reasonable, prudent, and safe speeds for vehicles at the locations and times herein stated; and those speed limits are hereby fixed at the rate of speed indicated for vehicles traveling at the locations and times herein stated. Speeds greater than those stated herein are hereby found to be unreasonable and unsafe. No person shall operate a vehicle at a speed greater than the speed limit herein stated at the location and time herein stated.
3. The City of Iowa Colony hereby adopts the restrictions on wireless communications under Texas Transportation Code section 545.425 in all school zones in the City.
4. The following traffic signs shall be placed at the locations specified in the following section:
 - a. Flashing school zone and speed limit signs of type S5-1 in the Texas Manual on Uniform Traffic Control Devices; and
 - b. Signs of type S7-1T in the Texas Manual on Uniform Traffic Control Devices, prohibiting the use of wireless communication devices, pursuant to Texas Transportation Code section 545.425.
5. The signs described in the preceding section shall be placed at each of the following locations:
 - a. On the north side of Meridiana Parkway, at the east end of the school zone established by this ordinance, facing traffic bound west on Meridiana Parkway;
 - b. On the south side of Meridiana Parkway, at the west end of the school zone established by this ordinance, facing traffic bound east on Meridiana Parkway;

- c. On the west side of Iowa Colony Boulevard, at the north end of the school zone established by this ordinance, facing traffic bound south on Iowa Colony Boulevard;
 - d. On the north side of Sterling Lakes Drive, at the east end of the school zone established by this ordinance, facing traffic bound west on Sterling Lakes Drive; and
 - e. On the south side of Sterling Lakes West Drive, at the west end of the school zone established by this ordinance, facing traffic bound east on Sterling Lakes West Drive.
6. Signs of type S5-2 in the Texas Manual on Uniform Traffic Control Devices, showing the ends of the school zones, shall be placed at the following locations:
- a. On the south side of Meridiana Parkway, at the east end of the school zone established by this ordinance, facing traffic bound east on Meridiana Parkway;
 - b. On the north side of Meridiana Parkway, at the west end of the school zone established by this ordinance, facing traffic bound west on Meridiana Parkway;
 - c. On the east side of Iowa Colony Boulevard, at the north end of the school zone established by this ordinance, facing traffic bound north on Iowa Colony Boulevard;
 - d. On the south side of Sterling Lakes Drive, at the east end of the school zone established by this ordinance, facing traffic bound east on Sterling Lakes Drive; and
 - e. On the north side of Sterling Lakes Drive, at the west end of the school zone established by this ordinance, facing traffic bound west on Sterling Lakes Drive.
7. Signs of type S1-1 and SW16-9P in the Texas Manual on Uniform Traffic Control Devices, warning of a school crossing ahead, shall be placed at the following locations:
- a. On the north side of Meridiana Parkway, at a point 100 feet eastward along Meridiana Parkway from the east edge of the intersection of Meridiana Parkway with Iowa Colony Boulevard, facing traffic bound west on Meridiana Parkway;
 - b. On the south side of Meridiana Parkway, at a point 100 feet westward along Meridiana Parkway from the west edge of the intersection of Meridiana Parkway with Iowa Colony Boulevard, facing traffic bound east on Meridiana Parkway;
 - c. On the west side of Iowa Colony Boulevard, at a point 100 feet northward along Iowa Colony Boulevard from the north edge of the intersection of Iowa Colony Boulevard with Meridiana Parkway, facing traffic bound south on Iowa Colony Boulevard; and

- d. On the east side of Iowa Colony Boulevard, at a point 100 feet southward along Iowa Colony Boulevard from the south edge of the intersection of Iowa Colony Boulevard with Meridiana Parkway, facing traffic bound north on Iowa Colony Boulevard
8. School crossing signs of type S1-1 and/or SW16-7P in the Texas Manual on Uniform Traffic Control Devices, shall be placed at the following locations:
 - a. On the north side of Meridiana Parkway, at the east edge of the intersection of Meridiana Parkway with Iowa Colony Boulevard, facing traffic bound west on Meridiana Parkway;
 - b. On the south side of Meridiana Parkway, at the west edge of the intersection of Meridiana Parkway with Iowa Colony Boulevard, facing traffic bound east on Meridiana Parkway;
 - c. On the west side of Iowa Colony Boulevard, at the north edge of the intersection of Iowa Colony Boulevard with Meridiana Parkway, facing traffic bound south on Iowa Colony Boulevard;
 - d. On the east side of Iowa Colony Boulevard, at the south edge of the intersection of Iowa Colony Boulevard with Meridiana Parkway, facing traffic bound north on Iowa Colony Boulevard;
 - e. On the north side and the south side of Sterling Lakes West Drive at the crosswalk on Sterling Lakes West Drive located at the east side of the intersection of Sterling Lakes West Drive with the roadway into the south side of Bel Nafegar Sanchez Elementary School; and
 - f. At any locations authorized by Ordinance No. 2019-22, which provides for traffic enforcement in Sterling Lakes Subdivision.
9. Any of the signs authorized by this ordinance may be of the type herein specified or any other type in compliance with the Texas Manual on Uniform Traffic Control Devices for the same purpose or application.
10. Any previous order by the Police Chief authorizing any signs and markings described in this ordinance is hereby ratified. Any previous placement of said signs is hereby ratified.
11. The operator of a vehicle shall comply with the signs and markings authorized by this ordinance.
12. A violation of this ordinance shall be a misdemeanor punishable upon conviction by a fine not to exceed \$200, but if state law sets a higher fine or a higher maximum fine, then the state law shall govern and control.
13.
 - a. To the extent of any conflict between the terms of this ordinance and any prior ordinance, this ordinance shall govern and control.

- b. However, nothing in this ordinance shall impair any other ordinance or other authority for any traffic regulation, sign, or marking other than the ones specified in this ordinance.
- c. Without limiting the generality of the foregoing, this ordinance shall not impair the validity or authorization for any traffic sign authorized by Ordinance No. 2019-22, which provides for traffic enforcement in Sterling Lakes Subdivision.

14. If any part of this ordinance, of whatever size, is ever declared invalid or unenforceable for any reason, the remainder of this ordinance shall remain in full force and effect.

15. This ordinance shall be effective at a location immediately upon the placement of signs or markings authorized or ratified by this ordinance at that location; provided, however, that this authorization shall be retroactive to the date of any previous order by the Police Chief authorizing said signs or markings.

16. The City Council hereby finds that that an emergency or an urgent public necessity requires the passage of the ordinance without two readings. The emergency is the danger to the health and lives of school children that would result from traffic at dangerous speeds around schools, if the effective date of this ordinance were delayed for a month for the second reading. Therefore, this ordinance shall take effect immediately upon passage upon the first reading.

PASSED, APPROVED, and EFFECTIVE on FIRST READING on AUGUST 16, 2021.

MICHAEL BYRUM-BRATSEN, MAYOR
CITY OF IOWA COLONY, TEXAS

ATTEST:

KAYLEEN ROSSER, CITY SECRETARY
CITY OF IOWA COLONY, TEXAS

FURTHER PASSED AND APPROVED on SECOND READING on SEPTEMBER 20, 2021.

MICHAEL BYRUM-BRATSEN, MAYOR
CITY OF IOWA COLONY, TEXAS

ATTEST:

KAYLEEN ROSSER, CITY SECRETARY
CITY OF IOWA COLONY, TEXAS

Iowa Colony/Ordinance/School Zone (08-16-20)

Copy



IOWA COLONY POLICE DEPARTMENT

12003 Iowa Colony Blvd.
Iowa Colony, Texas 77583

Aaron I. Bell
Chief of Police

Phone: (281) 369-3444
Fax: (281) 406-3722

Last year council passed an ordinance adjusting the school zone times to accommodate for the school district adjusting their hours, due to COVID.

On July 30, 2021, we learned that the school had adjusted their hours of operation, which are as follows:

Elementary School (Sanchez and Meridiana) will begin at 8:00am and dismiss at 3:30pm, Jr. High (Caffey) will begin at 8:40am and dismiss at 4:10pm with their first day of school being August 18th.

The proposed school zone hours should be as follows:

Elementary Schools

7:00 am – 8:15 am

3:15 pm – 4:15 pm

Jr. High

7:30 am – 9:00 am

4:00 pm – 5:00 pm

Copy

Also, with the opening of the new Jr. High (Caffey Jr. High) there is a section of Meridiana Pkwy west of Pursley Blvd that is within the city therefore, that area must be added to the ordinance. Signs have already been erected and these times match the other sections of this school zone that are in the City of Manvel.

Furthermore, with the annexation of Ames Blvd, that area must also be added to the ordinance.



12003 Iowa Colony Blvd.
Iowa Colony, Tx. 77583
Phone: 281-369-2471
Fax: 281-369-0005
www.iowacolonytx.gov

STATE OF TEXAS
COUNTY OF BRAZORIA
CITY OF IOWA COLONY

BE IT REMEMBERED ON THIS, the 16th day of August, 2021, the City Council of the City of Iowa Colony, Texas, held a Public Meeting at 7:00 P.M. at Iowa Colony City Hall, there being present and in attendance the following members to wit:

Mayor Michael Byrum-Bratsen
Councilwoman Sydney Hargroder
Councilwoman Arnetta Murray
Councilwoman Marquette Greene-Young
Councilman Wil Kennedy
Councilman Chad Wilsey

And none being absent, constituting a quorum at which time the following business was transacted.

WORKSESSION- 6:00 P.M.

1. Mayor Byrum-Bratsen called the worksession to order at 6:00 P.M.
2. Presentation and discussion on the 2021-22 FY budget process, tax rate, and expenditure plan. City Manager, Robert Hemminger presented a powerpoint regarding the the 2021-22 FY budget process, tax rate, and expenditure plan.
3. Discussion on the Employee Personnel Policies and Procedures Handbook. City Manager, Robert Hemminger explained the change/addition to the Employee Personnel Policy Handbook.
4. Discussion on the 2021-22 School Zone locations and times. Chief Bell explained the reasoning behind the ordinance.
5. The worksession was adjourned at 7:33 P.M.

REGULAR MEETING – 7:00 P.M.

1. Mayor Byrum-Bratsen called the meeting to order at 7:46 P.M.
2. Pledge of Allegiance and Texas Pledge were recited.
3. **PUBLIC HEARINGS**
 - Hold a public hearing on amending the Unified Development Code and the Zoning Ordinance on: (1) regulations, procedures, and authority under those ordinances for the City Council, Building Codes Board of Appeals, Zoning Board of Adjustment, Planning and Zoning Commission, and other boards and commissions; and (2) building

transparency, build-to lines, external building requirements, and other building regulations. This public hearing was a continuation from the prior meeting. No comments. The public hearing remained open.

4. Citizens Comments and Presentations.

- Brenda Stephens- Stated that the heavy trucks hauling dirt down her road are driving fast. She also asked about the address change and stated that it is affecting deliveries on Pursley.

5. Mayor's comments or reports.

- We are in budget and tax season
- Back in pandemic status with the delta variant
- Emphasized the importance of getting vaccinated
- Robert Hemminger's first meeting as City Manager. Very impressed with his work in the first month. Stated that we definitely hired the right person for the job.

6. Council comments or reports.

- Councilwoman Hargroder was able to represent the city at the TML conference in San Antonio. There was a major motor vehicle accident this morning which caused a lot of the city to be shut down. Thanked staff for all their help with directing traffic today after the accident.
- Councilwoman Murray was appointed to the TML board for small cities. She had a dear friend pass from COVID. Thanked Chief, they had a great talk. Also thanked Robert, Council, and Staff for a great job.
- Councilwoman Greene-Young thanked Jeremy. She met with Jeremy and expressed her concern with the height of the grass on the west side of 288. She spoke to Commissioner Linder, the Pipeline Company, and Sterling Lakes POA. She would like the entities to work together. Praised Chief Bell and his officers for the great job they do and mentioned a resident that praised Chief Bell. Thanked Land Tejas and Sterling Lakes POA for approving holding the family fun day event on Saturday, August 21st from 10 am to 2 pm.
- Councilman Kennedy asked what influence we have as a community to increase the cell phone towers here in Iowa Colony. He had previously shared with a few members of Council as one of the constituents had shared with him as he was not aware of the opt out option on the current mud bills. This pertains to the ICVFD. Asked to put more communication out regarding this option on the bill. As a member of the PTO of Caffey Junior High he wanted to give thanks to Land Tejas and Meridiana for their support and the Caffey Junior High PTO for financial support and media and marketing time. It is much appreciated. Thanked Mr. Robert for taking time to meet with him one on one to share visions and thoughts of the future of the community.
- Councilman Wilsey discussed internet options in Iowa Colony stating that there is a T-Mobile tower over by old ski lake that offers 5G with unlimited data and there is a router you can order from them to be delivered to your house. He is waiting to get the router at his house to try out the service. He will report back next month and let us know his thoughts on the service.

7. Staff Reports.

- A. City Manager mentioned the letter he sent to the City of Alvin regarding the 100ft strip. He quoted Jeremiah 29:11 and stated that Iowa Colony has a great future and big plans.
- B. City Engineer stated they will start drilling piers tomorrow for the traffic signals on the west side of Meridiana Parkway.
- C. Police Department appreciates the ICVFD with the help on the traffic resulting from the crash earlier that today.
- D. Building Official/Fire Marshal
- E. City Secretary
- F. Senior Accountant- Mayor Byrum-Bratsen thanked Sandra for working on finding the accounting software.
- G. Public Works

Fire Department reported they have taken 150 calls this year, including 3 fatalities, 5 life flight assists with Manvel EMS, and a dryer, kitchen, and house fire. Both engines now have the jaws of life on them. One set was purchased by the BC ESD at the cost of \$35,000.00 and with the ICVFD donations on the MUD bills they were able to fund an additional \$30,000.00 for another set.

8. Consideration and possible action on Resolution on Sierra Vista/Sterling Lakes Plan of Development-Amendment No. 3. Councilman Wilsey made a motion to approve the Resolution regarding the Sierra Vista/Sterling Lakes Amendment No. 3. No second causing the motion to fail. No further action was taken.

9. Consideration and possible action to approve a contract with Grantworks as the administration provider to complete project implementation for the American Rescue Plan Act (ARP Act) funding administered by the U.S. Department of the Treasury or other Federal or State Agency. No action was taken.

10. Consideration and possible action to adopt an ordinance amending the Personnel Handbook authorizing eligible employees to receive a COVID vaccination benefit equal to sixteen hours of vacation accrual, and to henceforth authorize the City Manager, to the extent authorized by the City Charter, to manage and amend the Personnel Handbook with notification provided to City Council. Councilman Kennedy made a motion to adopt an ordinance amending the Personnel Handbook authorizing eligible employees to receive a COVID vaccination benefit equal to sixteen hours of vacation accrual, and to henceforth authorize the City Manager, to the extent authorized by the City Charter, to manage and amend the Personnel Handbook with notification provided to City Council. Seconded by Councilwoman Greene-Young. Approved unanimously.

11. Consideration and possible action to adopt an ordinance on first reading amending the school zone time throughout Iowa Colony and declaring an emergency allowing the ordinance to become effective immediately. Councilman Kennedy made a motion to adopt an ordinance on first reading amending the school zone time throughout Iowa Colony and declaring an emergency allowing the ordinance to become effective immediately. Seconded by Councilwoman Murray. Approved unanimously.

12. Consideration and possible action regarding the Fiscal Year 21-22 City Budget and Tax Rate.

- Discuss Budget and Tax Rate
- Propose (Not Adopt) a tax rate by record vote. The council may later adopt a tax rate equal to or less than the proposed rate, but not greater.
- Announce dates, times, and places to hold public hearings on budget and tax rate and meetings to adopt them, and authorize the City Manager to revise that schedule if necessary.

Councilwoman Hargroder made a motion to propose a not to exceed rate of .501183. Seconded by Councilwoman Greene-Young. The motion was approved unanimously with a roll call vote. Councilwoman Hargroder voted aye, Councilwoman Murray voted aye, Councilwoman Greene-Young voted aye, Councilman Kennedy voted aye, and Councilman Wilsey voted aye.

Councilwoman Murray made a motion to announce dates, times, and places to hold public hearings on budget and tax rate and meetings to adopt them, and authorize the City Manager to revise that schedule if necessary. The public hearing date for budget is September 9th at 6:00 P.M. in the Iowa Colony City Hall Council Chambers, and the regular scheduled meeting on September 20th at 7:00 P.M. in the Iowa Colony City Hall Council Chambers to hold a public hearing on the tax rate and to adopt a tax rate and budget.

13. **Consent Agenda for Ordinances** - Adopt Ordinances on second and final reading.

- A. Consideration and possible action to adopt an ordinance on second and final reading approving the Plan of Financing and authorizing the Iowa Colony Development Authority to issue its Series 2021 bonds in an amount not to exceed \$8 million.
- B. Consideration and possible action to approve an ordinance on second and final reading adopting the Rules of Procedure including the social media policy, Website Policy, and Code of Conduct.
- C. Consideration and possible action to approve an Ordinance on second and final reading repealing Ordinance 2002-08; establishing standards for pumping mechanisms for detention facilities; and amending the Design Criteria Manual to cover same.
- D. Consideration and possible action to adopt an Ordinance on second and final reading to erect four-way stop signs at the intersection of Meridiana Parkway and Observation Way.

Councilman Kennedy made a motion to approve consent agenda ordinance A, B, and C and have D be taken under separate consideration. Seconded by Councilwoman Greene-Young. Approved unanimously.

Councilwoman Hargroder made a motion to adopt an Ordinance on second and final reading to erect four-way stop signs at the intersection of Meridiana Parkway and Observation Way. Seconded by Councilman Kennedy. Councilwoman Murray expressed her concerns. Approved unanimously.

14. Consent Agenda- Consideration and possible action to approve the following consent agenda items. Councilwoman Hargroder moved to approve the following consent agenda items. Seconded by Councilwoman Murray. Approved unanimously.

A. Approval of minutes of the following meetings.

- July 19, 2021 - Regular Meeting

B. Approval of the following plats as recommended by the Planning and Zoning Commission.

- Meridiana Section 58B Preliminary Plat
- Sterling Lakes North Section 1 Preliminary Plat
- Sterling Lakes North Section 2 Preliminary Plat
- Sterling Lakes North Section 3 Preliminary Plat
- Sterling Lakes North Section 4 Preliminary Plat
- Sterling Lakes North Section 5 Preliminary Plat
- Sterling Lakes North Section 6 Preliminary Plat
- Sterling Lakes North Section 7 Preliminary Plat

C. Approve the following Infrastructure Approvals/Acceptances

- Karsten Blvd. North Phase I-Water and Sanitary Facilities-Approval into one-year maintenance period.
- Karsten Blvd. North Phase I- Storm and Paving Facilities- Acceptance into one-year maintenance period.
- Ames Boulevard Phase I – Storm and Paving Facilities- Approval into one-year maintenance period.
- Crystal View Drive Phase III- Water, Sanitary, Storm, and Paving Facilities- Approval into one-year maintenance period.

D. Approve the following early plat releases and return of escrow funds.

- Sierra Vista West Section 6- Disbursement No. 3 and Final
- Sierra Vista West Section 4- Disbursement No. 2
- Crystal View Drive Phase 3- Disbursement No. 2 and Final
- Sierra Vista West Section 5- Disbursement No. 1

E. Approve resolutions adding and removing authorized signatures for the following

- Texas Advantage- Remove Kacy Smajstrla and Susan Cottrell and add Chad Wilsey, Michael Byrum-Bratsen, and Robert Hemminger.
- Veritex Community Bank- Remove Michael Holton and Susan Cottrell and add Chad Wilsey, Michael Byrum-Bratsen, and Robert Hemminger.

F. Approve a resolution authorizing Grantworks to be the Administrative Service Provider for the American Rescue Plan Act (ARP).

EXECUTIVE SESSION- 8:59 P.M.

Executive Session in accordance with 551.071 and 551.072 Texas Gov't Code to deliberate on the following:

- Sale of property to MUD 31
- Purchase of property for Davenport Road construction project

RETURN TO OPEN SESSION- 9:12 P.M.

15. Consideration and possible action regarding the sale of property to MUD 31. No action taken.

16. Consideration and possible action regarding acquisition of property for Davenport Road construction project. No action taken.

17. The meeting was adjourned by a unanimous vote at 9:12 P.M.

APPROVED THIS 20th DAY OF SEPTEMBER, 2021.

ATTEST:

Kayleen Rosser, City Secretary

Michael Byrum-Bratsen, Mayor



12003 Iowa Colony Blvd.
Iowa Colony, Tx. 77583
Phone: 281-369-2471
Fax: 281-369-0005
www.iowacolonytx.gov

STATE OF TEXAS
COUNTY OF BRAZORIA
CITY OF IOWA COLONY

BE IT REMEMBERED ON THIS, the 24th day of August, 2021, the City Council of the City of Iowa Colony, Texas, held a Public Meeting at 6:00 P.M. at Iowa Colony City Hall, there being present and in attendance the following members to wit:

Mayor Michael Byrum-Bratsen
Councilwoman Arnetta Murray
Councilwoman Marquette Greene-Young
Councilman Wil Kennedy
Councilman Chad Wilsey

And Councilwoman Sydney Hargroder being absent, constituting a quorum at which time the following business was transacted.

PUBLIC MEETING- 6:00 P.M.

1. Mayor Byrum-Bratsen called the meeting to order at 6:05 P.M.
2. Pledge of Allegiance and Texas Pledge were recited.
3. Citizens Comments and Presentations. No comments from the public.
4. Consideration and possible action to approve a contract with Grantworks as the administration provider to complete project implementation for the American Rescue Plan Act (ARP Act) funding administered by the U.S. Department of the Treasury or other Federal or State Agency. No action taken.
5. Consideration and possible action to approve a contract with Fundview for ERP software. Councilman Wilsey made a motion to approve a contract with Fundview for ERP software. Seconded by Councilwoman Greene-Young. Approved unanimously with five ayes. Councilwoman Hargroder was absent.
6. Discuss budget and tax rate. The City Manager presented the proposed budget to City Council. Discussion between City Council and Staff occurred. Staff answered questions from City Council members regarding budget items and the proposed tax rate.
7. The meeting was adjourned by a unanimous vote at 9:15 P.M.

APPROVED THIS 20th DAY OF SEPTEMBER, 2021.

ATTEST:

Kayleen Rosser, City Secretary

Michael Byrum-Bratsen, Mayor

Copy



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STATE OF TEXAS
COUNTY OF BRAZORIA
CITY OF IOWA COLONY

BE IT REMEMBERED ON THIS, the 9th day of September, 2021, the City Council of the City of Iowa Colony, Texas, held a Special Public Meeting at 6:00 P.M. at Iowa Colony City Hall, there being present and in attendance the following members to wit:

Mayor Michael Byrum-Bratsen
Councilwoman Sydney Hargroder
Councilwoman Arnetta Murray
Councilwoman Marquette Greene-Young
Councilman Wil Kennedy
Councilman Chad Wilsey

And none being absent, constituting a quorum at which time the following business was transacted.

PUBLIC MEETING- 6:00 P.M.

1. Mayor Michael Byrum-Bratsen called the meeting to order at 6:00 P.M.
2. Pledge of Allegiance and Texas Pledge were recited.
3. Citizens Comments and Presentations. There were no comments from the public.

"An opportunity for the public to address City Council on agenda items or concerns not on the agenda. To comply with the Texas Open Meetings Act, this period is not for question and answer. Those wishing to speak must identify themselves and observe a three-minute time limit."

4. PUBLIC HEARINGS

- Hold a public hearing on the budget for the fiscal year beginning October 1, 2021, and ending September 30, 2022. **THIS BUDGET WILL RAISE MORE TOTAL PROPERTY TAXES THAN LAST YEAR'S BUDGET BY \$405,051 OR 18.01%, AND OF THAT AMOUNT \$478,351 IS TAX REVENUE TO BE RAISED FROM NEW PROPERTY ADDED TO THE TAX ROLL THIS YEAR.** Mayor Byrum-Bratsen opened the public hearing at 6:01 P.M. There were no comments regarding the public hearing. Mayor Byrum-Bratsen closed the public hearing at 6:32 P.M.
- Hold a public hearing concerning the approval of a crime control plan and budget of the Iowa Colony Crime Control and Prevention District for fiscal year 2022. Mayor Byrum-Bratsen opened

the public hearing at 6:01 P.M. There were no comments from the public. Mayor Byrum-Bratsen closed the public hearing at 6:29 P.M.

- Hold the first of two public hearings to consider annexing the following property:
Annexation Tracts 1 and 2: a segment of the right of way of County Road 56 (Meridiana Parkway) from the west right of way line of State Highway 288 westward to the west line of Sterling Lakes West Subdivision Section 4, less and except the portion thereof already in the city limits of Iowa Colony. Annexation Tract 3: a segment of the right of way of County Road 48 (Ames Boulevard) from the projected south line of Sterling Lakes West Subdivision Section 2 northward to the projected north line of Sterling Lakes Subdivision Section 13, less and except the portion thereof already in the city limits of Iowa Colony. Mayor Byrum-Bratsen opened the public hearing at 6:02 P.M. There were no comments from the public. Mayor Byrum-Bratsen closed the public hearing at 6:32 P.M.

5. City Manager's Report. Robert Hemminger discussed the following:

- Strategic Plan Meeting Survey Results
- HGAC General Assembly Representative and Alternate
- Brazoria County Appraisal District Board of Directors Nominations
- Budget
- Economic Development
- RSVP's due to City Secretary

6. Consideration and possible action concerning the approval of a crime control plan and budget of the Iowa Colony Crime Control and Prevention District for fiscal year 2022. Councilman Wilsey made a motion to approve the crime control plan and budget of the Iowa Colony Crime Control and Prevention District for fiscal year 2022. Seconded by Councilwoman Hargroder. Approved unanimously.

7. Consideration and possible action to approve a contract with Grantworks as the administrative provider to complete project implementation for the American Rescue Plan Act (ARP Act) funding administered by the U.S. Department of the Treasury or other Federal or State Agency. No action was taken per a request by the City Manager.

8. Consideration and possible action to approve an Interlocal Agreement with Texas Municipal League (TML) for Health Insurance Benefits for employees. Councilwoman Hargroder made a motion to approve an Interlocal Agreement with Texas Municipal League (TML) for Health Insurance Benefits for employees. Seconded by Councilwoman Murray. Approved unanimously.

9. The meeting was adjourned by a unanimous vote at 6:33 P.M.

APPROVED THIS 20th DAY OF SEPTEMBER, 2021.

ATTEST:

Kayleen Rosser, City Secretary

Michael Byrum-Bratsen, Mayor

Monday, August 30, 2021

Lacey Bell
EHRA Inc.
10555 Westoffice Dr.
Houston, TX 77042

**Re: Meridiana Commercial Reserve No. 2 Final Plat
Letter or Recommendation to Approve
City of Iowa Colony Project No. SFP 210809-1011
Adico, LLC Project No. 16007-2-210**

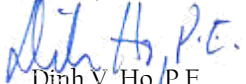
Dear Ms. Bell;

On behalf of the City of Iowa Colony, Adico, LLC has reviewed the second submittal of Meridiana Commercial Reserve No. 2 Final Plat, received on or about August 26, 2021. The review of the plat is based on the City of Iowa Colony Subdivision Ordinance No. 2019-09 dated August 2002, and as amended.

Based on our review, we have no objections to the final plat as resubmitted on August 26, 2021. Please provide two (2) mylars and ten (10) prints to Kayleen Rosser, City Secretary, by no later than Wednesday, September 1, 2021, for consideration at the September 7, 2021, Planning and Zoning Commission meeting.

Should you have any questions, please do not hesitate to call our office.

Sincerely,
Adico, LLC


Dinh V. Ho, P.E.
TBPE Firm No. 16423

Copy

Cc: Kayleen Rosser, COIC
Robert Hemminger, COIC
File: 16007-2-210

STATE OF TEXAS:

COUNTY OF BRAZORIA:

We, GR-M1, LTD., a Texas Limited Partnership, acting by and through Matt Lawson, President of Rise Communities, LLC, A Nevada Limited Liability Company, Authorized Agent for GR-M1, LTD., a Texas Limited Partnership, sole owner of the land shown on this plat and whose name is described thereto and in person or through a duly authorized agent dedicates to the public forever all streets, alleys, parks, water courses, drains, easements and public places thereon shown for the purposes and consideration herein expressed. The owners do hereby waive all claims for damages occasioned by the establishment of grades as approved for the streets and drainage easements dedicated or occasioned by the alteration of the surface, or any portion of the streets or drainage easements to conform to such grades, and do hereby bind ourselves, our heirs, successors and assigns, to warrant and defend the title to the land so dedicated.

IN TESTIMONY WHEREOF, GR-M1, LTD., a Texas limited partnership, has caused these presents to be signed by Matt Lawson, President of Rise Communities, LLC, a Nevada Limited Liability Company, Authorized Agent for GR-M1, LTD., a Texas Limited Partnership, thereunto authorized by this ____ day of _____, 2021.

OWNER

GR-M1, LTD., A Texas Limited Partnership
By: Rise Communities, LLC,
A Nevada Limited Liability Company,
Authorized Agent

By: _____

Print Name: Matt Lawson

Title: President

STATE OF TEXAS §

COUNTY OF HARRIS §

BEFORE ME, the undersigned authority, on this day personally appeared Matt Lawson, President of Rise Communities, LLC, a Nevada Limited Liability Company, Authorized Agent for GR-M1, LTD., a Texas Limited Partnership, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and considerations therein expressed, and as the act and deed of said limited liability company.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this ____ day of _____, 2021.

Notary Public in and for the
State of TEXAS
My Notary Commission Expires _____

I, Robert Boelsche, am authorized under the laws of the State of Texas to practice the profession of surveying and hereby certify that the above subdivision is true and correct; was prepared from an actual survey of the property made under my supervision on the ground; that all boundary corners, angle points, points of curvature and other points of reference have been marked with iron rods having an outside diameter of not less than five-eighths of one inch (5/8) inch and a length of not less than three (3) feet; and that the plat boundary corners have been tied to the nearest street intersection.

Robert Boelsche, Registered Professional Land Surveyor
Texas Registration No. 4446

METES AND BOUNDS DESCRIPTION
MERIDIANA
COMMERCIAL RESERVE No. 2
BEING A 34.43 ACRE TRACT OF LAND SITUATED IN
THE H. T. & B. R.R. COMPANY SURVEY, SECTION 52, ABSTRACT 513
BRAZORIA COUNTY, TEXAS

A DESCRIPTION OF A 34.43 ACRE TRACT OF LAND IN THE H. T. & B. R.R. COMPANY SURVEY, SECTION 52, ABSTRACT 513, BRAZORIA COUNTY, TEXAS, BEING OUT OF A CALLED 135,7841 ACRE TRACT OF LAND DESCRIBED IN DEED TO GR-M1, LTD. RECORDED UNDER BRAZORIA COUNTY CLERK'S FILE NUMBER (B.C.C.F. NO.) 2006049416; SAID 34.43 ACRE TRACT BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS (BEARINGS BASED ON TEXAS STATE PLANE COORDINATE SYSTEM OF 1983 SOUTH CENTRAL ZONE AS DETERMINED BY GPS MEASUREMENTS):

BEGINNING at the southwesterly corner of said 135,7841 acre tract of land from which a 5/8-inch capped iron rod stamped "Wilson" bears North 87°14' East, 2.07 feet and from which a concrete monument found in the easterly right-of-way line of State Highway 288 (variable width) bears North 03°36' East, 4.30 feet;

1) THENCE, North 01°44'05" East, along the easterly right-of-way line of said State Highway 288 for a distance of 52.81 feet to a 5/8-inch capped iron rod stamped "E.H.R.A. 713-784-4500" set for curvature;

2) THENCE, continuing along the easterly right-of-way line of said State Highway 288 in a northeasterly direction along the arc of said curve to the right having a radius of 1,041.74 feet, a central angle of 46°30'00", an arc length of 845.45 feet, and a chord bearing of North 24°57'50" East, for a distance of 822.44 feet to a 5/8-inch capped iron rod stamped "E.H.R.A. 713-784-4500" set for tangency;

3) THENCE, North 48°12'50" East, continuing along the easterly right-of-way line of said State Highway 288 for a distance of 221.06 feet to a 5/8-inch capped iron rod stamped "E.H.R.A. 713-784-4500" set for curvature;

4) THENCE, continuing along the easterly right-of-way line of said State Highway 288 in a northeasterly direction along the arc of said curve to the left having a radius of 458.37 feet, a central angle of 44°14'59", an arc length of 354.00 feet, and a chord bearing of North 26°05'00" East, for a distance of 345.27 feet to a 5/8-inch capped iron rod stamped "E.H.R.A. 713-784-4500" set for corner;

5) THENCE, North 46°44'31" East, continuing along the easterly right-of-way line of said State Highway 288 for a distance of 69.83 feet to a 5/8-inch capped iron rod stamped "E.H.R.A. 713-784-4500" set marking the northwesterly corner of the herein described tract and the southerly right-of-way line of said Meridiana Parkway;

6) THENCE, North 87°51'56" East, along the southerly right-of-way line of said Meridiana Parkway for a distance of 314.10 feet to a 5/8-inch capped iron rod stamped "E.H.R.A. 713-784-4500" set for corner;

7) THENCE, South 86°52'26" East, continuing along the southerly right-of-way line of said Meridiana Parkway for a distance of 264.46 feet to a 5/8-inch capped iron rod stamped "E.H.R.A. 713-784-4500" set for curvature;

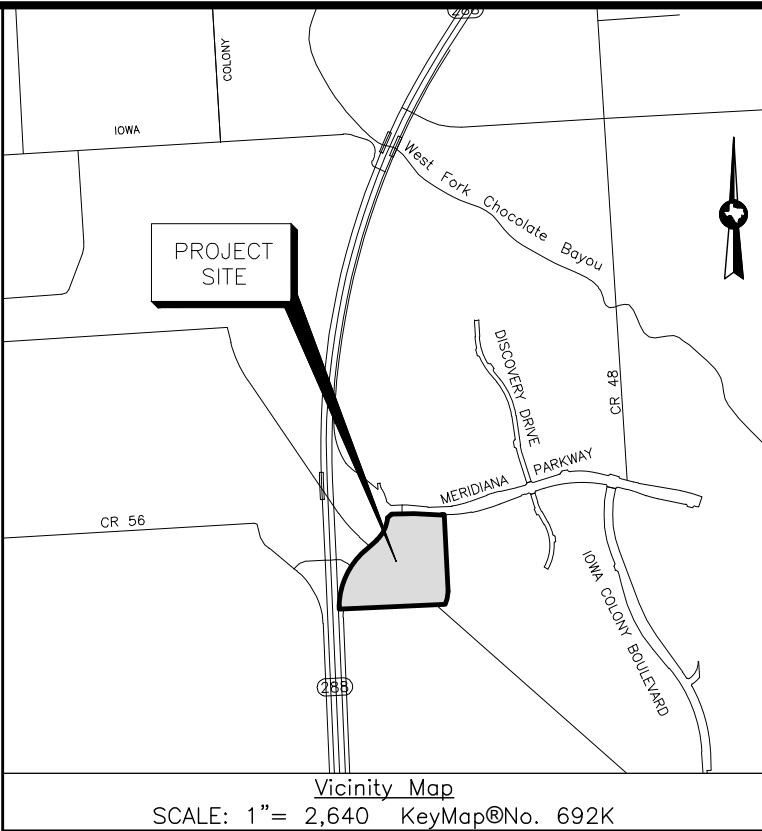
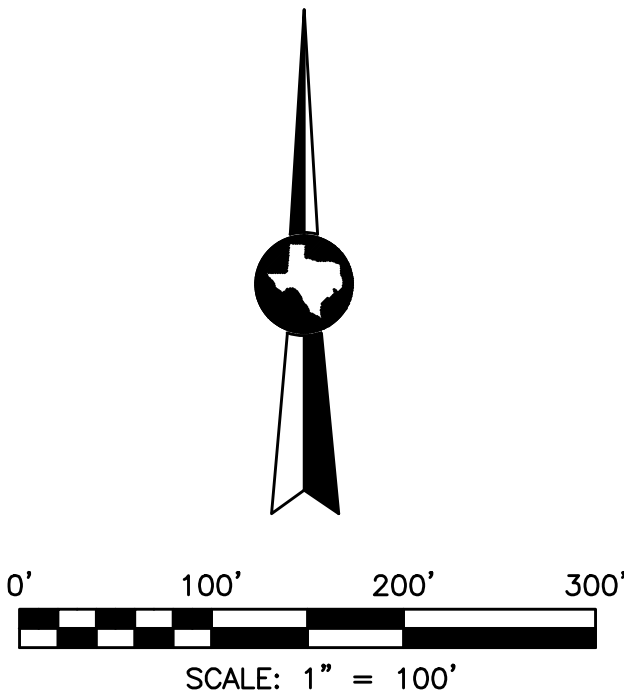
8) THENCE, continuing along the southerly right-of-way line of said Meridiana Parkway in an easterly direction along the arc of said curve to the left having a radius of 1,528.50 feet, a central angle of 01°11'28", an arc length of 31.78 feet, and a chord bearing of South 87°28'10" East, for a distance of 31.78 feet to a 5/8-inch capped iron rod stamped "E.H.R.A. 713-784-4500" found marking the northwesterly corner of Reserve "A" Block 1 of Meridiana Section 67 as per plat recorded in B.C.C.F. No. 2016001694 and the northeasterly corner of the herein described tract;

9) THENCE, South 02°50'13" East, along the westerly line of said Meridiana Section 67 for a distance of 1,050.35 feet to a 5/8-inch capped iron rod stamped "E.H.R.A. 713-784-4500" found marking the westerly common corner of Lot 24 and Lot 25 Block 1 of Meridiana Section 66 as per plat recorded under B.C.C.F. NO. 2018037315;

10) THENCE, South 09°59'58" West, along the westerly line of said Lot 24 for a distance of 99.91 feet to a 5/8-inch capped iron rod stamped "E.H.R.A. 713-784-4500" found marking the common westerly corner of Lot 23 and said Lot 24;

11) THENCE, South 17°05'22" West, along the westerly line of said Lot 23 for a distance of 80.31 feet to a 5/8-inch capped iron rod stamped "E.H.R.A. 713-784-4500" found marking the southeasterly corner of the herein described tract and an angle point in Reserve "D" Block 1 of said Meridiana Section 66;

12) THENCE, South 87°17'53" West, along the southerly line of said Meridiana Section 66 and said 135,7841 acre tract for a distance of 1,458.40 feet to the POINT OF BEGINNING and containing 34.43 acres of land.



BENCHMARK:

NGS MONUMENT # E 306 DISK SET IN TOP OF CONCRETE MONUMENT, LOCATED 2.0 MILES WEST OF MANVEL, 2 MILES WEST ALONG THE GULF, COLORADO AND SANTA FE RAILWAY FROM THE STATION AT MANVEL, BRAZORIA COUNTY, 0.2 MILE WEST OF A SHELL-ROAD CROSSING, 5-1/2 FEET NORTHWEST OF MILE POLE 38, 39 FEET SOUTH OF THE SOUTH RAIL, 33 FEET NORTH OF THE CENTERLINE OF A DIRT ROAD, 6.7 FEET NORTH OF THE RIGHT-OF-WAY FENCE, 3 FEET WEST OF A WHITE WOODEN WITNESS POST AND SET IN THE TOP OF A CONCRETE POST ABOUT FLUSH WITH THE GROUND.
ELEV.=52.00 (NAVD '88) 1991 ADJUSTMENT

CITY OF IOWA COLONY APPROVAL

CITY COUNCIL APPROVAL

Michael Byrum-Bratsen, Mayor

Sydney Hargroder, Council Member

Ametta Hicks-Murray, Council Member

Marquette Greene-Young, Council Member

Wii Kennedy, Council Member

Chad Wilsey, Council Member

Dinh Ho, P.E., City Engineer

Date

PLANNING AND ZONING COMMISSION APPROVAL

David Hurst, Chairman
Planning Commission

Les Hosey
Planning Commission Member

Steven Byrum-Bratsen
Planning Commission Member

Vince Patterson
Planning Commission Member

Tim Varlack
Planning Commission Member

McLean Barnett
Planning Commission Member

Melanie Hampton
Planning Commission Member

Date

FINAL PLAT MERIDIANA COMMERCIAL RESERVE No. 2

BEING A SUBDIVISION OF 34.43 ACRES OUT OF THE
H. T. & B. R.R. CO. SURVEY, SECTION 52, ABSTRACT 513,
IN THE CITY OF IOWA COLONY,
BRAZORIA COUNTY, TEXAS.

1 BLOCK 4 RESERVES

OWNER

GR-M1, LTD.,
A TEXAS LIMITED PARTNERSHIP
1602 AVENUE D, SUITE 100
KATY, TEXAS 77493
PH (832) 437-7863

AUGUST, 2021



10011 MEADOWGLEN LN
HOUSTON, TEXAS 77042
713-784-4500
WWW.EHRAINCO.COM
TBPE No. F-726
TBPELS No. 10092300

GENERAL NOTES:

- Bearing orientation is based on the Texas State Plane Coordinate System of 1983, South Central Zone, as determined by GPS measurements.
- AC. indicates Acres
B.C.C.F. No. indicates Brazoria County Clerk's File Number
B.C.P.R. indicates Brazoria County Plat Records
B.L. indicates Building Line
Brs. indicates Bears
C.I.R. indicates Capped Iron Rod
CONC. MON. indicates Concrete Monument
D.E. indicates Drainage Easement
Fnd. indicates Found
P.O.B. Point Of Beginning
R.O.W. indicates Right of Way
U.E. indicates Utility Easement
(F) indicates a found 5/8-inch Capped Iron Rod
"EHRA 713-784-4500"
(S) indicates a set 5/8-inch Capped Iron Rod
"EHRA 713-784-4500"
- The property subdivided in the foregoing plat lies within Brazoria County, the City of Iowa Colony, Brazoria County M.U.D. 55, and Brazoria County Drainage District #5 (B.D.D.#5).
- The boundary for this plat has a closure in excess of 1:15,000.
- The terms and conditions of Amendment #1 of the City of Iowa Colony Ordinance #2007-7 may affect this plat. This plat is in conformance with Meridiana PUD Amendment No. 3.
- No building permits will be issued until all storm sewer drainage improvements, if any, and which may include detention, have been constructed.
- This final plat will expire two (2) years after final approval by City Council if construction of the improvements has not commenced within the two-year initial period or the one-year extension period granted by City Council.
- Sidewalks will be required along all roadway frontage. Sidewalks shall be a minimum of 5' in width.
- Water and sanitary sewer service will be provided by Brazoria County M.U.D. No. 55.
- Contour lines shown hereon are based on the NGS Benchmark E 306 being noted hereon.
- All water and wastewater facilities shall conform to the city's design criteria.
- This plat is subject to the conditions and restrictions of the Meridiana PUD Agreement No. 3 as approved January 23, 2017.
- The Developer/Homeowners' Association shall be responsible for maintenance of Reserve "A". The Developer shall be responsible for maintenance of Reserves "B" and "C". The Drainage District shall be responsible for maintenance of Reserve "D".
- According to the Federal Emergency Management Agency Flood Insurance Rate Map, Brazoria County, Texas, Community Panel No. 4803950110K, dated December 30, 2020, portions of the subject property shown hereon lie within "Zone AE" (areas determined to be subject to the 100-year flood plain with base flood elevations determined).

This flood statement does not imply that the property or structures thereon will be free from flooding or flood damage. On rare occasions floods can and will occur and flood heights may be increased by man-made or natural causes. The location of the flood zone was determined by scaling from said FEMA map. The actual location, as determined by elevation contours, may differ. Edminster, Hinshaw, Russ & Associates, Inc. d/b/a EHRA, assumes no liability as to the accuracy of the location of the flood zone limits. This flood statement shall not create liability on the part of Edminster, Hinshaw, Russ & Associates, Inc. d/b/a EHRA.

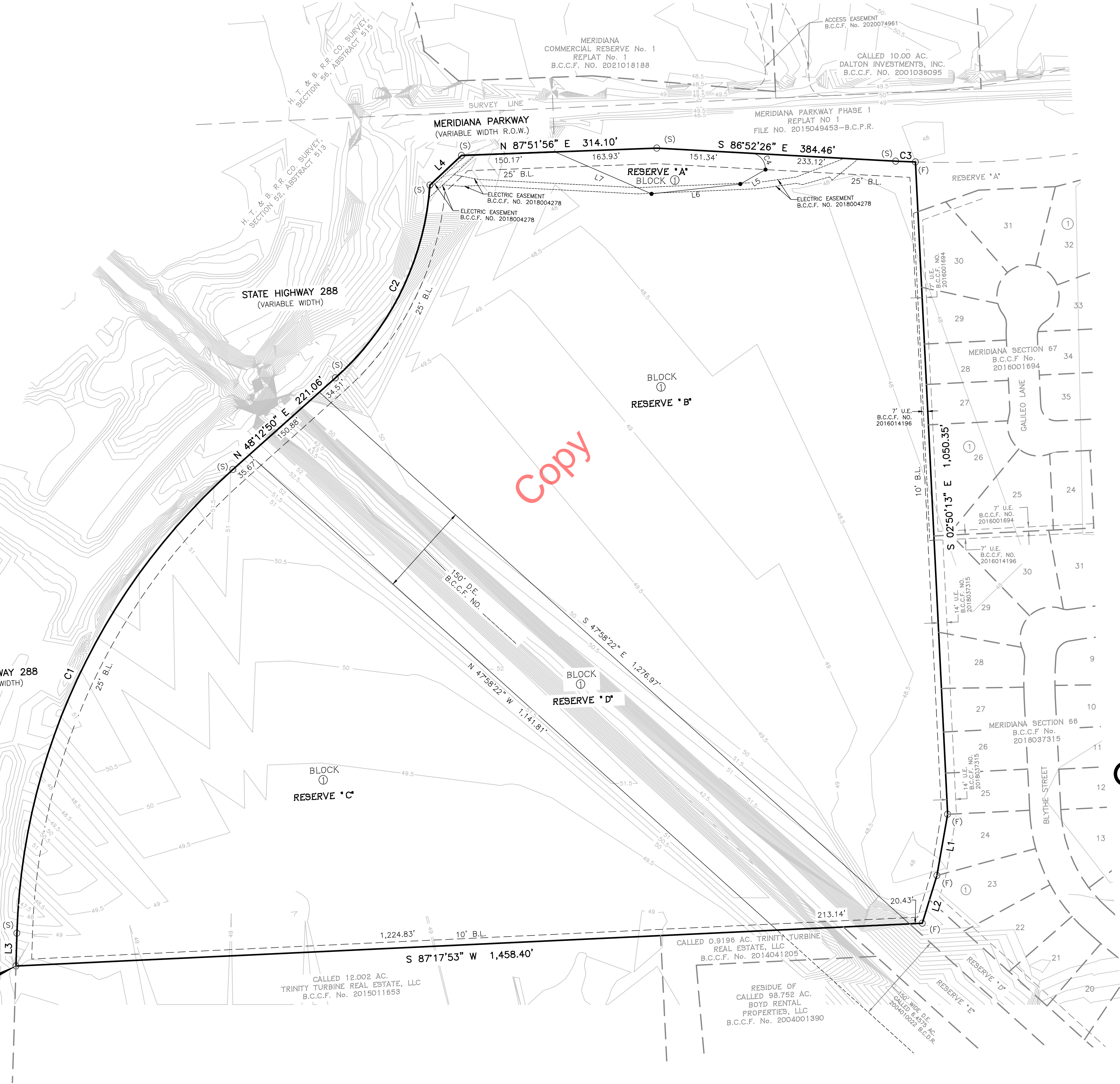
BRAZORIA COUNTY DRAINAGE DISTRICT NO. 5:

- Slab elevations (finished floor) shall be a minimum of 2 feet above finished grade.
- All drainage easements shown hereon shall be kept clear of fences, buildings, plantings and other obstructions to the operation and maintenance of drainage facilities.
- All property shall drain into the drainage easement only through an approved drainage structure.
- All drainage easements and detention pond reserves shown on this plat will be maintained by the property owners and/or business owners; provided, however, and governmental entity have jurisdiction, including, without limitation, Brazoria County, Texas and Brazoria County Drainage District #5, shall have the right, but not the obligation to enter upon the drainage easements to perform maintenance operations at any time after the date hereof.
- The property identified in the foregoing plat lies within Brazoria County Drainage District #5.
- This rural commercial site employs a natural drainage system, which is intended to provide drainage for the site that is similar to that which existed under pre-development conditions. Thus, during large storm events, ponding of water should be expected to occur on the site to the extent it may have prior to development, but such ponding should not remain for an extended period of time.
- Land use within the subdivision is limited to an average imperviousness of no more than 72 percent. The drainage and/or detention system has been designed with the assumption that this average percent, imperviousness will not be exceeded. If this percentage is to be exceeded, a replat and/or redesign of the system may be necessary.
- Other than shown hereon, there are no pipeline easements or pipelines within the boundaries of this plan.
- All storm water drainage pipes, culverts, tiles or other (includes driveway culverts) will be minimum 24" I.D. or equal.
- Dedicated drainage easement(s) granted to Brazoria County Drainage District #5 for drainage maintenance purposes shall include 45 feet top of bank, plus the sum (footage) of both ditch side slopes and channel bottom and 45 feet of bank on the opposite bank.
- Dedicated ingress/egress accesses are granted to Brazoria County Drainage District #5 (see District Resolution No 2007-06 & 2007-07). Access will be gated and locked with Brazoria County Drainage District #5's lock.
- Prohibited use of "metal" pipe in storm water/sewer applications (See District Resolution No. 2007-08).
- Prohibited use of "rip rap" in storm water/sewer applications. (District Policy).
- Pipelines, utility lines and other crossing under any Brazoria County Drainage District #5 ditch require approval and permitting prior to construction.
- All dedicated storm sewer drainage and/or access easements to be granted to Brazoria County Drainage District #5 by the property owner will be initiated and recorded, at the property owner's expense, in Brazoria County, Texas with a "Recorded Document Number" affixed to said easement prior to final approval granted by Brazoria County Drainage District #5 Board of Commissioners.
- It will be the property owner's responsibility to verify if any Brazoria County Drainage District #5 "Dedicated" drainage easements are on or cross their property. If so, the property owner will comply as stated within the recorded easement.
- Project field start-up will start within 365 calendar days from date shown here. Continuous and reasonable field site work is expected. See Brazoria County drainage criteria manual section 1, Introduction; Sub-Section 1.5, Plat and Plan approval process, and drainage acceptance procedures; time limit for approval and Brazoria County Drainage District #5 Resolution 2011-1, allowable time(s) and procedures for starting-up approved projects.

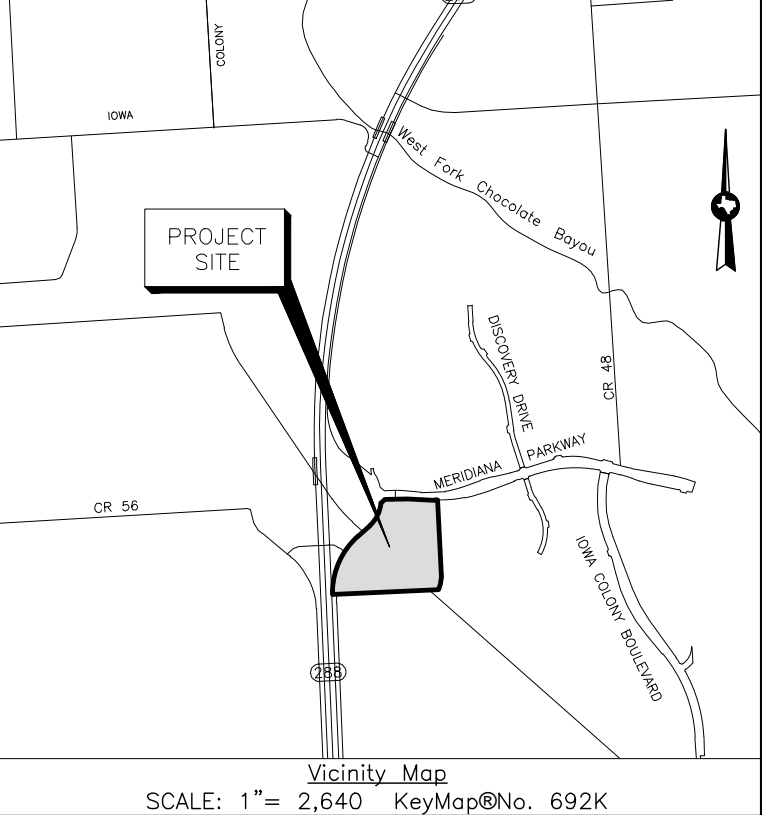
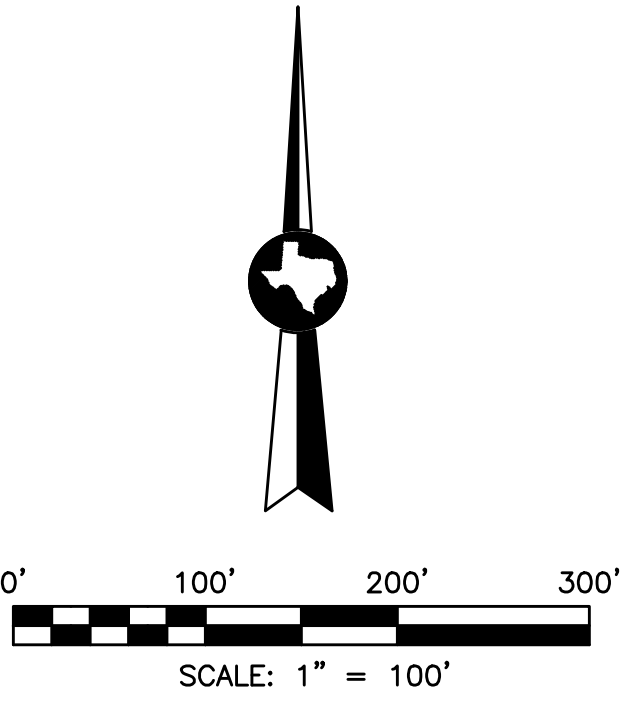
RESERVE TABLE		
RESERVE	RESTRICTED TO	AREA
A	LANDSCAPE, OPEN SPACE, & UTILITY PURPOSES	15,993 SQ.FT. / 0.3672 ACRES
B	COMMERCIAL	748,317 SQ.FT. / 17.1790 ACRES
C	COMMERCIAL	553,922 SQ.FT. / 12.7163 ACRES
D	DRAINAGE, LANDSCAPE, OPEN SPACE, RECREATION, & UTILITY PURPOSES	181,409 SQ.FT. / 4.1646 ACRES
TOTAL		1,499,641 SQ.FT. / 34.4271 ACRES

CURVE TABLE					
CURVE	RADIUS	DELTA ANGLE	ARC LENGTH	CHORD BEARING	CHORD LENGTH
C1	1041.74'	48°30'00"	845.45'	N 24°57'50" E	822.44'
C2	458.37'	44°14'59"	354.00'	N 26°05'20" E	345.27'
C3	1528.50'	1°11'28"	31.78'	S 87°28'10" E	31.78'
C4	25.00'	90°00'00"	39.27'	S 41°52'26" E	35.36'

LINE TABLE		
LINE	BEARING	DISTANCE
L1	S 02°59'58" W	99.91'
L2	S 17°05'22" W	80.31'
L3	N 01°44'05" E	52.81'
L4	N 48°44'31" E	69.83'
L5	S 60°16'43" W	46.69'
L6	S 83°36'56" W	143.59'
L7	N 66°28'43" W	169.36'



P.O.B.
Fnd. Conc. Mon.
Brs N03°36'E 4.3'
Fnd. 5/8" C.I.R. "Wilson"
Brs N87°14'E 2.07'



BENCHMARK:

NGS MONUMENT # E 306 DISK SET IN TOP OF CONCRETE MONUMENT, LOCATED 2.0 MILES WEST OF MANVEL, 2 MILES WEST ALONG THE GULF, COLORADO AND SANTA FE RAILWAY FROM THE STATION AT MANVEL, BRAZORIA COUNTY, 0.2 MILE WEST OF A SHELL-ROAD CROSSING, 5-1/2 FEET NORTHWEST OF MILE POLE 38, 39 FEET SOUTH OF THE SOUTH RAIL, 33 FEET NORTH OF THE CENTERLINE OF A DIRT ROAD, 6.7 FEET NORTH OF THE RIGHT-OF-WAY FENCE, 3 FEET WEST OF A WHITE WOODEN WITNESS POST AND SET IN THE TOP OF A CONCRETE POST ABOUT FLUSH WITH THE GROUND.
ELEV.=52.00 (NAVD '88) 1991 ADJUSTMENT

FINAL PLAT MERIDIANA COMMERCIAL RESERVE No. 2

BEING A SUBDIVISION OF 34.43 ACRES OUT OF THE
H. T. & B. R.R. CO. SURVEY, SECTION 52, ABSTRACT 513,
IN THE CITY OF IOWA COLONY,
BRAZORIA COUNTY, TEXAS.

1 BLOCK 4 RESERVES

OWNER
GR-M1, LTD.,
A TEXAS LIMITED PARTNERSHIP
1602 AVENUE D, SUITE 100
KATY, TEXAS 77493
PH (832) 437-7863

AUGUST, 2021



10011 MEADOWGLEN LN
HOUSTON, TEXAS 77042
713-784-4500
WWW.EHRAINCO.COM
TBPE No. F-726
TBPELS No. 10092300

August 19, 2021

City of Iowa Colony
c/o Mr. Dinh Ho, City Engineer
12003 Iowa Colony Blvd
Iowa Colony, TX 77583

Re: Sterling Lakes Drive Street Dedication
CIOC Proj No. EPR2190722-0580
Adico, LLC Project No. 16007-3-186

Dear Mr. Dinh Ho:

The Sterling Lakes Drive Street Dedication Construction Plans were approved by Iowa Colony on September 21, 2020. The Sterling Lakes Drive Street Dedication Final Plat was approved by Iowa Colony on November 4, 2021. The plans note that the City approval is valid for one year after the date of signatures. This letter is to request an extension of the construction plans and final plat approval of up to 2 years based on the recent request from City Council to defer the construction of the road.

Please do not hesitate to contact me if you have any questions.

Sincerely,
Pape Dawson Engineers, Inc.

Bryan Sheppard

Digitally signed by Bryan Sheppard
DN: C=US,
E=bsheppard@pape-dawson.com,
O=Pape Dawson Engineers,
CN=Bryan Sheppard
Date: 2021.08.19 14:35:39-05'00'

Bryan Sheppard, P.E.
Project Manager



Monday, September 21, 2020

Bryan Sheppard, P.E.
Pape-Dawson Engineers, Inc.
10350 Richmond Ave., Suite 200
Houston, TX 77042

Re: Sterling Lakes Drive Street Dedication Water, Sanitary, Drainage and Paving Construction Plans
Letter of No Objection
CIOC Project No. EPR2 190722-0580
Adico, LLC Project No. 16007-3-186

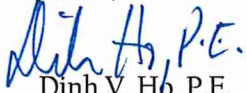
Dear Mr. Sheppard;

On behalf of the City of Iowa Colony, Adico, LLC has reviewed the third submittal of Sterling Lakes Drive Street Dedication Water, Sanitary, Drainage and Paving construction plans received on or about September 11, 2020. The project has been reviewed in accordance with the City of Iowa Colony Engineering Design Criteria Manual effective June 20, 2009 and as amended.

Based upon our review, we have no objections to the plans as resubmitted on September 11, 2020. Attached are the signed plans for your use.

Should you have any questions or comments, please do not hesitate to contact our office.

Sincerely,
Adico, LLC


Dinh V. Ho, P.E.
TBPE Firm No. 16423

Cc: Kayleen Rosser, CIOC, (krosser@cityofiowacolony.com)
Ron Cox, Ron Cox Consulting, (rcox@roncoxconsulting.com)
File: 16007-3-186

Monday, October 26, 2020

Bryan Sheppard
Pape-Dawson Engineers, Inc.
10350 Richard Ave., Suite 200
Houston, TX 77042

Re: Sterling Lakes North Sterling Lakes Drive Street Dedication Final Plat
Letter of No Objection
CIOOC Project No. SFP 200728-0817
ALLC Project No. 16007-2-165

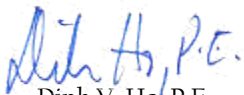
Dear Mr. Sheppard;

On behalf of the City of Iowa Colony, Adico, LLC has reviewed the second submittal for Sterling Lakes North Sterling Lakes Drive Street Dedication Final Plat received on or about October 23, 2020. The review of the plat is based on the City of Iowa Colony Subdivision Ordinance dated August 2002 and as amended.

Based upon our review, we have no objections to the final plat as resubmitted on October 23, 2020. Please provide Kayleen Rosser, City Secretary, with two (2) sets of mylars and ten (10) folded prints of the plat by no later than October 28, 2020 for consideration at the November 3, 2020 Planning Commission meeting.

Should you have any questions, please do not hesitate to call our office.

Sincerely,
Adico, LLC



Dinh V. Ho, P.E.
TBPE Firm No. 16423

Copy

Cc: Kayleen Rosser, City Secretary (krusser@cityofiowacolony.com)
Ron Cox, City Manager (rcox@rcoxconsulting.com)
File: 16007-2-165

Thursday, September 9, 2021

Mayor Michael Byrum-Bratsen
City Council
City of Iowa Colony
12003 Iowa Colony Blvd.
Iowa Colony, TX 77553

Re: Sierra Vista Section 5- Water, Sanitary, Drainage and Paving Facilities
Recommendation for Final Approval of Facilities
City of Iowa Colony Project No. CSW 180806-0610 (WS&D), CSW 190107-0005 (Paving)
Adico, LLC Project No. 16007-4-156 (WS&D), 16007-4-186 (Paving)

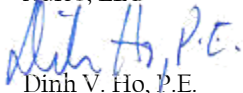
Dear Mayor Byrum-Bratsen and City Council;

On behalf of the City of Iowa Colony, Adico, LLC has completed its final reinspection of the Sierra Vista Section 5 Water, Sanitary, Drainage and Paving Facilities. City Council approved the project into the One Year Maintenance Period on June 17, 2019.

A final reinspection was completed on April 2, 2020, with all outstanding punch list items addressed. Therefore, Adico, LLC recommends final approval of facilities.

Should you have any questions, please do not hesitate to call our office.

Sincerely,
Adico, LLC


Dinh V. Ho, P.E.

TBPE Firm No. 16423

Copy

Cc: Kayleen Rosser, COIC
Robert Hemminger, COIC
File: 16007-4-156 (WS&D), 16007-4-186 (Paving)



August 26, 2021

Mr. Dinh Ho, P.E
City of Iowa Colony
c/o Adico, LLC
2114 El Dorado Boulevard, Suite 400
Friendswood, Texas 77546

Re: Construction of Water, Sanitary, Drainage, and Paving Facilities for Sierra Vista Section 5 for Brazoria County Municipal Utility District No. 32

Mr. Ho,

This letter is to serve as a statement that the above referenced project has completed the one-year maintenance period. A final inspection for the referenced project occurred on April 2, 2020, with the appropriate municipal authority representatives present. The results of this inspection were recorded and are available for your reference upon request.

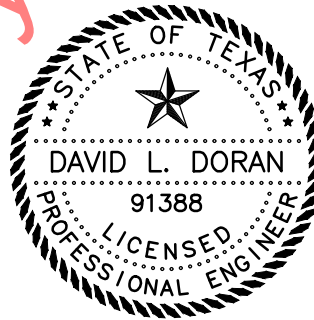
These results have been addressed, and the project was verified as complete after a final walk was held with the representatives. The referenced project has reached completion per the City of Iowa Colony requirements.

Sincerely,

A handwritten signature in blue ink that reads "David L. Doran".

David L. Doran, P.E., CCM
Partner, Construction Management

DLD/mm



August 27, 2021

Thursday, September 9, 2021

Mayor Michael Byrum-Bratsen
City Council
City of Iowa Colony
12003 Iowa Colony Blvd.
Iowa Colony, TX 77553

Re: Sierra Vista West Section 4
Brazoria County Municipal Utility District No. 53
Letter of Recommendation-Disbursement Request No. 3, Sept. 2021
Adico Project No. 21001-02

Dear Mayor Byrum-Bratsen and City Council;

On behalf of the City of Iowa Colony, Adico, LLC has reviewed Disbursement Request No. 3 from Land Tejas Sierra Vista West, LLC, the disbursement of funds for Sierra Vista West Section 4 Early Plat Recordation Release Agreement.

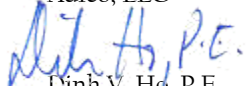
Elevation Land Solutions has provided copies of the approved pay estimates and supporting documents for our review. Below is a brief overview.

ESCROW AMOUNT:					\$	2,263,080.21
CONTINGENCY @ 10%					\$	226,308.02
TOTAL ESCROW AND CONTINGENCY DEPOSIT					\$	2,489,388.23
	Date of Request	Request Subtotal	10% Contingency	Change Orders	Total Disbursement	Remaining Escrow
Draw Request No. 1	Jul-21	\$ 1,055,947.04	\$ 105,594.70		\$ 1,161,541.74	\$ 1,327,846.49
Draw Request No. 2	Aug-21	\$ 737,135.10	\$ 73,713.51		\$ 810,848.61	\$ 516,997.88
Draw Request No. 3	Sep-21	\$ 301,172.07	\$ 30,117.21		\$ 331,289.28	\$ 185,708.60
TOTALS		\$ 2,094,254.21	\$ 209,425.42	\$ -	\$ 2,303,679.63	\$ 185,708.60

Based on our review of the documentation provided, Adico, LLC has no objections to Disbursement No. 3 to Land Tejas in the amount of \$331,289.28. After Disbursement No. 3, the remaining cash deposit balance is \$185,708.60.

Should you have any questions, please do not hesitate to call our office.

Sincerely,
Adico, LLC


Dinh V. Ho, P.E.
TBPE Firm No. 16423

cc: Kayleen Rosser, City Secretary
Bill Hemminger, City Manager



MELANIE OHL
CHIEF FINANCIAL OFFICER

September 1, 2021

Dinh V. Ho, P.E.
Principal
Adico Consulting Engineers
2114 El Dorado Blvd., Suite 400
Friendswood, TX 77546

RE: Land Tejas Sierra Vista West, LLC
Construction and Escrow Agreement-Disbursement
Sierra Vista West Sec. 4 Draw #3-September

Dear Dinh:

Please find enclosed a worksheet for disbursement for a portion of our cash deposit and copies of the invoices to pay the following vendor(s):

Clearwater Utilities	\$ 122,500.83	Section 4 WSD
ClearPave	\$ 178,671.24	Section 4 Paving
September Contingency Refund	\$ <u>30,117.21</u>	
Total	\$ 331,289.28	

Please review the enclosed and if in agreement, recommend the City reimburse to Land Tejas Sierra Vista West, LLC the amount of \$331,289.28 of our escrowed funds. Wiring instructions are attached for your convenience.

Sincerely,


Melanie Ohl
Chief Financial Officer



ESCROW SUMMARY FOR ALL PROJECTS SERVING
SIERRA VISTA WEST SECTION 4
August 31, 2021

ORIGINAL ESCROW SUMMARY															
Construction Contract	Contractor	Contract Amount (A)	Change Orders (B)	Revised Contract Amount (A + B)	Escrowed Amount	10% Contingency	Total Escrow	Total Refund to Date	September Draw Request	September Contingency Refund	September Refund	Remaining Escrow Balance	Deduction of Change Order Not Escrowed	September Refund (Net of Required Cash Deposit For CO)	Remaining Escrow Balance
1. Section 4 WSD	Clearwater Utilities	2,527,119.30	\$ 58,600.00	\$ 2,585,719.30	\$ 351,313.32	\$ 35,131.33	\$ 386,444.65	\$ (119,489.48)	\$ (122,500.83)	\$ (12,250.08)	\$ (134,750.91)	\$ 132,204.26		\$ (134,750.91)	\$ 132,204.26
1. Section 4 Paving	ClearPave	2,333,046.00	\$ 98,969.49	\$ 2,432,015.49	\$ 1,911,766.89	\$ 191,176.69	\$ 2,102,943.58	\$ (1,852,900.87)	\$ (178,671.24)	\$ (17,867.12)	\$ (196,538.36)	\$ 53,504.34		\$ (196,538.36)	\$ 53,504.34
					\$ 2,263,080.21	\$ 226,308.02	\$ 2,489,388.23	\$ (1,972,390.35)	\$ (301,172.07)	\$ (30,117.21)	\$ (331,289.28)	\$ 185,708.60	\$ -	\$ (331,289.28)	\$ 185,708.60
								\$ 516,997.88							

Copy

Thursday, September 9, 2021

Mayor Michael Byrum-Bratsen
c/o City Council
City of Iowa Colony
12003 Iowa Colony Blvd.
Iowa Colony, TX 77553

Re: Sierra Vista West Section 5 Early Plat
Brazoria County Municipal Utility District No. 53
Letter of Recommendation to Approve Disbursement Request No. 2, Sept 2021
Adico Project No. 21001-07

Dear Mayor Byrum-Bratsen and City Council;

On behalf of the City of Iowa Colony, Adico, LLC has reviewed Disbursement Request No. 2 from Meritage Homes for Sierra Vista West Section 5 Early Plat Recordation Release Agreement.

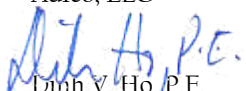
Elevation Land Solutions has provided copies of the approved pay estimates and supporting documents for our review. Below is a brief overview.

ESCROW AMOUNT:					\$	1,966,567.67
CONTINGENCY @ 10%					\$	196,656.77
TOTAL ESCROW AND CONTINGENCY DEPOSIT					\$	2,163,224.44
	Date of Request	Request Subtotal	10% Contingency	Change Orders	Total Disbursement	Remaining Escrow
Disbursement Request No. 1	Aug-21	\$ 1,044,057.80	\$ 104,405.78	\$ (8,800.00)	\$ 1,139,663.58	\$ 1,023,560.86
Disbursement Request No. 2	Sep-21	\$ 482,664.47	\$ 48,266.45	\$ -	\$ 530,930.92	\$ 492,629.94
TOTALS		\$ 1,088,497.80	\$ 152,672.23	\$ (8,800.00)	\$ 1,670,594.50	

Based on our review of the documentation provided, Adico has no objections to Disbursement No. 2 to Meritage Homes in the amount of \$530,930.92. After Disbursement No. 2, the remaining balance of the cash deposit is \$492,629.94.

Should you have any questions, please do not hesitate to call our office.

Sincerely,
Adico, LLC


Dinh V. Ho, P.E.
TBPE Firm No. 16423

cc: Kayleen Rosser, City Secretary
Robert Hemminger, City Manager

June 8, 2021

To the Honorable Mayor and City
Council Members of the
City of Iowa Colony, Texas

You have requested that we audit the financial statements of the governmental activities, each major fund, the discretely presented component unit of the City of Iowa Colony, Texas (the "City"), as of September 30, 2021 and for the year then ended, and the related notes to the financial statements, which collectively comprise the City's basic financial statements.

We are pleased to confirm our acceptance and our understanding of this audit engagement by means of this letter. Our audit will be conducted with the objective of our expressing an opinion on each opinion unit.

Accounting principles generally accepted in the United States of America require that *the management's discussion and analysis* be presented to supplement the basic financial statements. Such information, although not a part of the basic financial statements, is required by *Governmental Accounting Standards Board*, who considers it to be an essential part of financial reporting for placing the basic financial statements in an appropriate operational, economic, or historical context. As part of our engagement, we will apply certain limited procedures to the required supplementary information (RSI) in accordance with auditing standards generally accepted in the United States of America. These limited procedures will consist primarily of inquiries of management regarding their methods of measurement and presentation, and comparing the information for consistency with management's responses to our inquiries. We will not express an opinion or provide any form of assurance on the RSI. The following RSI is required by accounting principles generally accepted in the United States of America:

- 1) Management's Discussion and Analysis.
- 2) General Fund Budgetary Comparison Schedules
- 3) Required Supplementary Pension System Information

Audit of the Financial Statements

We will conduct our audit in accordance with auditing standards generally accepted in the United States of America (U.S. GAAS). Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the basic financial statements are free from material misstatement. An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor's judgment, including the assessment of the risks of material misstatement of the financial statements, whether due to error, fraudulent financial reporting, misappropriation of assets, or violations of laws, governmental regulations, grant agreements, or contractual agreements.

An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the financial statements. If appropriate, our procedures will therefore include tests of documentary evidence that support the transactions recorded in the accounts, tests of the physical existence of inventories, and direct confirmation of cash, investments, and certain other assets and liabilities by correspondence with creditors and financial institutions. As part of our audit process, we will request written representations from your attorneys, and they may bill you for responding. At the conclusion of our audit, we will also request certain written representations from you about the financial statements and related matters.

Because of the inherent limitations of an audit, together with the inherent limitations of internal control, an unavoidable risk that some material misstatements or noncompliance (whether caused by errors, fraudulent financial reporting, misappropriation of assets, detected abuse, or violations of laws or governmental regulations) may not be detected exists, even though the audit is properly planned and performed in accordance with U.S. GAAS.

In making our risk assessments, we consider internal control relevant to the City's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the City's internal control. However, we will communicate to you in writing concerning any significant deficiencies or material weaknesses in internal control relevant to the audit of the financial statements that we have identified during the audit. Our responsibility as auditors is, of course, limited to the period covered by our audit and does not extend to any other periods.

We will issue a written report upon completion of our audit of the City's basic financial statements. Our report will be addressed to the governing body of the City. We cannot provide assurance that unmodified opinions will be expressed. Circumstances may arise in which it is necessary for us to modify our opinions, add an emphasis-of-matter or other-matter paragraph(s), or withdraw from the engagement.

Management's Responsibilities

Our audit will be conducted on the basis that management and, when appropriate, those charged with governance acknowledge and understand that they have responsibility:

1. For the preparation and fair presentation of the financial statements in accordance with accounting principles generally accepted in the United States of America;
2. For identifying and providing report copies of previous audits, attestation engagements, or other studies that directly relate to the objectives of the audit, including whether related recommendations have been implemented;
3. For taking prompt action when instances of noncompliance are identified;
4. For addressing the findings and recommendations of auditors, for establishing and maintaining a process to track the status of such findings and recommendations and taking corrective action on reported audit findings from prior periods and preparing a summary schedule of prior audit findings;
5. For following up and taking corrective action on current year audit findings and preparing a corrective action plan for such findings;
6. For submitting the reporting package and data collection form to the appropriate parties;
7. For making the auditor aware of any significant contractor relationships where the contractor is responsible for program compliance;
8. To provide us with:
 - a. Access to all information of which management is aware that is relevant to the preparation and fair presentation of the financial statements, such as records, documentation, and other matters;
 - b. Additional information that we may request from management for the purpose of the audit; and
 - c. Unrestricted access to persons within the City from whom we determine it necessary to obtain audit evidence.

9. For adjusting the financial statements to correct material misstatements and confirming to us in the management representation letter that the effects of any uncorrected misstatements aggregated by us during the current engagement and pertaining to the current year period(s) under audit are immaterial, both individually and in the aggregate, to the financial statements as a whole;
10. For acceptance of nonattest services, including identifying the proper party to oversee nonattest work;
11. For maintaining adequate records, selecting and applying accounting principles, and safeguarding assets;
12. For informing us of any known or suspected fraud affecting the entity involving management, employees with significant role in internal control and others where fraud could have a material effect on compliance;
13. For the accuracy and completeness of all information provided;
14. For taking reasonable measures to safeguard protected personally identifiable and other sensitive information; and
15. For confirming your understanding of your responsibilities as defined in this letter to us in your management representation letter.

With regard to the supplementary information referred to above, you acknowledge and understand your responsibility (a) for the preparation of the supplementary information in accordance with the applicable criteria, (b) to provide us with the appropriate written representations regarding supplementary information, (c) to include our report on the supplementary information in any document that contains the supplementary information and that indicates that we have reported on such supplementary information, and (d) to present the supplementary information with the audited financial statements, or if the supplementary information will not be presented with the audited financial statements, to make the audited financial statements readily available to the intended users of the supplementary information no later than the date of issuance by you of the supplementary information and our report thereon.

With respect to any nonattest services we perform, the City's management is responsible for (a) making all management decisions and performing all management functions; (b) assigning a competent individual to oversee the services; (c) evaluating the adequacy of the services performed; (d) evaluating and accepting responsibility for the results of the services performed; and (e) establishing and maintaining internal controls, including monitoring ongoing activities. Nonattest services could include assistance with the preparation of financial statements including the government-wide conversion entries and note disclosures.

As part of our audit process, we will request from management and, when appropriate, those charged with governance, written confirmation concerning representations made to us in connection with the audit.

We understand that your employees will prepare all confirmations we request and will locate any documents or invoices selected by us for testing.

If you intend to publish or otherwise reproduce the financial statements and make reference to our firm, you agree to provide us with printers' proofs or masters for our review and approval before printing. You also agree to provide us with a copy of the final reproduced material for our approval before it is distributed.

Fees and Timing

The timing of our audit will be scheduled for performance and completion as follows:

Document internal control and preliminary tests	August 2021
Perform year-end audit procedures	February 2022
Issue audit reports	March 2022

We anticipate meeting these deadlines barring any delays.

Christopher L. Breaux, CPA is the engagement partner for the audit services specified in this letter. His responsibilities include supervising Whitley Penn, LLP's services performed as part of this engagement and signing or authorizing another qualified firm representative to sign the audit report.

Our fee for the audit services will be based on the amount of time required and the difficulty of the work involved which we estimate to be \$24,000. The fee estimate for the audit is based on anticipated cooperation from the City's personnel and the assumption that unexpected circumstances will not be encountered during the audit. If significant additional time is necessary, we will keep you informed of any problems we encounter and our fees will be adjusted accordingly.

Our invoices for these fees will be rendered each month as work progresses and are payable on presentation and payment is due in Tarrant County. You agree to pay reasonable attorney fees and collection costs incurred relating to collection of fees for services performed under the terms of this engagement. In accordance with Whitley Penn, LLP policy, work may be suspended if your account becomes 30 days or more past due and will not resume until your account is paid in full. In addition, invoices not paid in full by the last day of the month will be assessed interest at a rate of one percent per month. If we elect to terminate our services for nonpayment, our engagement will be deemed to have been complete even if we have not issued our report. You will be obligated to compensate us for all time expended and to reimburse us for all out-of-pocket expenditures through the date of termination. Our final auditors' report will be released upon final payment of any outstanding invoices.

You may request that we perform additional services not addressed in this engagement letter. If this occurs, we will communicate with you concerning the scope of the additional services and the estimated fees. We also may issue a separate engagement letter covering the additional services. In the absence of any other written communication from us documenting such additional services, our services will continue to be governed by the terms of this engagement letter.

We would like to make the following comments regarding the fee estimates:

1. Our fee estimates have not considered the effects of any changes to auditing standards and accounting principles, which may be promulgated by the AICPA, Congress, or any other regulatory body in the future and are unknown to us at this time. If significant additional time is necessary resulting in increased fees, we will endeavor to notify you of any such circumstances as they are assessed.
2. The City's personnel are responsible for the preparation of all items requested in the Prepared by Client ("PBC") listing and received by the date requested. Any delays caused by not preparing the items when requested may result in additional fees, as well as the possibility of postponing our fieldwork. The PBC listing will be provided to you during the planning process of the engagement.
3. Time incurred for audit adjustments identified during our audit and the related additional testing required has not been considered in our fee estimates. Prior to performing any additional testing, we will notify you of the exceptions and obtain approval for any additional fees which may be incurred.
4. Our fee estimates are based on all general ledger sub ledgers being reconciled to the general ledger balance and any adjustment necessary should be recorded to the general ledger prior to our fieldwork start date.

The ethics of our profession prohibit the rendering of professional services where the fee for such services is contingent, or has the appearance of being contingent, upon the results of such services. Accordingly, it is important that our bills be paid promptly when received. If a situation arises in which it may appear that our independence would be questioned because of significant unpaid bills, we may be prohibited from issuing our auditors' report.

In the unlikely event that differences concerning our services or fees should arise that are not resolved by mutual agreement, to facilitate judicial resolution and save time and expense of both parties, the City and Whitley Penn, LLP agree not to demand a trial by jury in any action, proceeding or counterclaim arising out of or relating to our services and fees for this engagement. Any controversy, dispute, or questions arising out of or in connection with this agreement or our engagement shall be determined by arbitration conducted in accordance with the rules of the American Arbitration Association, and any decision rendered by the American Arbitration Association shall be binding on both parties to this agreement. The costs of any arbitration shall be borne equally by the parties. Any and all claims relating to or arising out of this contract/agreement shall be governed by the laws of Texas and any dispute shall be finally resolved by the Texas courts in Tarrant County.

This letter replaces and supersedes any previous proposals, correspondence and understanding, whether written or oral. The agreements contained in this engagement letter shall survive the completion or termination of this engagement.

To ensure that Whitley Penn, LLP's independence is not impaired under the AICPA Code of Professional Conduct, you agree to inform the engagement partner before entering into any substantive employment discussions with any of our personnel.

Other Matters

During the course of the engagement, we may communicate with you or your personnel via fax or e-mail, and you should be aware that communication in those mediums contains a risk of misdirected or intercepted communications.

In the course of our services, our firm may transmit confidential information that you provided us to third parties in order to facilitate our services. As applicable, we require confidentiality agreements with all our service providers to maintain the confidentiality of your information and additionally the firm will take reasonable precautions to determine that our service providers have the appropriate procedures in place to prevent the unauthorized release of confidential information to others. We will remain ultimately responsible for the work provided by any third-party service providers used under this agreement. By your signature below, you consent to having confidential information transmitted to entities outside the firm. Please feel free to inquire if you would like additional information regarding the transmission of confidential information to entities outside the firm.

Regarding the electronic dissemination of audited financial statements, including financial statements published electronically on your Internet website, you understand that electronic sites are a means to distribute information and, therefore, we are not required to read the information contained in these sites or to consider the consistency of other information in the electronic site with the original document.

Professional standards prohibit us from being the sole host and/or the sole storage for your financial and non-financial data. As such, it is your responsibility to maintain your original data and records and we cannot be responsible to maintain such original information. By signing this engagement letter, you affirm that you have all the data and records required to make your books and records complete.

The audit documentation for this engagement is the property of Whitley Penn, LLP and constitutes confidential information. However, we may be requested to make certain audit documentation available to your pass-through regulatory entity and federal agencies and the U.S. Government Accountability Office pursuant to authority given to it by law or regulation, or to peer reviewers. If requested, access to such audit documentation will be provided under the supervision Whitley Penn, LLP's personnel. Furthermore, upon request, we may provide copies of selected audit documentation to these agencies and regulators. The regulators and agencies may intend, or decide, to distribute the copies of information contained therein to others, including other governmental agencies.

The City may wish to include our report on these financial statements in an exempt offering document. The City agrees that the aforementioned auditor's report, or reference to our Firm, will not be included in such offering document without prior permission or consent. Any agreement to perform work in connection with an exempt offering document, including an agreement to provide permission or consent, will be a separate engagement letter. For exempt offerings for which we are not involved, you will clearly indicate that we were not involved with the contents of such offering document and a disclosure as shown below will be included in the exempt offering:

"Whitley Penn, our independent auditor, has not been engaged to perform and has not performed, since the date of its report included herein, any procedures on the financial statements addressed in that report. Whitley Penn also has not performed any procedures relating to this offering document."

Further, we will be available during the year to consult with you on financial management and accounting matters of a routine nature.

During the course of the audit, we may observe opportunities for economy in, or improved controls over, your operations. We will bring such matters to the attention of the appropriate level of management, either orally or in writing.

We agree to retain our audit documentation or work papers for a period of at least five years from the date of our report.

You agree to inform us of facts that may affect the financial statements of which you may become aware during the period from the date of the auditor's report to the date the financial statements are issued.

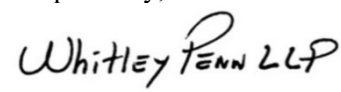
At the conclusion of our audit engagement, we will communicate to the City Council the following significant findings from the audit:

- Our view about the qualitative aspects of the City's significant accounting practices;
- Significant difficulties, if any, encountered during the audit;
- Uncorrected misstatements, other than those we believe are trivial, if any;
- Disagreements with management, if any;
- Other findings or issues, if any, arising from the audit that are, in our professional judgment, significant and relevant to those charged with governance regarding their oversight of the financial reporting process;
- Material, corrected misstatements that were brought to the attention of management as a result of our audit procedures;
- Representations we requested from management;
- Management's consultations with other accountants, if any; and
- Significant issues, if any, arising from the audit that were discussed, or the subject of correspondence, with management.

Please sign and return the attached copy of this letter to indicate your acknowledgment of, and agreement with, the arrangements for our audit of the financial statements including our respective responsibilities.

We appreciate the opportunity to be your financial statement auditors and look forward to working with you and your staff.

Respectfully,


Houston, Texas

To the Honorable Mayor and
Members of City Council

June 8, 2021
Page 7 of 8

RESPONSE:

This letter correctly sets forth our understanding.

Acknowledged and agreed on behalf of the City of Iowa Colony, Texas by:

Name: _____

Title: _____

Date: _____

Name: _____

Title: _____

Date: _____

Copy



Report on the Firm's System of Quality Control

July 19, 2018

To the Partners of Whitley Penn LLP and
the National Peer Review Committee.

We have reviewed the system of quality control for the accounting and auditing practice of Whitley Penn LLP (the firm) applicable to engagements not subject to PCAOB permanent inspection in effect for the year ended April 30, 2018. Our peer review was conducted in accordance with the Standards for Performing and Reporting on Peer Reviews established by the Peer Review Board of the American Institute of Certified Public Accountants (Standards).

A summary of the nature, objectives, scope, limitations of, and the procedures performed in a System Review as described in the Standards may be found at www.aicpa.org/prsummary. The summary also includes an explanation of how engagements identified as not performed or reported in conformity with applicable professional standards, if any, are evaluated by a peer reviewer to determine a peer review rating.

Firm's Responsibility

The firm is responsible for designing a system of quality control and complying with it to provide the firm with reasonable assurance of performing and reporting in conformity with applicable professional standards in all material respects. The firm is also responsible for evaluating actions to promptly remediate engagements deemed as not performed or reported in conformity with professional standards, when appropriate, and for remediating weaknesses in its system of quality control, if any.

Peer Reviewer's Responsibility

Our responsibility is to express an opinion on the design of the system of quality control and the firm's compliance therewith based on our review.

Required Selections and Considerations

Engagements selected for review included engagements performed under *Government Auditing Standards*, including compliance audits under the Single Audit Act, audits of employee benefit plans, audits performed under FDICIA, an audit of a broker-dealer, and examination of service organization (SOC 1 engagement).

As a part of our peer review, we considered reviews by regulatory entities as communicated by the firm, if applicable, in determining the nature and extent of our procedures.

Opinion

In our opinion, the system of quality control for the accounting and auditing practice of Whitley Penn LLP applicable to engagements not subject to PCAOB permanent inspection in effect for the year ended April 30, 2018, has been suitably designed and complied with to provide the firm with reasonable assurance of performing and reporting in conformity with applicable professional standards in all material respects. Firms can receive a rating of *pass*, *pass with deficiency(ies)* or *fail*. Whitley Penn LLP has received a peer review rating of *pass*.

Olsen Thielen & Co., Ltd.

Olsen Thielen & Co., Ltd.

**TAX INCREMENT REINVESTMENT ZONE
NUMBER TWO
CITY OF IOWA COLONY, TEXAS**



**2020 ANNUAL REPORT
REPORT NUMBER TEN**

Tax Year Ending December 31, 2020

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CITY OF IOWA COLONY, TEXAS

2020 CITY COUNCIL

Mayor

Hon. Michael Byrum-Bratsen

Council Members

Hon. Robin Bradbery

Hon. Arnetta Murray

Hon. Sydney Hargroder,
effective November 2020

Hon. Kacy Smajstrla

Hon. Chad Wilsey

Hon. Susan Cottrell, retired
November 2020

TAX INCREMENT REINVESTMENT ZONE
NUMBER TWO
IOWA COLONY, TEXAS
2020 BOARD OF DIRECTORS

Position 1	Steven Byrum-Bratsen, Chair April 2022
Position 2	Carol Wall April 2021
Position 3	Leon Davis April 2022
Position 4	Brenda Dillon April 2021
Position 5	Patrick O'Day April 2021

DESCRIPTION OF ZONE

In accordance with the Tax Increment Financing Act (Chapter 311, Tax Code), Ordinance 2010-2 of the City of Iowa Colony, Texas (the "City") established Reinvestment Zone Number Two, City of Iowa Colony, Texas, (the "Zone" or "TIRZ") on March 15, 2010. In 2019, the Zone consisted of approximately 955.89 acres located in Brazoria County, Texas (the "County") In 2020, the Iowa Colony City Council adopted Ordinance 2020-10 which approved the annexation of approximately 253.049 acres of additional land into the Zone. The Zone now contains a total of 1,082.42 acres. (Figure 1 shows the amended acreages). The City of Iowa Colony envisions that the District will serve a vital and long-term role in creating and sustaining revitalization opportunities.

The creation of the Zone was instrumental in facilitating the development of the master planned community project in Iowa Colony. The Meridiana (formerly known as Seven Oaks) Development consists of commercial, single family, mixed-use development spanning across two cities, Iowa Colony and Manvel. The project proposed that for any meaningful redevelopment of the area to occur, extensive construction of new infrastructure would be required.

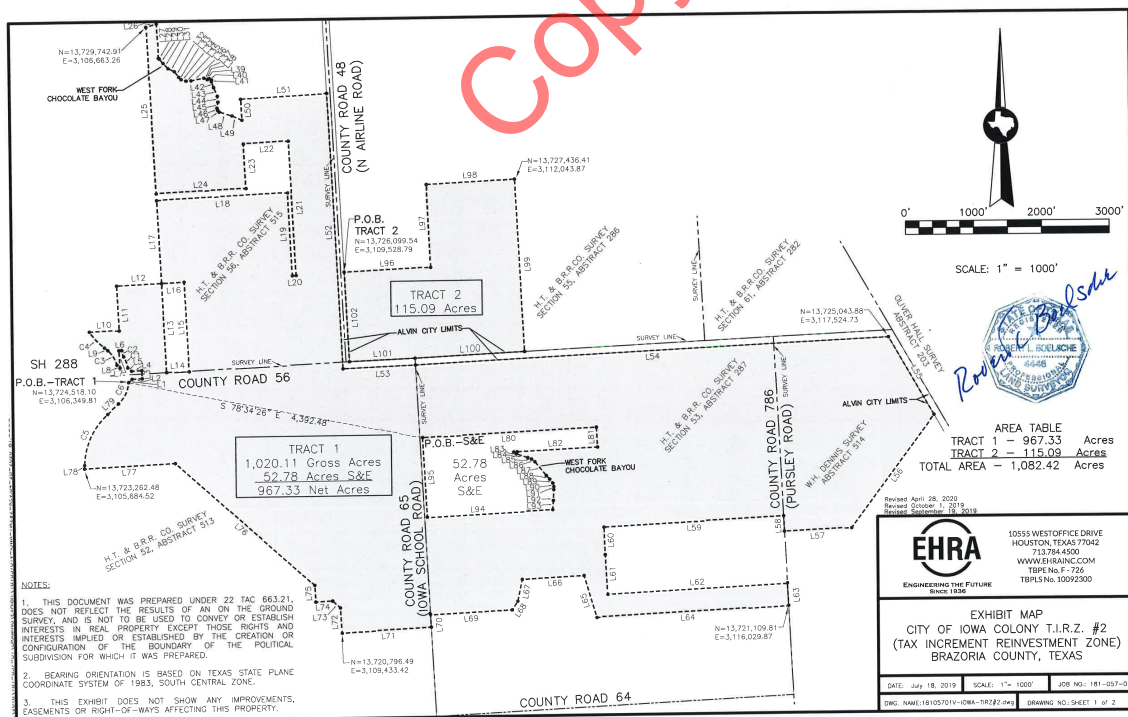


Figure 1: Iowa Colony TIRZ 2 Boundary Map (March 2020)

PURPOSE OF ZONE

This TIRZ was proposed in response to trends that showed Iowa Colony and its commercial tax base at risk of slow to no growth. The TIRZ would provide the financing and management tools needed to help stimulate the development of commercial and residential areas. The purpose of the Zone is to facilitate the redevelopment and will be the catalyst to provide the momentum for further redevelopment within the Zone.

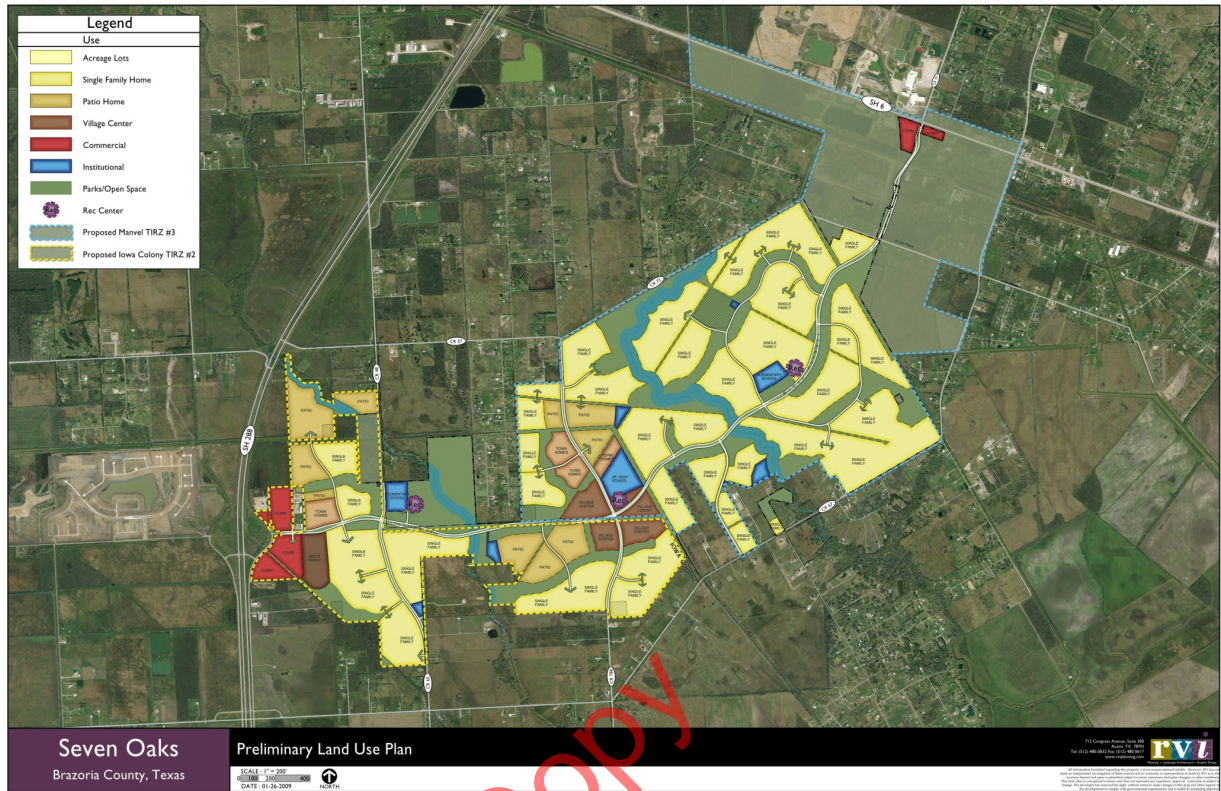
The objective of the Zone is to facilitate quality mixed-use development with a self-sustaining tax base for the City of Iowa Colony (the City), Brazoria County (the County), and any other participating taxing entity.

The City Council, in adopting the ordinances creating the Zone, found that the development described in the Project Plan and Reinvestment Zone Financing Plan (the Project Plan) would not likely occur, to the quality, standards and densities described in the Project Plan, but for the creation of the Zone.

The City Council further found that improvements in the Zone will significantly enhance the value of all taxable real property in the Zone and will be of general benefit to the City. The Zone will pursue its objective by acting as a financing vehicle for regional public improvements, as described in the Project Plan. The methods of financing and the sources of funding available to the Zone including the City and Brazoria County are described in the Project Plan.

The Project Plan & Reinvestment Zone Financing Plan (the “Plan”) has been prepared in accordance with the requirements of Chapter 311 of the Texas Tax Code and outlines the improvements to be funded and implemented by the Zone.

Figure 2: Iowa Colony Seven Oaks Master Plan (Iowa Colony and Manvel)



STATE OF THE ZONE AND PLAN IMPLEMENTATION IN 2020

Revenue

1. The information provided in the section is in accordance with § 311.016 (a) (1) of the Texas Tax Code, which requires inclusion of the amount and source of revenue in the tax increment fund established for the Zone.

Since its inception in 2010, the City and Brazoria County have been the sole participating taxing entities in the Zone. The following tables show the participating jurisdictions and the amount and source of revenue in the Zone. The Zone was created for the duration of 40 years and the City initially committed to 90% of its sales tax for the 40 years, or until dissolved by the City. Brazoria County committed 40.49% of its property tax beginning in 2015 for a period of 30 years from the first year of payment.

On August 11, 2016, the City Council approved an amendment to the Plan to authorize participation in the TIRZ #2 with City property taxes. The amendment calls for 100% of the property tax generated within the Zone to be dedicated to the Zone. It further calls for 30% of that amount to be withheld by the City of Iowa Colony for cost of services in the Zone. 2016 was the first year the property tax increment was collected in Iowa Colony. Note: The 2016 Annual Report did not reflect that transfer. This report is for 2019 revenues from the Zone.

Table A: Participation Schedule

Jurisdiction	2010 Base Year	2020 Tax Rate (Oct 1, 2020 O&M)	Years
City of Iowa Colony Sales Tax*	\$-0-	N/A	2010-2050
City of Iowa Colony Property Tax*	\$-0-	\$0.449209/\$100	2016-2050
Brazoria County Property Tax**	\$0.463101/\$100***	\$0.415233/\$100****	2015-2045

Tax Rate Source: Brazoria County Central Appraisal District

* City of Iowa Colony does assess a property tax of \$0.449209/\$100. Property tax began its contribution to TIRZ 2 in 2016. Agreements were approved August 11, 2016. Property tax is applied at 100% of the total increment generated in the Zone less debt service with 30% being withheld by the City for cost of providing city services (Cost of Service (COS)). The debt service rate is \$0.019887. The O&M rate is \$0.449322 and the total rate for 2020 is \$0.469209. Sales Tax will be applied at 90%.

** Brazoria County approved their participation by Interlocal Agreement at 40.49%.

*** Brazoria County tax rate approved October 2010.

**** Brazoria County tax rates approved October 2020: \$0.365233/\$100 (General Government); \$0.050/\$100 (Road and Bridge. Combined tax rate is \$0.415233/\$100)

Table B illustrates the growth in appraised value from the base year 2010 to tax year 2020 for the City of Iowa Colony. In future years Table B will be used to illustrate growth in appraised value over the life of the TIRZ to show the calculation of the increment. Note: Table B now reflects the adjusted 2010 Base Value as calculated and provided by the Brazoria County Tax Office in their Annual Statement. The Adjusted Base Value will be reflected in future Annual Reports as well. In addition, Table B reflects the TIF Levy paid as of December 31 of each year. This does not reflect the total levy. And, since this is a calendar year annual report, it reflects the twelve-month calendar year, rather than the fiscal year.

Table B: Increment Generated from Base Year to Present

	City of Iowa Colony Sales Tax	City of Iowa Colony Property Tax***	Brazoria County Property Tax General Fund**	Brazoria County Property Tax Road and Bridge Fund**	Total Levy Paid
2010 Original Base Value	-0-	\$3,776,457	\$3,776,457	N/A	\$-0-
2015 Value	-0-	\$3,803,108	\$3,803,108		
2015 Captured Increment	-0-	-0-	\$-0-		\$-0-
2016 Adjusted Base Value for 2010	-0-	\$2,806,647	\$2,806,587	\$2,794,557	
2016 Value	-0-	\$17,842,967	\$17,691,581	\$17,688,581	
2016 TIF Levy Paid (12-31-16)		\$11,805.95	\$-0-	\$1,595.89	\$23,960.12
2017 Adjusted Base Value	-0-	\$2,638,500	\$2,638,390	\$2,626,390	
2017 Value	-0-	\$45,923,700	\$43,325,723	\$43,215,668	
Levy Paid (12-31-17)	-0-	69,520.39			\$268,001.65
2018 Adjusted Base Value	-0-	\$2,697,565	\$2,697,545	\$2,685,545	
2018 Value	-0-	91,901,166	79,374,488	78,853,948	
Levy Paid (12-31-18)	-0-	\$190,107.51	\$77,894.14		\$259,627.90
2019 Adjusted Base Value	-0-	\$2,775,151	\$2,775,151	\$2,763,151	
2019 Value	-0-	\$156,411,713	\$134,006,913	\$133,178,913	
Levy Paid (12-31-19)	-0-	\$702,814.84	\$143,796.24		\$846,611.08

2020 Value		\$225,959,580		\$225,959,580	
Levy Paid (4-30-21)	\$5,595.22	\$1,236,245.98	\$224,343.96	NA	\$1,466,185.21

* Captured Increment is calculated by taking the difference between the current year value and the base year value. Note: The Base Year Value changes over time.

** Brazoria County collection did not begin until 2015.

*** City of Iowa Colony Property Tax collections did not begin until 2016. This amount is 100% and includes Cost of Service withheld of \$211,024.49 (30%) for 2019.

Table C is used to illustrate the amount of the City's incremental revenue to the tax increment fund. Note these are actual revenues for the calendar year, and do not reflect the total levy or percent levy paid to date.

Table C: Tax Increment Revenue by Year (12-31-20) *****

Taxing Entity	2010 Base Year	2011-16	2017	2018	2019	2020	Total
City of Iowa Colony Sales Tax*	\$-0-	\$-0-	\$-0-	\$-0-	\$-0-	\$5,595.22	\$5,595.22
City of Iowa Colony Property Tax**	\$-0-	\$-0-	\$69,520.39	\$190,107.51	\$702,814.84	\$1,236,245.98	\$2,198,688.72
Brazoria County Property Tax***	\$-0-	\$-0-	\$29,157.07	\$77,894.14	\$143,796.24	\$224,343.96	\$475,191.41
Annual Fund Revenue	\$-0-	\$-0-	\$98,677.46	\$268,001.65	\$846,611.08	\$1,466,185.21	\$2,679,475.35

*TIRZ #2 did not generated any sales tax until 2020. City reimburses the TIRZ 90% of sales tax receipts.

**The City of Iowa Colony approved participation with property taxes in 2016 at a rate of 100% of the total increment produced. Property tax is applied at 100% of the total increment generated in the Zone with 30% being returned to the City for cost of providing city services (Cost of Service (COS)). Sales Tax will be applied at 90%.

*** Brazoria County collection did not begin until 2015. Brazoria County: Increment x 40.49% x Tax Rate = Increment Revenue. This amount reflects the sum of Brazoria County General Fund and Road and Bridge Fund (See Table B for separated amounts).

****Figures originally based on Brazoria County Tax Office Tax Increment Financing Monthly and Annual Reports. However, in 2019, after an audit of the actual income, amounts for each year have been significantly adjusted.

Expenditures

2. The information provided in this section is in accordance with § 311.016 (a) (2) of the Texas Tax Code, which requires inclusion of the amount and purpose of expenditures from the fund.

The Board of Directors of the Zone has been granted by City Council, in accordance with Section 311.010 of the Texas Tax Code, the power to administer, manage and operate the Zone and to implement the Plan.

The Zone was created on March 15, 2010. The Board of Directors for the Zone was appointed at the same meeting. The Board has met when needed since their appointment.

Zone administrative expenses for 2020 were \$53,903.44. Note: This figure does not include bond issuance expenses.

Considerable activity has taken place in the Zone again in 2020. The developer has begun construction on the project in Iowa Colony. In 2020, \$3,687,573 have been expended in the Zone for development of Zone approved projects. Since reporting began, the developer has invested \$92,911,374 TIRZ 2.

Interest Due on Outstanding Bonds

3. The information provided in this section is in accordance with § 311.016 (a) (3) of the Texas Tax Code, which requires inclusion of the amount of principal and interest due on outstanding bonded indebtedness.

The Zone issued debt in the years 2018-2020. Total debt issued to date is \$16,450,000.

Tax Increment Bonds	Bond Issue Date	Initial Bond Amount	2020 Outstanding Principle Due	2020 Outstanding Interest Due
Series 2018	12-12-18	\$8,480,000	8,480,000	6,815,974
Series 2019	12-19-19	\$4,105,000	4,105,000	2,685,547
Series 2020	9-2-20	\$3,865,000	\$3,865,000	\$1,862,939

Base Value & Captured Appraised Value

4. The information provided in this section is in accordance with § 311.016 (a) (4) of the Texas Tax Code, which requires inclusion of the tax increment base and current captured appraised value retained by the Zone.

The captured appraised value of the Zone is the total appraised value of all real property located within the Zone, less the tax increment base value. In each year subsequent to the base year, the Zone will receive tax increment revenue based on ad valorem property taxes levied and collected by each participating taxing unit on the captured appraised value of the Zone. Please refer to Table B.

Increment Received by Participating Jurisdiction

5. The information provided in this section is in accordance with § 311.016 (a) (5) of the Texas Tax Code, which requires inclusion of the captured appraised value shared by the

City and other taxing units, the total amount of tax increments received, and any additional information necessary to demonstrate compliance with the Plan.

The City of Iowa Colony and Brazoria County are the only two taxing entities participating in the Zone. The increment revenue received for calendar year 2020 was \$1,466,185.21 as shown in Table C.



**TAX INCREMENT REINVESTMENT ZONE NUMBER TWO
CITY OF IOWA COLONY, TEXAS
2020 ANNUAL REPORT
Tax Year Ending December 31, 2020**

Prepared by Ron Cox Consulting for the City of Iowa Colony TIRZ 2 Board

Resolution 2021-19

A RESOLUTION OF THE CITY OF IOWA COLONY, TEXAS, ADOPTING THE ICMA RETIREMENT CORPORATION DEFERRED COMPENSATION PLAN.

WHEREAS, the City of Iowa Colony has employees rendering valuable services; and

WHEREAS, the establishment of a deferred compensation plan for such employees serves the interests if the City of Iowa Colony by enabling it to provide reasonable retirement security for its employees, by providing increased flexibility in its personnel management system, and by assisting in the attraction and retention of competent personnel; and

WHEREAS, the City of Iowa Colony has determined that the establishment of a deferred compensation plan to be administered by Mission Square Retirement, formerly known as ICMA Retirement Corporation, serves the above objectives; and

WHEREAS, the City of Iowa Colony desires that its deferred compensation plan be administered by Mission Square Retirement (ICMA-RC), and that some or all of the funds held under such plan be invested in the VantageTrust, a trust established by public employees for the collective investment of funds held under their retirement and deferred compensation plans;

NOW, THEREFORE, BE IT RESOLVED that the City of Iowa Colony hereby adopts the deferred compensation plan (the "Plan") in the form of the ICMA Retirement Corporation Deferred Compensation Plan and Trust, referred to as Appendix A.

BE IT FURTHER RESOLVED that the City of Iowa Colony hereby adopts the Declaration of Trust of VantageTrust, attached hereto as Appendix B, intending this adoption to be operative with respect to any retirement or deferred compensation plan subsequently established by the City of Iowa Colony, if the assets of the Plan are to be invested in VantageTrust.

BE IT FURTHER RESOLVED that the assets of the Plan shall be held in trust, with the City of Iowa Colony serving as trustee, for the exclusive benefit of the Plan participants and their beneficiaries, and the assets shall not be diverted to any other purpose.

BE IT FURTHER RESOLVED that the City of Iowa Colony hereby agrees to serve as trustee under the Plan.

BE IT FURTHER RESOLVED that the City Manager shall be the coordinator for this program; shall receive necessary reports, notices, etc. from ICMA Retirement Corporation or VantageTrust; shall cast, on behalf of the City of Iowa Colony, and required votes under VantageTrust; shall perform administrative duties to carry out the Plan or assign them to the appropriate departments; and shall be authorized to execute all necessary agreements with ICMA Retirement Corporation incidental to the administration of the Plan.

PASSED AND APPROVED ON SEPTEMBER 20, 2021.

By: _____
MICHAEL BYRUM-BRATSEN, MAYOR

Attest:

KAYLEEN ROSSER, CITY SECRETARY

457 GOVERNMENTAL DEFERRED COMPENSATION PLAN AND TRUST

Copy



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457 GOVERNMENTAL DEFERRED COMPENSATION PLAN AND TRUST

As Amended and Restated

Article I. Purpose

The Employer identified in Article 2.09 hereby establishes and maintains the Employer's Deferred Compensation Plan and Trust, hereafter referred to as the "Plan." The Employer is a State, political subdivision of a State, or an agency or instrumentality of a State or political subdivision, as described in Section 457(e)(1)(A) of the Internal Revenue Code ("the Code").

The primary purpose of this Plan is to provide retirement income and other deferred benefits to the Employees of the Employer and the Employees' Beneficiaries in accordance with the provisions of Section 457 of the Code.

The Employer has determined that the establishment of a deferred compensation plan for the Employees of the Employer serves the interests of the Employer by enabling it to provide reasonable retirement security for its employees, by providing increased flexibility in its personnel management system, and by assisting in the attraction and retention of competent personnel.

This Plan shall be an agreement solely between the Employer and participating Employees. The Plan and Trust forming a part hereof are established and shall be maintained for the exclusive benefit of Participants and their Beneficiaries. No part of the corpus or income of the Trust shall revert to the Employer or be used for or diverted to purposes other than the exclusive benefit of Participants and their Beneficiaries.

The Employer adopts the Group Trust created by the Declaration of Trust of VantageTrust Company.

Article II. Definitions

- 2.01 Account.** The bookkeeping account maintained for each Participant reflecting the cumulative amount of the Participant's Deferred Compensation, including any income, gains, losses, or increases or decreases in market value attributable to the Employer's investment of the Participant's Deferred Compensation, and further reflecting any distributions to the Participant or the Participant's Beneficiary and any fees or expenses charged against such Participant's Deferred Compensation.
- 2.02 Accounting Date.** For valuing the Trust's assets, as provided in Section 6.06, each business day that the New York Stock Exchange is open for trading.
- 2.03 Administrator.** The person or persons named in writing to carry out certain nondiscretionary administrative functions under the Plan, as hereinafter described. The Employer may remove any person as Administrator upon seventy-five (75) days' advance notice in writing to such person, in which case the Employer shall name another person or persons to act as Administrator. The Administrator may resign upon seventy-five (75) days' advance notice in writing to the Employer, in which case the Employer shall name another person or persons to act as Administrator. Unless otherwise provided in the Plan, the Administrator shall act at the direction of the Employer and shall be fully protected in acting on such direction. The Employer may enter into a separate agreement with the Administrator

detailing features of the Plan and any elections as to the administration of the Plan.

- 2.04 Automatic Distribution Date.** April 1 of the calendar year after the year the Participant attains age 70½ or, if later, has a Severance Event.
- 2.05 Beneficiary.** The person or persons named by the Participant in his or her Joinder Agreement who shall receive any benefits payable hereunder in the event of the Participant's death. In the event that the Participant names two or more Beneficiaries, each Beneficiary shall be entitled to equal shares of the benefits payable at the Participant's death, unless otherwise provided in the Participant's Joinder Agreement. If no Beneficiary is named in the Joinder Agreement, if the named Beneficiary predeceases the Participant, or if the named Beneficiary does not survive the Participant for a period of fifteen (15) days, then the estate of the Participant shall be the Beneficiary. If a married Participant resides in a community property state, the Participant shall be responsible for obtaining appropriate consent of his or her spouse in the event the Participant names someone other than his or her spouse as Beneficiary; provided, however that solely for purposes of this sentence, the term "spouse" shall have the meaning determined by the Employer.
- For purposes of Section 7.09(c), relating to unforeseeable emergency withdrawals, the term Primary Beneficiary means an individual who is named as a Beneficiary under the Plan and who would have an unconditional right to all or a portion of the Participant's account balance under the Plan upon the death of the Participant (or Beneficiary who has inherited an account balance).
- 2.06 Deferred Compensation.** The amount of Includible Compensation otherwise payable to the Participant that the Participant and the Employer mutually agree to defer hereunder (including pursuant to automatic enrollment in Section 4.03), any amount credited to a Participant's Account by reason of a transfer under Section 6.09 or 6.10, a rollover under Section 6.11, or any other amount the Employer agrees to credit to a Participant's Account.
- 2.07 Dollar Limitation.** The applicable dollar amount within the meaning of Section 457(b)(2)(A) of the Code, as adjusted for the cost-of-living in accordance with Section 457(e)(15) of the Code.
- 2.08 Employee.** Any individual who provides services for the Employer, whether as an employee of the Employer, as defined by state law, or as an independent contractor, and who has been designated by the Employer as eligible to participate in the Plan.
- 2.09 Employer.** _____ which is a State, political subdivision of a State, or agency or instrumentality of a State, as described in Section 457(e)(1)(A) of the Code.
- 2.10 457 Catch-Up Dollar Limitation.** Twice the Dollar Limitation.
- 2.11 Includible Compensation.** Includible Compensation of a Participant means "compensation," as defined in Section 415(c)(3) of the Code, for services performed for the Employer. Includible Compensation shall be determined without regard to any community property laws. For purposes of a Participant's Joinder Agreement only and not for purposes of the limitations in Article V, Includible Compensation shall include pre-tax contributions (excluding direct employer contributions) to an integral part trust of the employer providing retiree health care benefits.
- 2.12 Joinder Agreement.** An agreement entered into between an Employee and the Employer, including any amendments or modifications thereof, that fixes the amount of Deferred Compensation, specifies a preference among the investment alternatives designated by the Employer, names the Employee's Beneficiary or Beneficiaries, and incorporates the terms, conditions, and provisions of the Plan by

reference. A Joinder Agreement includes amounts that an Employer agrees to credit to the Employee's account as "employer contributions."

2.13 Normal Limitation. The maximum amount of Deferred Compensation for any Participant for any taxable year (other than amounts referred to in Sections 6.09, 6.10, and 6.11).

2.14 Normal Retirement Age. Age 70½, unless the Participant has elected an alternate Normal Retirement Age by written instrument delivered to the Administrator prior to a Severance Event. A Participant's Normal Retirement Age determines the period during which a Participant may utilize the additional catch-up dollar limitation of Section 5.02(b) hereunder and determines the right to receive certain tax free distributions described in Section 7.14. Once a Participant has to any extent utilized the catch-up limitation of Section 5.02(b), his Normal Retirement Age may not be changed.

A Participant's alternate Normal Retirement Age may not be earlier than the earliest date that the Participant will become eligible to retire and receive immediate, unreduced retirement benefits under the Employer's basic defined benefit retirement plan covering the Participant (or a money purchase pension plan of the Employer in which the Participant also participates if the Participant is not eligible to participate in a defined benefit plan of the Employer), and may not be later than the date the Participant will attain age 70½. If the Participant will not become eligible to receive benefits under a basic defined benefit retirement plan (or money purchase pension plan, if applicable) maintained by the Employer, the Participant's alternate Normal Retirement Age may not be earlier than 65 and may not be later than age 70½ (except as provided in the next paragraph). Solely for purposes of the prior two sentences, a plan of the Employer includes a plan maintained by the state (or a political subdivision or agency or instrumentality of the state) in which the Employer is located. In no event may a Participant's normal retirement age be different than the normal retirement age under the Employer's other 457(b) plans, if any.

In the event the Plan has Participants that include qualified police or firefighters (as defined under Section 415(b)(2)(H)(ii)(I) of the Code), a normal retirement age may be designated for such qualified police or firefighters that is not earlier than age 40 or later than age 70½. Alternatively, qualified police or firefighters may be permitted to designate a normal retirement age that is between age 40 and age 70½.

2.15 Participant. Any Employee who has joined the Plan pursuant to the requirements of Article IV. Unless the context requires otherwise, the term Participant includes an Employee or former Employee of the Employer who has not yet received all of the payments of benefits to which he/she is entitled under the Plan.

2.16 Percentage Limitation. 100 percent of the Participant's Includible Compensation available to be contributed as Deferred Compensation for the taxable year.

2.17 Plan Year. The calendar year, unless otherwise elected by the Employer.

2.18 Severance Event. A severance of the Participant's employment with the Employer within the meaning of Section 457(d)(1)(A)(ii) of the Code.

In general, a Participant shall be deemed to have experienced a Severance Event for purposes of this Plan when, in accordance with the established practices of the Employer, the employment relationship is considered to have actually terminated. If the Plan does not allow participation by independent contractors of the Employer, a Participant shall also be deemed to have experienced a Severance Event for purposes of the Plan when, in accordance with the established practices of the Employer, the Participant ceases to be an employee and becomes an independent contractor. If the Plan allows participation by independent contractors of the

Employer, then in the case of a Participant who is an independent contractor of the Employer, a Severance Event shall be deemed to have occurred when the Participant's contract under which services are performed has completely expired and terminated, there is no foreseeable possibility that the Employer will renew the contract or enter into a new contract for the Participant's services, and it is not anticipated that the Participant will become an Employee of the Employer, or such other events as may be permitted under the Code.

- 2.19 **Trust.** The Trust created under Article VI of the Plan which shall consist of all compensation deferred under the Plan, plus any income and gains thereon, less any losses, expenses and distributions to Participants and Beneficiaries.

Article III. Administration

- 3.01 **Duties of the Employer.** The Employer shall have the authority to make all discretionary decisions affecting the rights or benefits of Participants that may be required in the administration of this Plan. The Employer's decisions shall be afforded the maximum deference permitted by applicable law.
- 3.02 **Duties of Administrator.** The Administrator, as agent for the Employer and subject to oversight by the Employer, shall perform nondiscretionary administrative functions in connection with the Plan, including the maintenance of Participants' Accounts, the provision of periodic reports of the status of each Account, and the disbursement of benefits on behalf of the Employer in accordance with the provisions of this Plan.

Article IV. Participation in the Plan

- 4.01 **Initial Participation.** An Employee that the Employer elects to be eligible for the Plan may become a Participant by entering into a Joinder Agreement (or by being treated as entering into a Joinder Agreement pursuant to Section 4.03) prior to the beginning of the calendar month in which the Joinder Agreement is to become effective to defer compensation not yet paid or made available, or such other date as may be permitted under the Code. A new employee may defer compensation in the calendar month during which he or she first becomes an employee if a Joinder Agreement is entered into on or before the first day on which the employee performs services for the Employer.
- 4.02 **Amendment of Joinder Agreement.** A Participant may amend an executed Joinder Agreement to change the amount of Includible Compensation not yet paid or made available that is to be deferred (including the reduction of such future deferrals to zero). Such amendment shall become effective as of the beginning of the calendar month commencing after the date the amendment is executed, or such other date as may be permitted under the Code. A Participant may at any time amend his or her Joinder Agreement to change the Beneficiary or specify investments, and such amendment shall become effective immediately.
- 4.03 **Automatic Enrollment.**
- (a) *If elected by the Employer, the Plan will provide for automatic enrollment.* In this case, an Employee will become a Participant, shall be treated as entering into a Joinder Agreement, and shall have compensation deferred, at the amount equal to the percentage of compensation specified by the Employer, unless the Employee affirmatively elects a different amount (or elects not to enter into a Joinder Agreement) within the initial "opt-out" period specified by the Employer. The "opt-out" period shall be no less than thirty (30) days and no more than ninety (90) days. The Participant will be treated as having entered into a Joinder Agreement at the end of such opt-out period and Default Elective Deferrals shall begin on the first pay period of the following calendar month. Unless otherwise elected by the Employer, these

automatic enrollment provisions will also apply when an Employee is rehired. An Employee who becomes a Participant pursuant to this Section 4.03 may amend the Joinder Agreement as provided in Section 4.02.

(b) **Definitions.** *The following definitions shall apply for this Section 4.03:*

- (1) **Eligible Automatic Contribution Arrangement ("EACA").** An automatic contribution arrangement that satisfies the uniformity and notice requirements of this Section 4.03.
- (2) **Automatic Contribution Arrangement.** An arrangement under which, in the absence of an affirmative election by a Covered Employee, a specified percentage of compensation will be withheld from the Covered Employee's pay and contributed to the Plan as Deferred Compensation.
- (3) **Covered Employee.** A Participant identified by the Employer as being covered under the EACA. An independent contractor cannot be a Covered Employee.
- (4) **Default Elective Deferrals.** The Deferred Compensation contributed to the Plan under the EACA on behalf of Covered Employees who do not have an affirmative election in effect regarding Deferred Compensation.
- (5) **Default Rate.** The percentage of a Covered Employee's compensation contributed to the Plan as a Default Elective Deferral, per pay period, for a given Plan Year. The Default Rate is specified by the Employer.

(c) **Rules of Application**

- (1) Default Elective Deferrals will be made on behalf of Covered Employees who do not have an affirmative election in effect regarding Deferred Compensation. The amount of Default Elective Deferrals made for a Covered Employee each pay period is equal to the Default Rate multiplied by the Covered Employee's compensation for that pay period. If the Employer elects, a Covered Employee's Default Elective Deferrals will increase each Plan Year by a designated percentage, per pay period, beginning with the second Plan Year that begins after the Default Rate first applies to the Covered Employee. The increase will be effective beginning with the first pay period that begins in such Plan Year.
- (2) A Covered Employee will have a reasonable opportunity after receipt of the notice described in Section 4.03(e) to make an affirmative election regarding Deferred Compensation (either to have no Deferred Compensation contributed or to have a different amount of Deferred Compensation contributed) before Default Elective Deferrals are made on the Covered Employee's behalf. Default Elective Deferrals being made on behalf of a Covered Employee will cease as soon as administratively feasible after the Covered Employee makes an affirmative election. An affirmative election to have no Deferred Compensation contributed, made no later than ninety (90) days after Default Elective Deferrals are first withheld from a Covered Employee's pay, shall be deemed a request for distribution of the Covered Employee's Default Elective Deferrals under Section 4.03(f) of the Plan, unless the Covered Employee affirmatively elects otherwise.

(d) **Uniformity Requirement**

- (1) Except as provided in (2), below, if the Employer has elected to have Covered Employees' Default

Elective Deferrals increase each Plan Year by a designated percentage, the same percentage of compensation will be withheld as a Default Elective Deferral from all Covered Employees subject to the Default Rate.

- (2) Default Elective Deferrals will be reduced or stopped to meet the limitations under Section 457(b) of the Code, and to satisfy any suspension period required after a hardship distribution from another plan maintained by the Employer.

(e) Notice Requirement

- (1) At least thirty (30) days, but not more than ninety (90) days, before the beginning of the Plan Year, the Employer will provide each Covered Employee a comprehensive notice of the Covered Employee's rights and obligations under the EACA, written in a manner calculated to be understood by the average Covered Employee. If an employee becomes a Covered Employee after the 90th day before the beginning of the Plan Year and does not receive the notice for that reason, the notice will be provided no more than ninety (90) days before the employee becomes a Covered Employee but no later than the date the employee becomes a Covered Employee.
- (2) The notice must accurately describe:
 - (i) the amount of Default Elective Deferrals that will be made on the Covered Employee's behalf in the absence of an affirmative election;
 - (ii) the Covered Employee's right to elect to have no Deferred Compensation deferred on his or her behalf or to have a different amount of Deferred Compensation deferred;
 - (iii) how Default Elective Deferrals will be invested in the absence of the Covered Employee's investment instructions; and
 - (iv) the Covered Employee's right to make a withdrawal of Default Elective Deferrals and procedures for making such a withdrawal.

(f) Withdrawal of Default Elective Deferrals

- (1) No later than ninety (90) days after Default Elective Deferrals are first withheld from a Covered Employee's pay, the Covered Employee may request a distribution of his or her Default Elective Deferrals. No spousal consent is required for withdrawal under this provision.
- (2) The amount distributed from the Plan upon the Covered Employee's request is equal to the amount of Default Elective Deferrals made through the earlier of (a) the pay date for the second payroll period that begins after the Covered Employee's withdrawal request and (b) the first pay date that occurs after thirty (30) days following the Covered Employee's request, plus attributable earnings through the date of distribution. Any fee charged to the Covered Employee for the withdrawal may not be greater than any other fee charged for a cash distribution.
- (3) Unless the Covered Employee affirmatively elects otherwise, any withdrawal request will be treated as an affirmative election to stop having Deferred Compensation deferred on the Covered Employee's behalf as of the date specified in Section 4.03(f)(2) above.

- (4) Default Elective Deferrals distributed pursuant to this Section 4.03(f) are not counted towards the dollar limitation on Deferred Compensation contained in Section 457(b) of the Code. Matching contributions that might otherwise be allocated to a Covered Employee's account on behalf of Default Elective Deferrals will not be allocated to the extent the Covered Employee withdraws such Deferred Compensation pursuant to this Section 4.03(f) and any matching contributions already made on account of Default Elective Deferrals that are later withdrawn pursuant to this Section 4.03(f) will be forfeited.

4.04 Vesting of Employer Contributions. If a Participant's Joinder Agreement provides for the Employer to credit Deferred Compensation to a Participant's Account in the form of "employer contributions," such credits shall be immediately vested, except as provided in Section 4.03(f)(4).

Article V. Limitations on Deferrals

5.01 Normal Limitation. Except as provided in Section 5.02, the maximum amount of Deferred Compensation for any Participant for any taxable year, shall not exceed the lesser of the Dollar Limitation or the Percentage Limitation.

5.02 Catch-Up Limitations.

- (a) Catch-up Contributions for Participants Age 50 and Over: A Participant who has attained the age of 50 before the close of the taxable year, and with respect to whom no other elective deferrals may be made to the Plan for the Plan Year by reason of the Normal Limitation of Section 5.01, may enter into a Joinder Agreement to make elective deferrals in addition to those permitted by the Normal Limitation in an amount not to exceed the lesser of:
 - (1) The applicable dollar amount as defined in Section 414(v)(2)(B) of the Code, as adjusted for the cost-of-living in accordance with Section 414(v)(2)(C) of the Code; or
 - (2) The excess (if any) of:
 - (i) The Participant's Includible Compensation for the year, or
 - (ii) Any other elective deferrals of the Participant for such year which are made without regard to this Section 5.02(a).

An additional contribution made pursuant to this Section 5.02(a) shall not, with respect to the year in which the contribution is made, be subject to any otherwise applicable limitation contained in Section 5.01 above, or be taken into account in applying such limitation to other contributions or benefits under the Plan or any other plan. This Section 5.02(a) shall not apply in any year to which a higher limit under Section 5.02(b) applies.

- (b) Last Three Years Catch-up Contribution: For each of the last three (3) taxable years for a Participant ending the year before the year he or she attains (or will attain) Normal Retirement Age, the maximum amount of Deferred Compensation shall be the lesser of:
 - (1) The 457 Catch-Up Dollar Limitation, or
 - (2) The sum of

- (i) The Normal Limitation for the taxable year, and
- (ii) The Normal Limitation for each prior taxable year of the Participant commencing after 1978 less the amount of the Participant's Deferred Compensation for such prior taxable years. A prior taxable year shall be taken into account under the preceding sentence only if (x) the Participant was eligible to participate in the Plan for such year, and (y) compensation (if any) deferred under the Plan (or such other plan) was subject to the Normal Limitation.

Should the maximum Deferred Compensation under this Section 5.02(b) be lower in any of the three (3) years than the maximum Deferred Compensation under Section 5.02(a), the Participant may instead defer amounts under 5.02(a) if otherwise permitted and no further deferrals under Section 5.02(b) will be permitted.

5.03 Sick, Vacation and Back Pay. If the Employer so elects, a Participant may defer all or a portion of the value of the Participant's accumulated sick pay, accumulated vacation pay and/or back pay, provided that such deferral does not cause total deferrals on behalf of the Participant to exceed the Dollar Limitation or Percentage Limitation (including any catch-up dollar limitation) for the year of deferral. The election to defer such sick, vacation and/or back pay must be made in a manner and at a time permitted under Section 1.457-4(d) of the Income Tax Regulations.

For Plan Years beginning before January 1, 2009, pursuant to proposed IRS regulations issued under Section 415 of the Code, the Plan may permit deferrals from compensation, including sick, vacation and back pay, so long as the amounts are paid within 2½ months following severance from employment and the other requirements of Sections 457(b) and 415 of the Code are met. For Plan Years beginning on or after January 1, 2009, pursuant to final IRS regulations issued under Section 415 of the Code, the Plan may permit deferrals from compensation, including sick, vacation and back pay, so long as the amounts are paid by the later of: (i) 2½ months following severance from employment, and (ii) the end of the calendar year that includes the date of such severance from employment, and the other requirements of Sections 457(b) and 415 of the Code are met. Additionally, the agreement to defer such amounts must be entered into prior to the first day of the month in which the amounts otherwise would be paid or made available.

5.04 Other Plans. Notwithstanding any provision of the Plan to the contrary, the amount excludible from a Participant's gross income under this Plan or any other eligible deferred compensation plan under Section 457(b) of the Code shall not exceed the limits set forth in Sections 457(b) and 414(v) of the Code.

5.05 Excess Deferrals. Any amount that exceeds the maximum Dollar Limitation or Percentage Limitation (including any applicable catch-up dollar limitation) for a taxable year, shall constitute an excess deferral for that taxable year. Any excess deferral shall be distributed to the Participant in accordance with the requirements for excess deferrals under the Code and Section 1.457-4(e) of the Income Tax Regulations or other applicable Internal Revenue Service guidance.

5.06 Protection of Person Who Serves in a Uniformed Service. An Employee whose employment is interrupted by qualified military service under Section 414(u) of the Code or who is on leave of absence for qualified military service under Section 414(u) of the Code may elect to contribute additional Deferred Compensation upon resumption of employment with the Employer equal to the maximum Deferred Compensation that the Employee could have elected during that period if the Employee's employment with the Employer had continued (at the same level of Includible Compensation) without the interruption or leave, reduced by Deferred Compensation, if any, actually made for the Employee during the period of the interruption or leave. This right applies for five (5) years following the resumption of employment (or, if sooner, for a period equal to three (3) times the period of the interruption or leave).

- 5.07 **Benefit Accruals with Respect to Qualified Military Service.** Notwithstanding any provision of the Plan to the contrary, if the Employer so elects, Participants who die or become Disabled while performing qualified military service (as defined in Code Section 414(u)) with respect to the Employer shall receive Plan contributions as permitted under Code Section 414(u)(9).
- 5.08 **Benefit Accruals with Respect to Differential Wage Payments.** Unless otherwise elected by the Employer, Plan contributions shall be made based on differential wage payments (as such term is defined in Section 3401(h)(2) of the Code).

Article VI. Trust and Investment of Accounts

- 6.01 **Investment of Deferred Compensation.** A Trust described in Section 457(g) of the Code is hereby created to hold all the assets of the Plan for the exclusive benefit of Participants and Beneficiaries, except that expenses and taxes may be paid from the Trust as provided in Section 6.03. The trustee shall be the Employer or such other person that agrees with the consent of the Employer to act in that capacity hereunder.
- 6.02 **Investment Powers.** The trustee shall have the powers listed in this Section with respect to investment of Trust assets, except to the extent that the investment of Trust assets is directed by Participants, pursuant to Section 6.05 or to the extent that such powers are restricted by applicable law.
- (a) To invest and reinvest the Trust without distinction between principal and income in common or preferred stocks, shares of regulated investment companies and other mutual funds, bonds, loans, notes, debentures, certificates of deposit, contracts with insurance companies including but not limited to insurance, individual or group annuity, deposit administration, guaranteed interest contracts, and deposits at reasonable rates of interest at banking institutions including but not limited to savings accounts and certificates of deposit. Assets of the Trust may be invested in securities that involve a higher degree of risk than investments that have demonstrated their investment performance over an extended period of time.
 - (b) To invest and reinvest all or any part of the assets of the Trust in any common, collective or commingled trust fund that is maintained by a bank or other institution and that is available to Employee plans described under Sections 457 or 401 of the Code, or any successor provisions thereto, and during the period of time that an investment through any such medium shall exist, to the extent of participation of the Plans, the declaration of trust of such commonly collective, or commingled, trust fund shall constitute a part of this Plan.
 - (c) To invest and reinvest all or any part of the assets of the Trust in any group annuity, deposit administration or guaranteed interest contract issued by an insurance company or other financial institution on a commingled or collective basis with the assets of any other 457 plan or trust qualified under Section 401(a) of the Code or any other plan described in Section 401(a)(24) of the Code, and such contract may be held or issued in the name of the Administrator, or such custodian as the Administrator may appoint, as agent and nominee for the Employer. During the period that an investment through any such contract shall exist, to the extent of participation of the Plan, the terms and conditions of such contract shall constitute a part of the Plan.
 - (d) To hold cash awaiting investment and to keep such portion of the Trust in cash or cash balances, without liability for interest, in such amounts as may from time to time be deemed to be reasonable and necessary to meet obligations under the Plan or otherwise to be in the best interests of the Plan.

- (e) To hold, to authorize the holding of, and to register any investment to the Trust in the name of the Plan, the Employer, or any nominee or agent of any of the foregoing, including the Administrator, or in bearer form, to deposit or arrange for the deposit of securities in a qualified central depository even though, when so deposited, such securities may be merged and held in bulk in the name of the nominee of such depository with other securities deposited therein by any other person, and to organize corporations or trusts under the laws of any jurisdiction for the purpose of acquiring or holding title to any property for the Trust, all with or without the addition of words or other action to indicate that property is held in a fiduciary or representative capacity but the books and records of the Plan shall at all times show that all such investments are part of the Trust.
- (f) Upon such terms as may be deemed advisable by the Employer or the Administrator, as the case may be, for the protection of the interests of the Plan or for the preservation of the value of an investment, to exercise and enforce by suit for legal or equitable remedies or by other action, or to waive any right or claim on behalf of the Plan or any default in any obligation owing to the Plan, to renew, extend the time for payment of, agree to a reduction in the rate of interest on, or agree to any other modification or change in the terms of any obligation owing to the Plan, to settle, compromise, adjust, or submit to arbitration any claim or right in favor of or against the Plans to exercise and enforce any and all rights of foreclosure, bid for property in foreclosure, and take a deed in lieu of foreclosure with or without paying consideration therefor, to commence or defend suits or other legal proceedings whenever any interest of the Plan requires it, and to represent the Plan in all suits or legal proceedings in any court of law or equity or before any body or tribunal.
- (g) To employ suitable consultants, depositories, agents, and legal counsel on behalf of the Plan.
- (h) To open and maintain any bank account or accounts in the name of the Plan, the Employer, or any nominee or agent of the foregoing, including the Administrator, in any bank or banks.
- (i) To do any and all other acts that may be deemed necessary to carry out any of the powers set forth herein.

The trustee may authorize the Administrator to exercise these powers as an agent for the trustee, subject to the oversight of the trustee.

6.03 Taxes and Expenses. All taxes of any and all kinds whatsoever that may be levied or assessed under existing or future laws upon the Plan, or in respect to the Trust, or the income thereof, and all commissions or acquisitions or dispositions of securities and similar expenses of investment and reinvestment of the Trust, shall be paid from the Trust. Such reasonable compensation of the Administrator, as may be agreed upon from time to time by the Employer and the Administrator, and reimbursement for reasonable expenses incurred by the Administrator in performance of its duties hereunder (including but not limited to fees for legal, accounting, investment and custodial services) shall also be paid from the Trust.

6.04 Payment of Benefits. The payment of benefits from the Trust in accordance with the terms of the Plan may be made by the Administrator, or by any custodian or other person so authorized by the Employer to make such disbursement. The Administrator, custodian or other person shall not be liable with respect to any distribution of Trust assets made at the direction of the Employer.

6.05 Investment Funds. In accordance with uniform and nondiscriminatory rules established by the Employer and the Administrator, the Participant may direct his or her Accounts to be invested in one (1) or more investment funds available under the Plan (including a fund or investment that consists of or is available through an open brokerage window); provided, however, that the Participant's investment directions shall

not violate any investment restrictions established by the Employer. Neither the Employer, the Administrator, nor any other person shall be liable for any losses incurred by virtue of following such directions or with any reasonable administrative delay in implementing such directions.

6.06 Valuation of Accounts. As of each Accounting Date, the Plan assets held in each investment fund offered shall be valued at fair market value and the investment income and gains or losses for each fund shall be determined. Such investment income and gains or losses shall be allocated proportionately among all Account balances on a fund-by-fund basis. The allocation shall be in the proportion that each such Account balance as of the immediately preceding Accounting Date bears to the total of all such Account balances as of that Accounting Date. For purposes of this Article, all Account balances include the Account balances of all Participants and Beneficiaries.

6.07 Participant Loan Accounts. Participant loan accounts shall be invested in accordance with Section 8.03 of the Plan. Such Accounts shall not share in any investment income and gains or losses of the investment funds described in Sections 6.05 and 6.06.

6.08 Crediting of Accounts. The Participant's Account shall reflect the amount and value of the investments or other property obtained by the Employer through the investment of the Participant's Deferred Compensation pursuant to Sections 6.05 and 6.06. It is anticipated that the Employer's investments with respect to a Participant will conform to the investment preference specified in the Participant's Joinder Agreement, but nothing herein shall be construed to require the Employer to make any particular investment of a Participant's Deferred Compensation. Each Participant shall receive periodic reports, not less frequently than annually, showing the then current value of his or her Account.

6.09 Post-Severance Transfers Among Eligible Deferred Compensation Plans.

(a) *Incoming Transfers:* A transfer may be accepted from an eligible deferred compensation plan maintained by another employer and credited to a Participant's or Beneficiary's Account under the Plan if:

- (1) In the case of a transfer for a Participant, the Participant has had a Severance Event with that employer and become an Employee of the Employer;
- (2) The other employer's plan provides that such transfer will be made; and
- (3) The Participant or Beneficiary whose deferred amounts are being transferred will have an amount immediately after the transfer at least equal to the deferred amount immediately before the transfer.

The Employer may require such documentation from the predecessor plan as it deems necessary to effectuate the transfer in accordance with Section 457(e)(10) of the Code, to confirm that such plan is an eligible deferred compensation plan within the meaning of Section 457(b) of the Code, and to assure that transfers are provided for under such plan. The Employer may refuse to accept a transfer in the form of assets other than cash, unless the Employer and the Administrator agree to hold such other assets under the Plan.

(b) *Outgoing Transfers:* An amount may be transferred to an eligible deferred compensation plan maintained by another employer, and charged to a Participant's or Beneficiary's Account under this Plan, if:

- (1) In the case of a transfer for a Participant, the Participant has a Severance Event with the Employer and becomes an employee of the other employer;
- (2) The other employer's plan provides that such transfer will be accepted;

- (3) The Participant or Beneficiary and the employers have signed such agreements as are necessary to assure that the Employer's liability to pay benefits to the Participant has been discharged and assumed by the other employer; and
- (4) The Participant or Beneficiary whose deferred amounts are being transferred will have an amount immediately after the transfer at least equal to the deferred amount immediately before the transfer.

The Employer may require such documentation from the other plan as it deems necessary to effectuate the transfer, to confirm that such plan is an eligible deferred compensation plan within the meaning of Section 457(b) of the Code, and to assure that transfers are provided for under such plan. Such transfers shall be made only under such circumstances as are permitted under Section 457 of the Code and the regulations thereunder.

6.10 Transfers Among Eligible Deferred Compensation Plans of the Employer.

- (a) *Incoming Transfers.* A transfer may be accepted from another eligible deferred compensation plan maintained by the Employer and credited to a Participant's or Beneficiary's Account under the Plan if:
 - (1) The Employer's other plan provides that such transfer will be made;
 - (2) The Participant or Beneficiary whose deferred amounts are being transferred will have an amount immediately after the transfer at least equal to the deferred amount immediately before the transfer; and
 - (3) The Participant or Beneficiary whose deferred amounts are being transferred is not eligible for additional annual deferrals in the Plan unless the Participant or Beneficiary is performing services for the Employer.
- (b) *Outgoing Transfers.* An amount may be transferred to another eligible deferred compensation plan maintained by the Employer and credited to a Participant's or Beneficiary's Account under the Plan if:
 - (1) The Employer's other plan provides that such transfer will be accepted;
 - (2) The Participant or Beneficiary whose deferred amounts are being transferred will have an amount immediately after the transfer at least equal to the deferred amount immediately before the transfer; and
 - (3) The Participant or Beneficiary whose deferred amounts are being transferred is not eligible for additional annual deferrals in the Employer's other eligible deferred compensation plan unless the Participant or Beneficiary is performing services for the Employer.

6.11 Eligible Rollover Distributions.

- (a) *Incoming Rollovers:* An eligible rollover distribution may be accepted from an eligible retirement plan and credited to a Participant's Account under the Plan. The Employer may require such documentation from the distributing plan as it deems necessary to effectuate the rollover in accordance with Section 402 of the Code and to confirm that such plan is an eligible retirement plan within the meaning of Section 402(c)(8)(B) of the Code. The Plan shall separately account (in one (1) or more separate accounts) for eligible rollover distributions from any eligible retirement plan.

(b) *Outgoing Rollovers:* Notwithstanding any provision of the Plan to the contrary that would otherwise limit a distributee's election under this Section, a distributee may elect, at the time and in the manner prescribed by the Administrator, to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee in a direct rollover.

(c) *Definitions:*

- (1) **Eligible Rollover Distribution:** An eligible rollover distribution is any distribution of all or any portion of the balance to the credit of the distributee, except that an eligible rollover distribution does not include: any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the distributee or the joint lives (or joint life expectancies) of the distributee and the distributee's named beneficiary, or for a specified period of ten years or more; any distribution to the extent such distribution is required under Sections 401(a)(9) and 457(d)(2) of the Code; and any distribution made as a result of an unforeseeable emergency of the employee. Subject to Section 9.04 (related to rollovers of Roth amounts), for purposes of distributions from other eligible retirement plans rolled over into this Plan, the term eligible rollover distribution shall not include the portion of any distribution that is not includible in gross income (determined without regard to the exclusion for net unrealized appreciation with respect to employer securities), such as after-tax contributions.
- (2) **Eligible Retirement Plan:** An eligible retirement plan is an individual retirement account described in Section 408(a) of the Code, an individual retirement annuity described in Section 408(b) of the Code, an annuity plan described in Sections 403(a) or 403(b) of the Code, a qualified trust described in Section 401(a) of the Code, or an eligible deferred compensation plan described in Section 457(b) of the Code which is maintained by an eligible governmental employer described in Section 457(e)(1)(A) of the Code, that accepts the distributee's eligible rollover distribution. Effective for distributions after December 31, 2007, a Participant may elect to have any portion of an Eligible Rollover Distribution paid directly to a Roth IRA described in Section 408A of the Code. Such a direct payment, as a qualified rollover distribution described in Section 408A(e)(1) of the Code, would be taxable to the Participant to the extent required by Section 408A(d)(3) of the Code.
- (3) **Distributee:** A distributee includes an Employee or former Employee. In addition, the Employee's or former Employee's surviving spouse and the Employee's or former Employee's spouse or former spouse who is the alternate payee under a qualified domestic relations order, as defined in Section 414(p) of the Code, are distributees with regard to the interest of the spouse or former spouse. For distributions after December 31, 2006 (unless the Employer elected a different effective date in a prior plan document, a distributee includes the Employee's or former Employee's nonspouse designated Beneficiary, in which case, the distribution can only be transferred to a traditional or Roth IRA established on behalf of the nonspouse designated Beneficiary, in the Participant's name, for the purpose of receiving the distribution.
- (4) **Direct Rollover:** A direct rollover is a payment by the plan to the eligible retirement plan specified by the distributee.

(d) *Rollover by a Non-Spouse Designated Beneficiary*

- (1) Unless otherwise elected by the Employer, for distributions in Plan Years beginning after December 31, 2006 but on or before December 31, 2009, a non-spouse Beneficiary who qualifies as a

“designated beneficiary” under Code Section 401(a)(9)(E) may establish an individual retirement plan that will be treated as an inherited IRA pursuant to the provisions of Code Section 402(c)(11) into which all or a portion of a death benefit distribution from this Plan can be transferred directly. A trust maintained for the benefit of one (1) or more designated beneficiaries shall be treated in the same manner as a designated beneficiary.

- (2) Notwithstanding subsection (1), for distributions in Plan Years beginning after December 31, 2009, a non-spouse Beneficiary who qualifies as a “designated beneficiary” under Code Section 401(a)(9)(E) may establish an individual retirement plan that will be treated as an inherited IRA pursuant to the provisions of Code Section 402(c)(11) into which all or a portion of a death benefit distribution from this Plan can be transferred directly. A trust maintained for the benefit of one (1) or more designated beneficiaries shall be treated in the same manner as a designated beneficiary.
- (3) Notwithstanding anything herein to the contrary, a death benefit distribution shall not be eligible for transfer to an inherited IRA to the extent such distribution is a required minimum distribution under Code Section 401(a)(9).
- (4) If the dates noted above are modified by the Employer’s prior plan document, the December 31, 2009 dates in subsections (1) and (2), above, will be modified, as applicable, by the Employer’s prior plan document.

6.12 Trustee-to-Trustee Transfers to Purchase Permissive Service Credit. All or a portion of a Participant’s Account may be transferred directly to the trustee of a defined benefit governmental plan (as defined in Section 414(d) of the Code) if such transfer is (a) for the purchase of permissive service credit (as defined in Section 415(n)(3)(A) of the Code) under such plan, or (b) a repayment to which Section 415 of the Code does not apply by reason of subsection (k)(3) thereof, within the meaning of Section 457(e)(17) of the Code.

6.13 Treatment of Distributions of Amounts Previously Rolled Over From 401(a) and 403(b) Plans and IRAs. For purposes of Section 72(t) of the Code, a distribution from this Plan shall be treated as a distribution from a qualified retirement plan described in Section 4974(c)(1) of the Code to the extent that such distribution is attributable to an amount transferred to an eligible deferred compensation plan from a qualified retirement plan (as defined in Section 4974(c) of the Code).

6.14 Employer Liability. In no event shall the Employer’s liability to pay benefits to a Participant under this Plan exceed the value of the amounts credited to the Participant’s Account; neither the Employer nor the Administrator shall be liable for losses arising from depreciation or shrinkage in the value of any investments acquired under this Plan.

Article VII. Benefits

7.01 Retirement Benefits and Election on Severance Event.

- (a) *General Rule:* Except as otherwise provided in this Article VII, the distribution of a Participant’s Account shall commence as of a Participant’s Automatic Distribution Date, and the distribution of such benefits shall be made in accordance with one of the payment options described in Section 7.02. Notwithstanding the foregoing, but subject to the following paragraphs of this Section 7.01, the Participant may elect following a Severance Event to have the distribution of benefits commence on a fixed determinable date other than that described in the preceding sentence, but not later than April 1 of

the year following the year of the Participant's retirement or attainment of age 70½, whichever is later. The Participant's right to change his or her election with respect to commencement of the distribution of benefits shall not be restrained by this Section 7.01. Notwithstanding the foregoing, the Administrator, in order to ensure the orderly administration of this provision, may establish a deadline after which such election to defer the commencement of distribution of benefits shall not be allowed for those benefits administered by Administrator.

- (b) *Loans*: Notwithstanding the foregoing provisions of this Section 7.01, no election to defer the commencement of benefits after a Severance Event shall operate to defer the distribution of any amount in the Participant's loan account in the event of a default of the Participant's loan.

7.02 Payment Options. As provided in Sections 7.01 and 7.04, a Participant may elect to have the value of the Participant's Account distributed in accordance with one of the following payment options, provided that such option is consistent with the limitations set forth in Section 7.03:

- (a) Equal monthly, quarterly, semi-annual or annual payments in an amount chosen by the Participant, continuing until his or her Account is exhausted;
- (b) One (1) lump-sum payment;
- (c) Approximately equal monthly, quarterly, semi-annual or annual payments, calculated to continue for a period certain chosen by the Participant;
- (d) Annual Payments equal to the minimum distributions required under Section 401(a)(9) of the Code, including the incidental death benefit requirements of Section 401(a)(9)(G), over the life expectancy of the Participant or over the life expectancies of the Participant and his or her Beneficiary;
- (e) Payments equal to payments made by the issuer of a retirement annuity policy acquired by the Employer;
- (f) A split distribution under which payments under options (a), (b), (c) or (e) commence or are made at the same time, as elected by the Participant under Section 7.01, provided that all payments commence (or are made) by the latest benefit commencement date permitted under Section 7.01;
- (g) Any other payment option elected by the Participant and agreed to by the Employer and Administrator.

A Participant's selection of a payment option under Subsections (a), (c), or (g) above may include the selection of an automatic annual cost-of living increase. Such increase will be based on the rise in the Consumer Price Index for All Urban Consumers (CPI-U) from the third quarter of the last year in which a cost-of-living increase was provided to the third quarter of the current year. Any increase will be made in periodic payment checks beginning the following January.

7.03 Limitation on Options. A Participant may not select a payment option under subsections 7.02(a) or (c) if the amount of any such periodic payment is less than \$100. No payment option may be selected by a Participant under Sections 7.02 or 7.04 unless it satisfies the requirements of Sections 401(a)(9) and 457(d)(2) of the Code, including the requirement that payments commencing before the death of the Participant shall satisfy the incidental death benefit requirements under Section 401(a)(9)(G) of the Code.

7.04 Minimum Required Distributions. Notwithstanding any provision of the Plan to the contrary, the Plan shall comply with the minimum required distribution rules set forth in Sections 457(d)(2) and 401(a)(9) of the

Code, including the incidental death benefit requirements of Section 401(a)(9)(G) of the Code.

- (a) *Application of Minimum Distribution Requirements:* The minimum distribution requirements of Section 401(a)(9) of the Code shall only apply to the Plan to the extent that such requirements are applicable by law for a year. Pursuant to the Worker, Retiree, and Employer Recovery Act of 2008 ("WRERA"), required minimum distributions were suspended for 2009.
- (b) *Special Rule for Scheduled Installment Payments:* All installment payments scheduled to be distributed to a Participant prior to the effective date of a suspension of the required minimum distribution provisions of Code Section 401(a)(9) shall be distributed as scheduled unless the Participant affirmatively elects to have the payments stopped. Notwithstanding the foregoing, for purposes of this Section 7.04(b), the effective date of the suspension of the required minimum distribution provisions for 2009 shall be deemed January 6, 2009.

7.05 Time and Manner of Distribution.

- (a) *Automatic Distribution Date.* The Automatic Distribution Date is April 1 of the year that follows the later of (1) the calendar year the Participant attains age 70½ or (2) retires due to a Severance Event. If the Participant postpones the required distribution due in the calendar year he or she attains age 70½ or severs employment, to the Automatic Distribution Date, the second required minimum distribution must be taken by the end of that year. The Participant's Account will be distributed, or begin to be distributed to the Participant no later than the Participant's Automatic Distribution Date.
- (b) *Death of Participant Before Distributions Begin.* Except as otherwise permitted by Section 401(a)(9) of the Code, if the Participant dies before distributions begin, the Participant's Account will be distributed, or begin to be distributed, no later than as follows:
 - (1) If the Participant's surviving spouse is the Participant's sole Designated Beneficiary, then, distributions to the surviving spouse will begin by December 31 of the calendar year immediately following the calendar year in which the Participant died, or by December 31 of the calendar year in which the Participant would have attained age 70½, if later.
 - (2) If the Participant's surviving spouse is not the Participant's sole Designated Beneficiary, then distributions to the Designated Beneficiary will begin by December 31 of the calendar year immediately following the calendar year in which the Participant died.
 - (3) If there is no Designated Beneficiary as of September 30 of the year following the year of the Participant's death, the Participant's Account will be distributed by December 31 of the calendar year containing the fifth anniversary of the Participant's death.
 - (4) If the Participant's surviving spouse is the Participant's sole Designated Beneficiary and the surviving spouse dies after the Participant but before distributions to the surviving spouse begin, this subparagraph 7.05(b), other than subsection 7.05(b)(1), will apply as if the surviving spouse were the Participant.

Distributions are considered to begin on the Participant's Automatic Distribution Date for purposes of this Section 7.05 and Section 7.07, unless Section 7.05(b)(4) applies. If Section 7.05(b)(4) applies, distributions are considered to begin on the date distributions are required to begin to the surviving spouse under Section 7.05(b)(1). If distributions under an annuity purchased from an insurance company irrevocably commence to the Participant before the Participant's Automatic Distribution Date (or to the Participant's surviving spouse before the date distributions are required to begin to the surviving spouse under Section 7.05(b)(1)), the date distributions are considered to begin is the date distributions actually

commence.

- (c) *Death of Participant On or After Distributions Begin.* Except as otherwise permitted by Section 401(a)(9) of the Code, if the Participant dies on or after distributions begin and before depleting his or her Account, distributions must commence to the Designated Beneficiary by December 31 of the calendar year immediately following the calendar year in which the Participant died.
- (d) *Forms of Distribution.* Unless the Participant's Account is distributed in the form of an annuity purchased from an insurance company or in a single-sum on or before the Automatic Distribution Date, as of the first Distribution Calendar Year, distributions will be made in accordance with Sections 7.06 and 7.07. If the Participant's Account is distributed in the form of an annuity contract purchased from an insurance company, distributions thereunder will be made in accordance with the requirements of Section 401(a)(9) of the Code and the Income Tax Regulations.

7.06 Required Minimum Distributions During Participant's Lifetime.

- (a) *Amount of Required Minimum Distribution for Each Distribution Calendar Year.* During the Participant's lifetime, the minimum amount that will be distributed for each Distribution Calendar Year is the lesser of:
 - (1) the quotient obtained by dividing the Participant's Account Balance by the distribution period set forth in the Uniform Lifetime Table set forth in Section 1.401(a)(9)-9, Q&A-2, of the Income Tax Regulations using the Participant's age as of the Participant's birthday in the Distribution Calendar Year; or
 - (2) if the Participant's sole Designated Beneficiary for the Distribution Calendar Year is the Participant's spouse, the quotient obtained by dividing the Participant's Account Balance by the number in the Joint and Last Survivor Table set forth in Section 1.401(a)(9)-9, Q&A-3, of the Income Tax Regulations using the Participant's and spouse's attained ages as of the Participant's and spouse's birthdays in the Distribution Calendar Year.
- (b) *Lifetime Required Minimum Distributions Continue Through Year of Participant's Death.* Required minimum distributions will be determined under this Section 7.06 beginning with the first Distribution Calendar Year and continuing up to, and including, the Distribution Calendar Year that includes the Participant's date of death.

7.07 Required Minimum Distributions After Participant's Death.

- (a) *Death On or After Date Distributions Begin.*
 - (1) Participant Survived by Designated Beneficiary. If the Participant dies on or after the date distributions begin and there is a Designated Beneficiary, the minimum amount that will be distributed for each Distribution Calendar Year after the year of the Participant's death is the quotient obtained by dividing the Participant's Account Balance by the longer of the remaining Life Expectancy of the Participant or the remaining Life Expectancy of the Participant's Designated Beneficiary, determined as follows:
 - (i) The Participant's remaining Life Expectancy is calculated using the age of the Participant in the year of death, reduced by one for each subsequent year.
 - (ii) If the Participant's surviving spouse is the Participant's sole Designated Beneficiary, the remaining Life Expectancy of the surviving spouse is calculated for each Distribution Calendar Year after the year of the Participant's death using the surviving spouse's age as of the spouse's birthday in that year. For Distribution Calendar Years

after the year of the surviving spouse's death, the remaining Life Expectancy of the surviving spouse is calculated using the age of the surviving spouse as of the spouse's birthday in the calendar year of the spouse's death, reduced by one for each subsequent calendar year.

- (iii) If the Participant's surviving spouse is not the Participant's sole Designated Beneficiary, the Designated Beneficiary's remaining life expectancy is calculated using the age of the Beneficiary in the year following the year of the Participant's death, reduced by one for each subsequent year.

- (2) No Designated Beneficiary. If the Participant dies on or after the date distributions begin and there is no Designated Beneficiary as of September 30 of the year after the year of the Participant's death, the minimum amount that will be distributed for each Distribution Calendar Year after the year of the Participant's death is the quotient obtained by dividing the Participant's Account Balance by the Participant's remaining Life Expectancy calculated using the age of the Participant in the year of death, reduced by one for each subsequent year.

(b) *Death Before Date Distributions Begin.*

- (1) Participant Survived by Designated Beneficiary. Except as permitted by Section 401(a)(9) of the Code, if the Participant dies before the date distributions begin and there is a Designated Beneficiary, the minimum amount that will be distributed for each Distribution Calendar Year after the year of the Participant's death is the quotient obtained by dividing the Participant's Account Balance by the remaining Life Expectancy of the Participant's Designated Beneficiary, determined as provided in Section 7.07(a).
- (2) No Designated Beneficiary. If the Participant dies before the date distributions begin and there is no Designated Beneficiary as of September 30 of the year following the year of the Participant's death, distribution of the Participant's entire Account will be completed by December 31 of the calendar year containing the fifth anniversary of the Participant's death.
- (3) Death of Surviving Spouse Before Distributions to Surviving Spouse Are Required to Begin. If the Participant dies before the date distributions begin, the Participant's surviving spouse is the Participant's sole Designated Beneficiary, and the surviving spouse dies before distributions are required to begin to the surviving spouse under Section 7.05(b)(1), this Section 7.07(b) will apply as if the surviving spouse were the Participant.

7.08 Definitions.

- (a) *Designated Beneficiary.* The individual who is a designated by the Participant (or the Participant's surviving spouse) as the Beneficiary of the Participant's interest under the Plan and who is the Designated Beneficiary under Section 401(a)(9) of the Code and Section 1.401(a)(9)-4 of the Income Tax Regulations.
- (b) *Distribution Calendar Year.* A calendar year for which a minimum distribution is required. For distributions beginning before the Participant's death, the first Distribution Calendar Year is the calendar year immediately preceding the calendar year which contains the Participant's Automatic Distribution Date. For distributions beginning after the Participant's death, the first Distribution Calendar Year is the calendar year in which distributions are required to begin under Sections 7.05(b) and (c). The required minimum distribution for the Participant's first Distribution Calendar Year will be made on or before the Participant's Automatic Distribution Date. The required minimum distribution for other Distribution Calendar Years, including the required minimum distribution for the Distribution Calendar Year in which the Participant's Automatic Distribution Date occurs, will be made on or before December 31 of that Distribution Calendar Year.

- (c) *Life Expectancy.* Life Expectancy as computed by use of the Single Life Table in Section 1.401(a)(9)-9, Q&A-1, of the Income Tax Regulations.
- (d) *Participant's Account Balance.* The Account Balance as of the last Accounting Date in the calendar year immediately preceding the Distribution Calendar Year (valuation calendar year) increased by the amount of any contribution made and allocated or forfeitures allocated to the Account Balance as of dates in the valuation calendar year after the Accounting Date and decreased by distributions made in the valuation calendar year after the Accounting Date. The Account Balance for the valuation calendar year includes any amounts rolled over or transferred to the Plan either in the valuation calendar year or in the Distribution Calendar Year if distributed or transferred in the valuation calendar year.

7.09 Unforeseeable Emergencies.

- (a) In the event an unforeseeable emergency occurs, a Participant, or a Beneficiary with a current unconditional right to all or a portion of the Participant's account balance under the Plan following the death of the Participant, may, unless otherwise elected by the Employer, apply to the Employer (or the Administrator, acting on behalf of the Employer) to receive that part of the value of his or her Account that is reasonably needed to satisfy the emergency need. If such an application is approved by the Employer (or the Administrator, acting on behalf of the Employer), the Participant or Beneficiary shall be paid only such amount as the Employer or Administrator deems necessary to meet the emergency need, but payment shall not be made to the extent that the financial hardship may be relieved through cessation of deferral under the Plan, insurance or other reimbursement, or liquidation of other assets to the extent such liquidation would not itself cause severe financial hardship.
- (b) An unforeseeable emergency shall be deemed to involve only circumstances of severe financial hardship of a Participant or Beneficiary resulting from an illness or accident of the Participant or Beneficiary, the Participant's or Beneficiary's spouse, or the Participant's or Beneficiary's dependent (as defined in Section 152 of the Code, and, for taxable years beginning on or after January 1, 2005, without regard to Sections 152(b)(1), (b)(2), and (d)(1)(B) of the Code); loss of the Participant's or Beneficiary's property due to casualty (including the need to rebuild a home following damage to a home not otherwise covered by homeowner's insurance, e.g., as a result of a natural disaster); or other similar extraordinary and unforeseeable circumstances arising as a result of events beyond the control of the Participant or the Beneficiary. For example, the imminent foreclosure of or eviction from the Participant's or Beneficiary's primary residence may constitute an unforeseeable emergency. In addition, the need to pay for medical expenses, including non-refundable deductibles, as well as for the cost of prescription drug medication, may constitute an unforeseeable emergency. The need to pay for the funeral expenses of a spouse or a dependent (as defined in Section 152 of the Code, and, for taxable years beginning on or after January 1, 2005, without regard to Sections 152(b)(1), (b)(2), and (d)(1)(B) of the Code) may also constitute an unforeseeable emergency. In addition, loss of property due to theft, legal bills involving criminal charges, and lost or reduced wages of the Participant's or Beneficiary's household may constitute an unforeseeable emergency if extraordinary, unforeseeable, and arising as a result of events beyond the control of the Participant or Beneficiary and otherwise meeting the conditions described in Section 7.09(a). Except as otherwise specifically provided in this Section 7.09(b), the purchase of a home and the payment of college tuition are not unforeseeable emergencies.
- (c) Unless otherwise elected by the Employer, the determination of any unforeseeable emergency will be expanded to include circumstances of severe financial hardship resulting from an illness or accident of a Primary Beneficiary or other similar extraordinary and unforeseeable circumstances of a Primary Beneficiary that result in a severe financial hardship.

7.10 In-Service Distribution of Rollover Contributions. Effective January 1, 2006, the Employer may elect to allow Participants to receive an in-service distribution of amounts attributable to rollover contributions to the Plan. If the Employer has elected to make such distributions available, a Participant that has a separate account attributable to rollover contributions to the Plan may at any time elect to receive a distribution of all or any portion of the amount held in the rollover account.

7.11 In-Service Distribution to Participants Age 70½ or Older. Unless otherwise elected by the Employer, a Participant who has reached age 70½ and has not yet had a Severance Event, may, at any time, request a distribution of all or a part of his or her Account.

7.12 Distribution of De Minimis Accounts. Notwithstanding the foregoing provisions of this Article VII:

(a) *Mandatory Distribution:* If the value of a Participant's Account is less than \$1,000, the Participant's Account shall be paid to the Participant in a single lump sum distribution, provided that:

- (1) No amount has been deferred under the Plan with respect to the Participant during the 2-year period ending on the date of the distribution; and
- (2) There has been no prior distribution under the Plan to the Participant pursuant to this Section 7.12.

Notwithstanding any other provisions of the Plan to the contrary, if the amount of a Beneficiary's Account following notification of a Participant's death is less than \$1,000, the Beneficiary's Account may be paid to the Beneficiary in a single lump sum distribution.

(b) *Voluntary Distribution:* If the value of the Participant's Account is at least \$1,000 but not more than the dollar limit under Section 411(a)(11)(A) of the Code, the Participant may elect to receive his or her entire Account in a lump sum payment if:

- (1) No amount has been deferred under the Plan with respect to the Participant during the 2-year period ending on the date of the distribution; and
- (2) There has been no prior distribution under the Plan to the Participant pursuant to this Section 7.12.

7.13 Deemed Severance from Employment.

- (a) Unless otherwise elected by the Employer, effective January 1, 2009, a Participant shall be deemed to have a severance from employment solely for purposes of eligibility to receive distributions from the Plan during any period the individual is performing service in the uniformed services (as defined in chapter 43 of title 38, United States Code) for more than thirty (30) days.
- (b) If a Participant receives a distribution pursuant to Section 7.13(a), then during the six-month period beginning on the date of the distribution the Participant shall not be permitted to defer compensation.
- (c) If a Participant receives a distribution which could be attributable to: (i) a deemed severance from employment described in subsection (a); or (ii) another distribution event under the Plan, then the distribution shall be considered made pursuant to the distribution event referenced in (ii), and the Participant shall not be subject to the limitation on elective deferrals or Voluntary Employee

Contributions set forth in subsection (b).

7.14 Distributions for Health and Long-Term Care Insurance for Public Safety Officers.

- (a) If elected by the Employer, for Plan Years beginning after December 31, 2006, Eligible Retired Public Safety Officers may elect after separation from service to have up to \$3,000 distributed tax-free annually from the Plan in order to pay for Qualified Health Insurance Premiums for an accident or health plan (including a self-insured plan) or a qualified long-term care insurance contract. The Plan shall make such distributions directly to the provider of the accident or health plan or qualified long-term care insurance contract.
- (b) The term “Eligible Retired Public Safety Officer” means an individual who, by reason of disability or attainment of Normal Retirement Age, is separated from service as a Public Safety Officer with the Employer who maintains the eligible retirement plan from which distributions pursuant to this Section are made. The term “Public Safety Officer” has the same meaning given such term by Section 1204(9)(A) of the Omnibus Crime Control and Safe Streets Act of 1968.
- (c) The term “Qualified Health Insurance Premiums” means premiums for coverage for the Eligible Retired Public Safety Officer, his spouse, and dependents, by an accident or health insurance plan or qualified long-term care insurance contract (as defined in Code Section 7702B).

7.15 EESA Provisions. The provisions relating to qualified disaster recovery assistance distributions for Participants affected by certain 2008 severe storms, flooding, and tornadoes and repayment thereof, and relating to repayment of prior qualified distributions for home purchases, set forth in Section 702 of the Emergency Economic Stabilization Act of 2008 (“EESA”) shall apply to the Plan.

7.16 KETRA and GOZA Provisions. The provisions relating to qualified hurricane distributions and repayment thereof set forth in Section 1400Q(a) of the Code, and relating to repayment of prior qualified distributions for home purchases set forth in Code Section 1400Q(b), shall apply to the Plan. These provisions added to the Code by the Katrina Emergency Tax Relief Act of 2005 (“KETRA”) and the Gulf Opportunity Zone Act of 2005 (GOZA), permit plans to allow repayments of certain prior qualified distributions for home purchases for Participants affected by Hurricanes Katrina, Rita, and Wilma.

Article VIII. Loans to Participants

8.01 Availability of Loans to Participants.

- (a) If elected by the Employer, loans will be available to Participants in this Plan. A Participant may apply for a loan from the Plan subject to the limitations and other provisions of this Article.
- (b) The Employer shall establish written guidelines governing the granting of loans, provided that such guidelines are approved by the Administrator and are not inconsistent with the provisions of this Article, and that loans are made available to all applicable Participants on a reasonably equivalent basis.

8.02 Terms and Conditions of Loans to Participants. Any loan by the Plan to a Participant under Section 8.01 of the Plan shall satisfy the following requirements:

- (a) *Availability.* Loans shall be made available to all Participants who are active employees on a reasonably

equivalent basis. Loans shall not be made available to terminated Employees, Beneficiaries, or alternate payees.

- (b) *Interest Rate.* Loans must be adequately secured and bear a reasonable interest rate.
- (c) *Loan Limit.* No Participant loan shall exceed the present value of the Participant's Account.
- (d) *Foreclosure.* In the event of default on any installment payment, the outstanding balance of the loan shall be a deemed distribution. In such event, an actual distribution of a plan loan offset amount will not occur until a distributable event occurs in the Plan.
- (e) *Reduction of Account.* Notwithstanding any other provision of this Plan, the portion of the Participant's Account balance used as a security interest held by the Plan by reason of a loan outstanding to the Participant shall be taken into account for purposes of determining the amount of the Account balance payable at the time of death or distribution, but only if the reduction is used as repayment of the loan.
- (f) *Amount of Loan.* At the time the loan is made, the principal amount of the loan plus the outstanding balance (principal plus accrued interest) due on any other outstanding loans to the Participant from the Plan and from all other plans of the Employer that are either eligible deferred compensation plans described in Section 457(b) of the Code or qualified employer plans under Section 72(p)(4) of the Code shall not exceed the lesser of:
 - (1) \$50,000, reduced by the excess (if any) of
 - (i) The highest outstanding balance of loans from the Plan during the one (1) year period ending on the day before the date on which the loan is made; over
 - (ii) The outstanding balance of loans from the Plan on the date on which such loan is made; or
 - (2) One-half of the value of the Participant's interest in all of his or her Accounts under this Plan.

For the purpose of the above limitation, all loans from all qualified employer plans of the Employer under Code Section 72(p)(4) are aggregated.

- (g) *Application for Loan.* The Participant must give the Employer adequate written notice, as determined by the Employer, of the amount and desired time for receiving a loan. No more than one (1) loan may be made by the Plan to a Participant in any twelve-month period, unless a different period is elected by the Employer. No loan shall be approved if an existing loan from the Plan to the Participant is in default to any extent.
- (h) *Length of Loan.* Any loan issued shall require the Participant to repay the loan in substantially equal installments of principal and interest, at least monthly, over a period that does not exceed five (5) years from the date of the loan; provided, however, that if the proceeds of the loan are applied by the Participant to acquire any dwelling unit that is to be used within a reasonable time (determined at the time of the loan is made) after the loan is made as the principal residence of the Participant, the five (5) year limit shall not apply. In this event, the period of repayment shall not exceed a reasonable period determined by the Employer. Principal installments and interest payments otherwise due may be suspended for up to one (1) year during an authorized leave of absence, if the promissory note so provides, but not beyond the original term permitted under this subsection (h), with a revised payment schedule (within such term) instituted at the end of such period of suspension.

- (i) *Prepayment.* The Participant shall be permitted to repay the loan in whole or in part at any time prior to maturity, without penalty.
- (j) *Promissory Note.* The loan shall be evidenced by a promissory note executed by the Participant and delivered to the Employer, and shall bear interest at a reasonable rate determined by the Employer.
- (k) *Security.* The loan shall be secured by an assignment of the participant's right, title and interest in and to his or her Account.
- (l) *Assignment or Pledge.* For the purposes of paragraphs (f) and (g), assignment or pledge of any portion of the Participant's interest in the Plan and a loan, pledge, or assignment with respect to any insurance contract purchased under the Plan, will be treated as a loan.
- (m) *Other Terms and Conditions.* The Employer shall fix such other terms and conditions of the loan as it deems necessary to comply with legal requirements, to maintain the eligibility of the Plan and Trust under Section 457 of the Code, or to prevent the treatment of the loan for tax purposes as a distribution to the Participant. The Employer, in its discretion for any reason, may also fix other terms and conditions of the loan, not inconsistent with the provisions of this Article, including:
 - (1) the circumstances under which a loan becomes immediately due and payable, provided, however, with respect to loans issued after December 31, 2012, that the loan program shall not provide that a loan becomes due and payable solely because the Participant requests or receives a partial distribution of the Participant's account balance after termination of employment;
 - (2) rules relating to reamortization of loans; and
 - (3) rules relating to refinance of loans.

8.03 Participant Loan Accounts.

- (a) Upon approval of a loan to a Participant by the Employer, an amount not in excess of the loan shall be transferred from the Participant's other investment fund(s), described in Section 6.05 of the Plan, to the Participant's loan account as of the Accounting Date immediately preceding the agreed upon date on which the loan is to be made.
- (b) The assets of a Participant's loan account may be invested and reinvested only in promissory notes received by the Plan from the Participant as consideration for a loan permitted by Section 8.01 of the Plan or in cash. Uninvested cash balances in a Participant's loan account shall not bear interest. Neither the Employer, the Administrator, nor any other person shall be liable for any loss, or by reason of any breach, that results from the Participant's exercise of such control.
- (c) Repayment of principal and payment of interest shall be made by payroll deduction or, Automated Clearing House (ACH) transfer, or with respect to a terminated Employee solely by ACH, and shall be invested in one (1) or more other investment funds, in accordance with Section 6.05 of the Plan, as of the next Accounting Date after payment thereof to the Trust. The amount so invested shall be deducted from the Participant's loan account. A payment intended to be a prepayment or payment of the loan in full may also be made by cashier's check or money order, and shall be invested in accordance with this provision.
- (d) The Employer shall have the authority to establish other reasonable rules, not inconsistent with the

provisions of the Plan, governing the establishment and maintenance of Participant loan accounts.

Article IX. Roth Provisions

This Article IX has no effect unless and until the Employer affirmatively elects to offer Designated Roth Accounts.

9.01 Definitions. The following definitions shall apply for purposes of this Article IX.

- (a) *Designated Roth Account.* A bookkeeping account established and maintained to record the Participant's Roth Elective Deferrals, In-Plan Roth Conversions, rollovers from designated Roth account under other eligible retirement plans, and the income gains and losses thereon. Unless specifically stated otherwise, all references in the Plan to a Participant's Account shall include a Participant's Designated Roth Account.
- (b) *In-Plan Roth Conversion.* (1) A distribution from a Participant's Pre-Tax Account that is rolled over to the Participant's Designated Roth Account under the Plan, as described in Code Section 402A(c)(4)(B); or (2) A transfer from an amount in the Participant's Pre-Tax Account not otherwise distributable from the Plan to the Participant's Designated Roth Account under the Plan, as described in Code Section 402A(c)(4)(E), to the extent permitted by Section 9.05(e).
- (c) *Pre-Tax Account.* A bookkeeping account established and maintained to record the portion of the Participant's Account attributable to amounts other than Roth Elective Deferrals, In-Plan Roth Conversions, rollovers from designated Roth accounts under other eligible retirement plans, and the income gains and losses thereon. Unless specifically stated otherwise, all references in the Plan to a Participant's Account shall include a Participant's Pre-Tax Account.
- (d) *Qualified Roth Contribution Program.* A program described in paragraph (1) of Code Section 402A(b), under which a Participant may make Roth Elective Deferrals in lieu of all or a portion of the elective deferrals the Participant is otherwise eligible to make under the Plan.
- (e) *Roth Elective Deferrals.* Deferred Includible Compensation contributed pursuant to Section 9.02 by a Participant, which amounts are:
 - (1) designated irrevocably by the Participant at the time of the deferral election as a Roth elective deferral that is being made in lieu of all or a portion of the pre-tax deferrals the Participant is otherwise eligible to make under the Plan; and
 - (2) treated by the Employer as includible in the Participant's income at the time the Participant otherwise would have received that amount as Includible Compensation.

9.02 Permitted Roth Elective Deferrals

- (a) If the Employer elects to offer Designated Roth Accounts, as of the effective date of such election, a Participant shall be permitted to make Roth Elective Deferrals from his or her Includible Compensation in such amount or percentage as may be specified in the Joinder Agreement. A Participant's Roth Elective Deferrals will be allocated to a separate Designated Roth Account maintained for such deferrals as defined in Section 9.01(a) above.
- (b) Unless specifically stated otherwise, Roth Elective Deferrals will be treated as Deferred Compensation for all purposes under the Plan.

9.03 Separate Accounting

- (a) Contributions and withdrawals of Roth Elective Deferrals, In-Plan Roth Conversions and rollovers from a designated Roth account under an eligible retirement plan will be credited and debited to a Participant's Designated Roth Account.
- (b) The Plan will maintain a record of the amount of Roth Elective Deferrals, In-Plan Roth Conversions, and rollovers from a designated Roth account under an eligible retirement plan in each Participant's Designated Roth Account.
- (c) Gains, losses, and other credits or charges must be separately allocated on a reasonable and consistent basis to each Participant's Designated Roth Account and Pre-Tax Account under the Plan.
- (d) No contributions other than Roth Elective Deferrals, In-Plan Roth Conversions, and rollovers from a designated Roth account under an eligible retirement plan and properly attributable earnings thereon will be credited to each Participant's Designated Roth Account.

9.04 Direct Rollovers

- (a) Notwithstanding anything to the contrary in the Plan, a direct rollover of a distribution from a Designated Roth Account under the Plan shall be made only to another designated Roth account under an eligible retirement plan described in Section 402A(e)(1) of the Code or to a Roth IRA described in Section 408A of the Code, and only to the extent the rollover is permitted under the rules of Section 402(c) of the Code.
- (b) Notwithstanding anything to the contrary in the Plan, unless otherwise elected by the Employer, the Plan will accept a rollover contribution to a Designated Roth Account only if it is a direct rollover from another designated Roth account under an eligible retirement plan described in Section 402A(e)(1) of the Code, or if the rollover is an In-Plan Roth Conversion defined in Section 10.05.
- (c) Eligible rollover distributions from a Participant's Designated Roth Account are taken into account in determining whether the total amount of the Participant's Account balances under the Plan exceeds \$1,000 for purposes of mandatory distributions from the Plan.

9.05 In-Plan Roth Conversions. Unless otherwise elected by the Employer, as of the effective date of this Article the Plan shall allow for In-Plan Roth Conversions.

- (a) *Tax Treatment.* The amount of an In-Plan Roth Conversion shall be includible in the Participant's gross income, as though it were not part of a qualified rollover contribution.
- (b) *Irrevocability.* Any election made by the Participant pursuant to Section 9.05(a) to do an In-Plan Roth Conversion shall be irrevocable.
- (c) *Treatment of Loans.* Outstanding plan loans shall be excluded from In-Plan Roth Conversions. Notwithstanding anything herein to the contrary, an In-Plan Roth Conversion shall not accelerate or otherwise cause a Participant to default on an outstanding plan loan.
- (d) *Spousal Consent.* Notwithstanding anything herein to the contrary, if the Plan requires spousal consent for a distribution, a married Participant shall not be required to obtain spousal consent in connection

with an election to make an In-Plan Roth Conversion.

- (e) *In-Plan Roth Conversions of Non-Distributable Amounts.* Effective January 1, 2013, a Participant may transfer, as part of an In-Plan Roth Conversion, an amount that is not otherwise distributable from the Participant's Pre-Tax Account to the Participant's Designated Roth Account. Such transfer shall be treated as a distribution which was contributed in a qualified rollover contribution within the meaning of Code Section 408A(e). Any distribution restrictions that were applicable to the amount before the In-Plan Roth Conversion shall apply to such amount (and earnings and losses thereon) in the Participant's Designated Roth Account. If the Participant's Account or a portion of the Account is subject to a vesting schedule, an In-Plan Roth Conversion is available only if the Account or portion of the Account is fully vested. The Participant may not transfer under this Section 9.05(e) any portion of the Account that is partially vested.

9.06 Availability of Loans from Designated Roth Accounts. A Participant's Designated Roth Account balance can be included to determine a Participant loan amount under Article VIII. However, unless the Employer elects otherwise, Designated Roth Accounts will not be available as a source for loans under the Plan.

Article X. Non-Assignability

10.01 General. Except as provided in Article VIII and Section 10.02, no Participant or Beneficiary shall have any right to commute, sell, assign, pledge, transfer or otherwise convey or encumber the right to receive any payments hereunder, which payments and rights are expressly declared to be non-assignable and non-transferable.

10.02 Domestic Relations Orders.

- (a) *Allowance of Transfers:* To the extent required under a final judgment, decree, or order (including approval of a property settlement agreement) that (1) relates to the provision of child support, alimony payments, or marital property rights and (2) is made pursuant to a state domestic relations law, and (3) is permitted under Sections 414(p)(11) and (12) of the Code, any portion of a Participant's Account may be paid or set aside for payment to a spouse, former spouse, child, or other dependent of the Participant (an "Alternate Payee"). Where necessary to carry out the terms of such an order, a separate Account shall be established with respect to the Alternate Payee who shall be entitled to make investment selections with respect thereto in the same manner as the Participant. Any amount so set aside for an Alternate Payee shall be paid in accordance with the form and timing of payment specified in the order. Nothing in this Section shall be construed to authorize any amount to be distributed under the Plan at a time or in a form that is not permitted under Section 457(b) of the Code and is explicitly permitted under the uniform procedures described in Section 10.02(d) below. Notwithstanding the foregoing sentence, if a judgment, decree or order (including approval of a property settlement agreement) that relates to the provision of child support, alimony payments, or the marital property rights of a spouse or former spouse, child, or other dependent of a Participant is made pursuant to the domestic relations law of any State, then the amount of the Participant's Account shall be paid in the manner and to the person or persons so directed in the domestic relations order. Such payment shall be made without regard to whether the Participant is eligible for a distribution of benefits under the Plan. The Administrator shall establish reasonable procedures for determining the status of any such decree or order and for effectuating distribution pursuant to the domestic relations order. Any payment made to a person pursuant to this Section shall be reduced by any required income tax withholding. An Account maintained by the Alternate Payee shall otherwise be treated as if it were a Participant Account.

- (b) *Release from Liability to Participant:* The Employer's liability to pay benefits to a Participant shall be reduced to the extent that amounts have been paid or set aside for payment to an Alternate Payee to paragraph (a) of this Section and the Participant and his or her Beneficiaries shall be deemed to have released the Employer and the Plan Administrator from any claim with respect to such amounts.
- (c) *Participation in Legal Proceedings:* The Employer and Administrator shall not be obligated to defend against or set aside any judgment, decree, or order described in paragraph (a) or any legal order relating to the garnishment of a Participant's benefits, unless the full expense of such legal action is borne by the Participant. In the event that the Participant's action (or inaction) nonetheless causes the Employer or Administrator to incur such expense, the amount of the expense may be charged against the Participant's Account and thereby reduce the Employer's obligation to pay benefits to the Participant. In the course of any proceeding relating to divorce, separation, or child support, the Employer and Administrator shall be authorized to disclose information relating to the Participant's Account to the Alternate Payee (including the legal representatives of the Alternate Payee), or to a court.
- (d) *Determination of Validity of Domestic Relations Orders:* The Administrator shall establish uniform procedures for determining the validity of any domestic relations order. The Administrator's determinations under such procedures shall be conclusive and binding on all parties and shall be afforded the maximum amount of deference permitted by law.

10.03 IRS Levy. Notwithstanding Section 10.01, the Administrator may pay from a Participant's or Beneficiary's Account balance the amount that the Administrator finds is lawfully demanded under a levy issued by the Internal Revenue Service with respect to that Participant or Beneficiary or is sought to be collected by the United States Government under a judgment resulting from an unpaid tax assessment against the Participant or Beneficiary.

10.04 Mistaken Contribution. To the extent permitted by applicable law, if any contribution (or any portion of a contribution) is made to the Plan by a good faith mistake of fact, then after the payment of the contribution, and upon receipt in good order of a proper request approved by the Administrator, the amount of the mistaken contribution (adjusted for any income or loss in value, if any, allocable thereto) shall be returned directly to the Participant or, to the extent required or permitted by the Administrator, to the Employer.

10.05 Payments to Minors and Incompetents. If a Participant or Beneficiary entitled to receive any benefits hereunder is a minor or is adjudged to be legally incapable of giving valid receipt and discharge for such benefits, or is deemed so by the Administrator, benefits will be paid to such persons as the Administrator may designate for the benefit of such Participant or Beneficiary. Such payments shall be considered a payment to such Participant or Beneficiary and shall, to the extent made, be deemed a complete discharge of any liability for such payments under the Plan.

10.06 Procedure When Distributee Cannot Be Located. The Administrator shall make all reasonable attempts to determine the identity and address of a Participant or a Participant's Beneficiary entitled to benefits under the Plan. For this purpose, a reasonable attempt means (a) the mailing by certified mail of a notice to the last known address shown on the Employer or Administrator's records, (b) notification sent to the Social Security Administration or the Pension Benefit Guarantee Corporation (under their program to identify payees under retirement plans), and (c) the payee has not responded within six (6) months. If the Administrator is unable to locate such a person entitled to benefits hereunder, or if there has been no claim made for such benefits, the Trust shall continue to hold the benefits due such person to the extent consistent with applicable law.

Article XI. Relationship to Other Plans and Employment Agreements

This Plan serves in addition to any other retirement, pension, or benefit plan or system presently in existence or hereinafter established for the benefit of the Employer's employees, and participation hereunder shall not affect benefits receivable under any such plan or system. Nothing contained in this Plan shall be deemed to constitute an employment contract or agreement between any Participant and the Employer or to give any Participant the right to be retained in the employ of the Employer. Nor shall anything herein be construed to modify the terms of any employment contract or agreement between a Participant and the Employer.

Article XII. Amendment or Termination of Plan

The Employer may at any time amend this Plan provided that it transmits such amendment in writing to the Administrator at least thirty (30) days prior to the effective date of the amendment. The consent of the Administrator shall not be required in order for such amendment to become effective, but the Administrator shall be under no obligation to continue acting as Administrator hereunder if it disapproves of such amendment.

The Administrator may at any time propose an amendment to the Plan by an instrument in writing transmitted to the Employer. Such amendment shall become effective unless, within the 30-day period beginning on the date the Administrator transmits such amendment, the Employer notifies the Administrator in writing that it disapproves such amendment, in which case such amendment shall not become effective. In the event of such disapproval, the Administrator shall be under no obligation to continue acting as Administrator hereunder.

The Employer may at any time terminate this Plan. In the event of termination, assets of the Plan shall be distributed to Participants and Beneficiaries as soon as administratively practicable following termination of the Plan. Alternatively, assets of the Plan may be transferred to an eligible deferred compensation plan maintained by another eligible governmental employer within the same State if (a) all assets held by the Plan are transferred; (b) the receiving plan provides for the receipt of transfers; (c) the Participants and Beneficiaries whose deferred amounts are being transferred will have an amount immediately after the transfer at least equal to the deferred amount immediately before the transfer; and (d) the Participants or Beneficiaries whose deferred amounts are being transferred are not eligible for additional annual deferrals in the receiving plan unless the Participants or Beneficiaries are performing services for the employer maintaining the receiving plan. In addition, unless otherwise prohibited by applicable law, with respect to Participants or Beneficiaries who cannot be located or who do not elect otherwise, the assets held in the accounts of such Participants or Beneficiaries may be transferred to an individual retirement plan (as defined in Section 7701(a)(37) of the Code) selected by the Employer.

Except as may be required to maintain the status of the Plan as an eligible deferred compensation plan under Section 457(b) of the Code or to comply with other applicable laws, no amendment or termination of the Plan shall divest any Participant of any rights with respect to compensation deferred before the date of the amendment or termination.

Article XIII. Applicable Law

This Plan and Trust shall be construed under the laws of the state where the Employer is located and is established with the intent that it meet the requirements of an "eligible deferred compensation plan" under Section 457(b) of the Code, as amended. The provisions of this Plan and Trust shall be interpreted wherever possible in conformity with the requirements of that Section of the Code.

In addition, notwithstanding any provision of the Plan to the contrary, the Plan shall be administered in compliance with the requirements of Section 414(u) of the Code.

Article XIV. Miscellaneous Items

14.01 Gender and Number. The masculine pronoun, whenever used herein, shall include the feminine pronoun, and the singular shall include the plural, except where the context requires otherwise.

14.02 Electronic Communication and Consent. Unless expressly required otherwise, where this Plan provides that a document, election, notification, direction, signature, or consent will be in writing, such writing may occur through an electronic medium, including but not limited to electronic mail, intranet or internet web posting and online account access, to the fullest extent permitted by applicable law.

DECLARATION OF TRUST

This Declaration of Trust (the "Group Trust Agreement") is made as of the 19th day of May, 2001, by VantageTrust Company, which declares itself to be the sole Trustee of the trust hereby created.

WHEREAS, the ICMA Retirement Trust was created as a vehicle for the commingling of the assets of governmental plans and governmental units described in Section 818(a)(6) of the Internal Revenue Code of 1986, as amended, pursuant to a Declaration of Trust dated October 4, 1982, as subsequently amended, a copy of which is attached hereto and incorporated by reference as set out below (the "ICMA Declaration"); and

WHEREAS, the trust created hereunder (the "Group Trust") is intended to meet the requirements of Revenue Ruling 81-100, 1981-1 C.B. 326, and is established as a common trust fund within the meaning of Section 391:1 of Title 35 of the New Hampshire Revised Statutes Annotated, to accept and hold for investment purposes the assets of the Deferred Compensation and Qualified Plans held by and through the ICMA Retirement Trust.

NOW, THEREFORE, the Group Trust is created by the execution of this Declaration of Trust by the Trustee and is established with respect to each Deferred Compensation and Qualified Plan by the transfer to the Trustee of such Plan's assets in the ICMA Retirement Trust, by the Trustees thereof, in accord with the following provisions:

- (a) Incorporation of ICMA Declaration by Reference; ICMA By-Laws. Except as otherwise provided in this Group Trust Agreement, and to the extent not inconsistent herewith, all provisions of the ICMA Declaration are incorporated herein by reference and made a part hereof, to be read by substituting the Group Trust for the Retirement Trust and the Trustee for the Board of Trustees referenced therein. In this respect, unless the context clearly indicates otherwise, all capitalized terms used herein and defined in the ICMA Declaration have the meanings assigned to them in the ICMA Declaration. In addition, the By-Laws of the ICMA Retirement Trust, as the same may be amended from time-to-time, are adopted as the By-Laws of the Group Trust to the extent not inconsistent with the terms of this Group Trust Agreement.

Notwithstanding the foregoing, the terms of the ICMA Declaration and By-Laws are further modified with respect to the Group Trust created hereunder, as follows:

1. any reporting, distribution, or other obligation of the Group Trust vis-à-vis any Deferred Compensation Plan, Qualified Plan, Public Employer, Public Employer Trustee, or Employer Trust shall be deemed satisfied to the extent that such obligation is undertaken by the ICMA Retirement Trust (in which case the obligation of the Group Trust shall run to the ICMA Retirement Trust); and
2. all provisions dealing with the number, qualification, election, term and nomination of Trustees shall not apply, and all other provisions relating to trustees (including, but not limited to,

resignation and removal) shall be interpreted in a manner consistent with the appointment of a single corporate trustee.

(b) *Compliance with Revenue Procedure 81-100.* The requirements of Revenue Procedure 81-100 are applicable to the Group Trust as follows:

1. Pursuant to the terms of this Group Trust Agreement and Article X of the By-Laws, investment in the Group Trust is limited to assets of Deferred Compensation and Qualified Plans, investing through the ICMA Retirement Trust.
2. Pursuant to the By-Laws, the Group Trust is adopted as a part of each Qualified Plan that invests herein through the ICMA Retirement Trust.
3. In accord with the By-Laws, that part of the Group Trust's corpus or income which equitably belongs to any Deferred Compensation and Qualified Plan may not be used for or diverted to any purposes other than for the exclusive benefit of the Plan's employees or their beneficiaries who are entitled to benefits under such Plan.
4. In accord with the By-Laws, no Deferred Compensation Plan or Qualified Plan may assign any or part of its equity or interest in the Group Trust, and any purported assignment of such equity or interest shall be void.

(c) *Governing Law.* Except as otherwise required by federal, state or local law, this Declaration of Trust (including the ICMA Declaration to the extent incorporated herein) and the Group Trust created hereunder shall be construed and determined in accordance with applicable laws of the State of New Hampshire.

(d) *Judicial Proceedings.* The Trustee may at any time initiate an action or proceeding in the appropriate state or federal courts within or outside the state of New Hampshire for the settlement of its accounts or for the determination of any question of construction which may arise or for instructions.

IN WITNESS WHEREOF, the Trustee has executed this Declaration of Trust as of the day and year first above written.

VANTAGETRUST COMPANY

Copy



ICMA RETIREMENT CORPORATION
777 NORTH CAPITOL STREET, NE | WASHINGTON, DC 20002-4240
800-669-7400
WWW.ICMARC.ORG
BRC000-28794-0416

BRAZORIA COUNTY APPRAISAL DISTRICT

MEMBERS OF THE BOARD

Kristin Bulanek
Tommy King
Gail Robinson
Glenn Salyer
George Sandars
Susan Spoor

CHIEF APPRAISER

Al Baird
500 N. Chenango
Angleton, Texas 77515
979-849-7792
Fax 979-849-7984

September 2, 2021

Honorable Michael Bryum-Bratsen
Mayor of Iowa Colony
12003 County Road 65
Iowa Colony, TX 77583

Dear Honorable Michael Bryum-Bratsen,

In reference to the selection of the Appraisal District Board of Directors, each voting taxing unit in Brazoria County nominates by resolution, up to five candidate(s) to fill the five (5) positions of the Board of Directors. These nominations (names and addresses) must be submitted to the Chief Appraiser before October 15, 2021. (See Step 1 on Calendar)

Your 2020 total tax levy was \$ 3,013,015. This tax levy has entitled your taxing unit to 16 votes for the five (5) directors to be elected to the Brazoria County Appraisal District.

The voting process will begin before October 30, 2021 once all nominations have been received

Please address all submissions to Al Baird, Chief Appraiser, at the above address.

Sincerely,



Al Baird
Chief Appraiser

AB/td

BRAZORIA COUNTY APPRAISAL DISTRICT

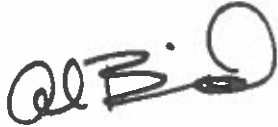
MEMBERS OF THE BOARD

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500 North Chenango
Angleton, Texas 77515
979-849-7792
Fax 979-849-7984

MEMO

To: All Voting Taxing Units
From: Al Baird, Chief Appraiser 
Subject: 2021 Board of Directors Election For
Years 2022 – 2023
Date: September 2, 2021

Your taxing unit participates in selecting members of the Brazoria County Appraisal District's Board of Directors.

The board is composed of five members who serve two-year terms, all of which expire December 31, 2021.

If the county assessor-collector is not appointed to the board, the county assessor-collector serves as a non-voting director.

This memorandum sets out the process of selecting directors for the two-year term that begins January 1, 2022.

Section 6.03, Property Tax Code, establishes the selection process for Appraisal District Directors.

Selection Procedures

The procedures for selecting members of the board of directors for the two-year term beginning on January 1, 2022 are as follows:

Step 1 --- Nomination

Before **October 15, 2021**, the voting units must **adopt a resolution nominating** up to five candidate(s) by formal action. The presiding officer of the voting unit must submit the nominees **name(s) and addresses** to the Chief Appraiser.

September 2, 2021

Step 2 -- Election

Before **October 30, 2021**, the Chief Appraiser will prepare and mail a ballot listing the nominees in alphabetical order by last name.

Before **December 15, 2021** each voting unit must cast its votes by **written resolution** naming the person or persons and the number of votes for whom it cast, and submit a certified copy to the Chief Appraiser.

Ballots received by the Chief Appraiser after December 15, 2021 may not be counted.

The Chief Appraiser will count the votes, declare the results, and notify the five candidates who received the largest vote totals before December 31, 2021. The Chief Appraiser also notifies all taxing units (voting and non-voting) and all candidates (winners & losers) of the outcome. If a tie occurs, the Chief Appraiser must solve it through any method of chance.

To assist you in this process, I have enclosed the following:

1. A calendar that lays out the procedures and dates for conducting the 2021 election.
2. Letter showing the number of votes your entity is entitled to cast in the ballot after candidate nominations are received. (**See October 30 on the election calendar**).
3. A suggested form of resolution for the **nomination(s) of a candidate(s)** to the board of directors of the Brazoria County Appraisal District.

I would like to thank you in advance for your help in carrying out this important task and I invite your questions or comments on the board selection process. Please do not hesitate to call me.

Enclosures (3)

BRAZORIA COUNTY APPRAISAL DISTRICT
2021 BOARD OF DIRECTORS ELECTION CALENDAR

Before Oct. 1
(Sep. 2, 2021)

The chief appraiser notifies each voting taxing unit of the process for the election of the Board of Directors and the number of votes it is entitled to cast.

Each voting unit may nominate one candidate for each position to be filled. Since the board of directors consists of five members, **the unit may nominate up to five candidates.**

Before Oct. 15

The presiding officer of the unit submits the **names and addresses** of the nominees **by written resolution** to the chief appraiser.

Before Oct. 30

The chief appraiser prepares and submits to each voting taxing unit a ballot listing the nominees alphabetically by each candidate's last name and provides the number of votes it may cast, with a resolution sample.

Before Dec. 15

Each voting unit cast votes for any of the candidates on the ballot and submits to the chief appraiser **by written resolution**. The unit may cast all its votes for one candidate or may distribute the votes among any number of candidates.

Before Dec. 31

The chief appraiser counts the votes and certifies as winner the five candidates who received the largest vote totals. The chief appraiser notifies all taxing units (voting and non-voting) and all the candidates (winners and losers) of the outcome.

If a tie occurs, the Chief Appraiser must resolve it through any method of chance.

RESOLUTION NO. _____

A RESOLUTION OF THE _____
OF THE _____

**NOMINATING CANDIDATE(S) FOR A POSITION ON THE BOARD OF DIRECTORS OF
THE BRAZORIA COUNTY APPRAISAL DISTRICT**

WHEREAS, those eligible taxing units participating in the Brazoria County Appraisal District have the right and responsibility to nominate up to five candidate(s) to fill the five (5) positions of the Board of Directors of the Brazoria County Appraisal District for a term of office commencing on January 1, 2022 and extending through December 31, 2023; and

WHEREAS, this governing body desires to exercise its right to nominate the said candidate(s) for such position on said board of directors; now, therefore

BE IT RESOLVED BY THE _____
OF THE _____:

Section 1. That the facts and recitations set forth in the preamble of this resolution be, and they are hereby, adopted, ratified, and confirmed.

Section 2. That the following individuals be, and are hereby, nominated as candidate(s) for positions on the board of directors of the Brazoria County Appraisal District to be filled by those eligible taxing units participating in the Brazoria County Appraisal District for a two-year term of office commencing on January 1, 2022.

Name & Address: _____
Name & Address: _____
Name & Address: _____
Name & Address: _____
Name & Address: _____

Section 3. That the presiding officer of the governing body of this taxing unit be, and that he or she is hereby, authorized and directed to deliver or cause to be delivered a certified copy of this resolution to the chief appraiser of the Brazoria County Appraisal District on or before October 15, 2021.

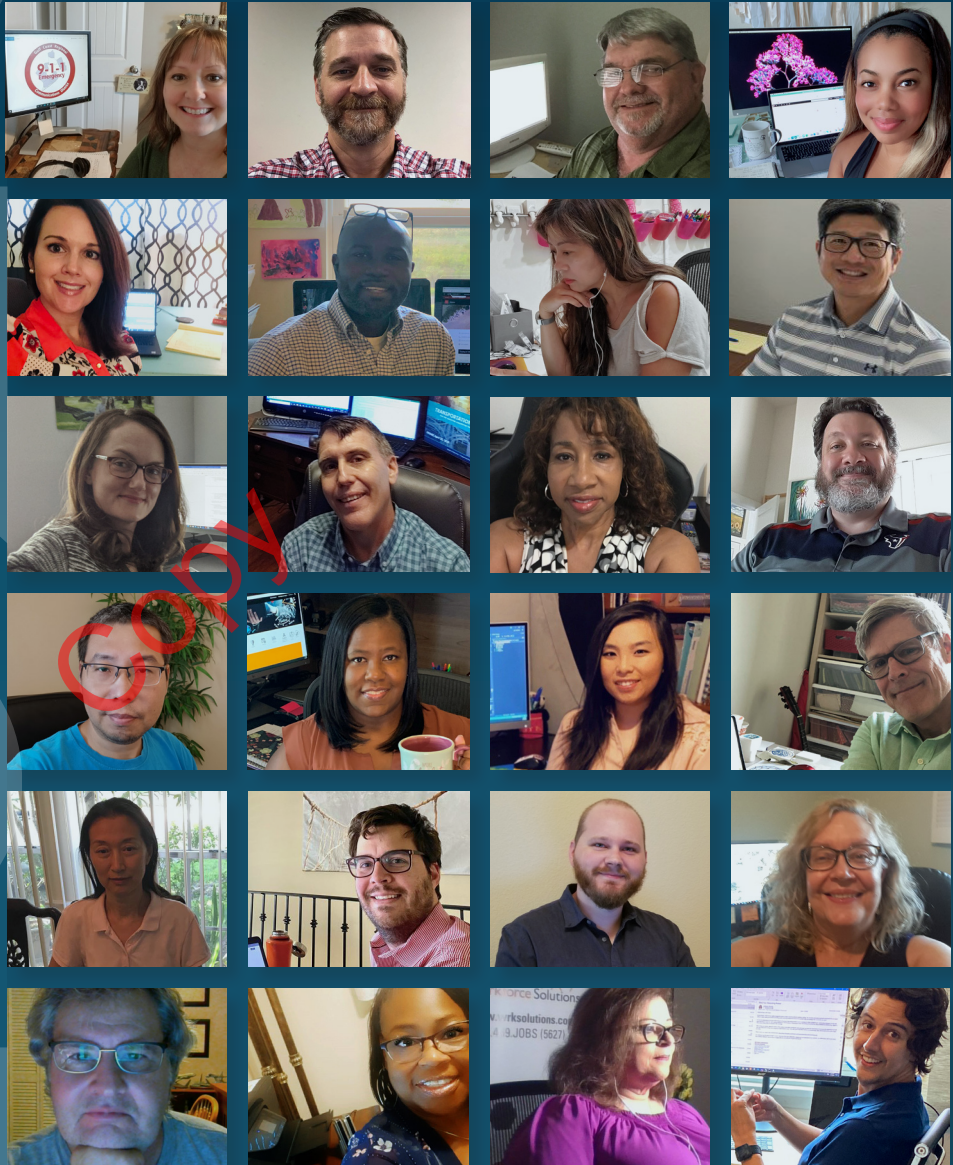
PASSED, ADOPTED AND APPROVED this _____ day of _____, 2021.

Presiding Officer

ATTEST:

Secretary

ANNUAL REPORT



A Year of Resilience

HOUSTON-GALVESTON AREA COUNCIL



NANCY ARNOLD
Board Chair

From Our Chair

We might be tempted to paint 2020 in dark colors, accented with tales of gloom and negativity. But that is not the case for the Houston-Galveston Area Council. While certainly challenging – a theme often heard in all segments of society – we experienced significant highlights worthy of proudly acknowledging.

When it became obvious that we would not be able to work in our offices, we quickly pivoted to a digital environment for our employees. By year's end, we had almost seamlessly replicated our office environment onscreen, whether holding department meetings or putting on a full-blown seminar. The milestones you'll read about in this report are shining examples of the kind of success that can be achieved with such seamless continuity of service and a cooperative spirit.

Our H-GAC team has demonstrated incredible attitude and effort during this unsettling year, and we are a stronger, better organization going into 2021. We are in a continual learning mode of how to successfully operate in the face of sometimes daunting challenges, and we stand ready to use our experience and flexibility to assist our region with its challenges and opportunities. We welcome the new year and new opportunities to serve you.



CHUCK WEMPLE
Executive Director

From Our Executive Director

It's been quite a year. 2020 threw a lot our way, and our agency leaned into the challenges that came our way. We kept our traditional programs and services strong and rapidly pivoted to add additional resources and assistance to our members that helped our region navigate its way through the disruptions of 2020 and look towards a bright 2021. This would not have been possible without the support of our board and the fantastic team of dedicated public servants at H-GAC. Our team transitioned to remote work, stayed focused on the tasks at hand, pulled together when times were tough, and listened for opportunities to help our members, the people, and communities of our region. The 2020 Annual Report, and our first ever annual service video, illustrate some of that hard work and innovation. It's difficult to capture all we do between the covers of a report and a brief video. To find out more about the services available to our members, and to see where we can work together, please visit our website at h-gac.com or reach out to us via email or phone.

We look forward to a new year of promise and opportunity. We are excited to move forward on projects that will increase access to high-speed internet, establish a framework for transportation planning in our rural areas, and create even more opportunities to sit down with you and provide insight and data tools to help you improve the quality of life in your communities.

Keeping the lines of communication open is critical to the success of our agency and our region. Don't hesitate to get in touch and let us know how we can serve you better. Our team believes in continuous improvement and exceptional service. We stand ready to serve you, the 13 counties, 108 cities, and more than 7 million people who call our region home.

MILESTONES

The Mission Continues Virtually

On March 6, the H-GAC Data Services team began plans to transition the agency from a primarily office-based to remote work setting. Applying virtual communications programs and best practices adopted after Hurricane Harvey, the team built the secure infrastructure, expanded network bandwidth, and acquired all the necessary hardware for all H-GAC staff members to go fully remote – a process completed in just 11 days. Thanks to their efforts, H-GAC was able to continue serving the region with minimal disruption and take the lead in helping fellow councils of government and local entities smoothly transition their staff and constituents to operating virtually.



Helping Our Region Forge Ahead

Every city, county, and community has been impacted by the COVID-19 pandemic. Because H-GAC was able to so quickly shift operations to a remote work environment, its leaders and staff got right to work helping the region endure the worst effects of the pandemic and begin the road to recovery. In March 2020, the board of directors authorized the expansion of H-GAC services to provide immediate assistance to local governments, major employers, small businesses, and, most importantly, residents and their families.

FOSTERING REGIONAL COOPERATION

Within days of the issue of the first stay at home orders, H-GAC was already hard at work preparing local governments, agencies, and employers for conducting business in a virtual environment. H-GAC hosted webinars on how to run board, committee, and public meetings virtually while maintaining transparency and engagement with the public. Commute Solutions team members presented planning documents and best practices for managers on maintaining productivity and accountability, and for staff on keeping a positive work-life balance while teleworking. H-GAC also hosted virtual roundtables joining mayors and city managers in discussing best practices in handling the pandemic in their community and preparing for revenue shortfalls.

SERVING OUR SENIOR COMMUNITIES

When nursing homes and assisted living facilities suspended congregate meals as part of social distance safety measures, the Houston-Galveston Area Agency on Aging immediately converted to delivering meals curbside so that our region's seniors could still receive hot, nutritious meals. Since March 15, staff and volunteers have delivered thousands of meals to senior communities in Austin, Brazoria, Chambers, Colorado, Fort Bend, Galveston, Liberty, Matagorda, Montgomery, Walker, Waller, and Wharton counties. The Area Agency on Aging also continues to provide services such as Medicare benefits counseling and advocacy for resident rights by ombudsman either virtually or by phone through the pandemic.

SUPPORTING SMALL BUSINESSES

In April 2020, Harris County and the Houston-Galveston Local Development Corporation launched the COVID-19 Forgivable Loan Program to provide immediate relief for small businesses in Harris County. The program provided interest-free loans of up to \$25,000, which would be forgiven after five years. The local development corporation administered more than \$9.9 million in loans to more than 440 applicants. The small business loan model has drawn significant interest and is being replicated in several other Houston-Galveston area counties, such as Fort Bend. In addition, the local development corporation has provided bridge loans to small businesses awaiting federal CARES Act funding as well as low-interest, government-backed financing options for our region's budding entrepreneurs. Towards the end of 2020, Harris County small businesses received additional relief when all of the distributed COVID-19 forgivable loans were converted to grants.

CONNECTING PEOPLE TO EMPLOYERS AND SUPPORTING OUR EVERYDAY HEROES

Since March 2020, Workforce Solutions has hosted weekly Facebook live sessions, virtual job fairs, and job search seminars to help unemployed and recent graduates connect with employers in the region and find new jobs quickly. One Houston-area resident who lost his job was able to find an even higher-paying job in just over a month thanks to participating in these virtual events.

In November 2020, Workforce Solutions in partnership with the Texas Workforce Commission, the Texas Medical Center, and the Texas Veterans Commission, took the annual Hiring Red, White & You! job fair – the region's largest hiring event for veterans and their families – fully virtual. The agency has also partnered with LinkedIn Learning, Coursera, Walmart, the Dallas Workforce Board, and others to provide free online education courses to help unemployed workers maintain their skillsets and help essential workers develop their careers. In April 2020, Workforce Solutions, together with Collaborative for Children, launched FindChildCareNow.org, an online resource that aided essential workers in finding quality, affordable childcare for their families.

Staff continued offering services from Workforce Solutions career centers either curbside or by phone. In October 2020, a new career office in Missouri City, Texas, opened, bringing the total number in the region to 28.

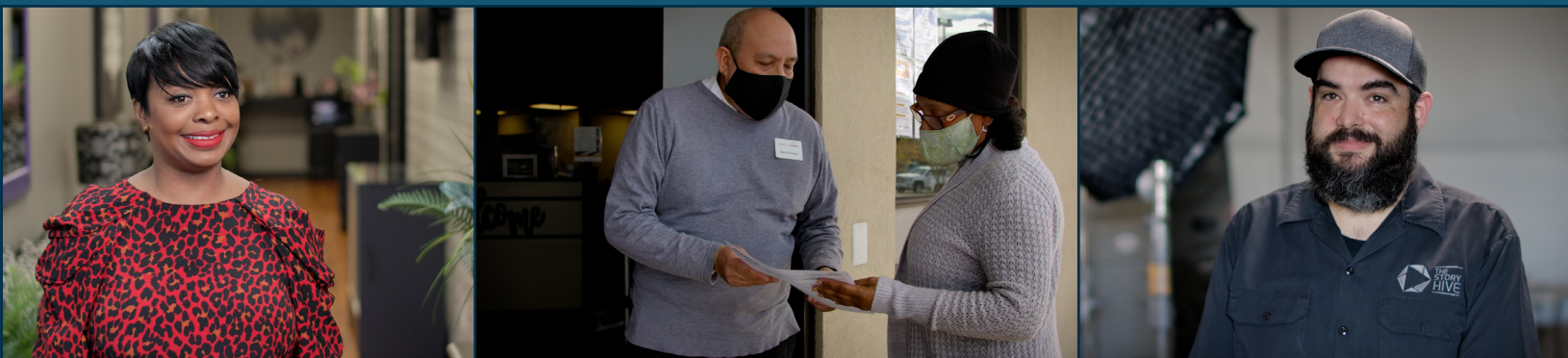


DRIVING ECONOMIC RECOVERY

To assist cities and municipalities in understanding the economic impacts to their sales tax revenues, H-GAC adopted a forecast tool developed by the San Diego Association of Governments – the San Diego region’s primary planning agency. By inputting local sales data and assumptions unique to a community’s situation, the tool outlines up to 40 possible scenarios on how severe the revenue shortfall can be and how long it might take to recover. The scenarios are adaptable and can be changed based on new or updated information. Six cities and one county – including Deer Park, Kemah, Houston, La Porte, Seabrook, Waller,

and Wharton County – requested forecast reports utilizing the tool.

To ensure as many economic recovery projects in the region as possible had a fighting chance for federal CARES Act grant funding, the Gulf Coast Economic Development District provided a free webinar with a guided walkthrough of the application process. The economic development district also released weekly resource digests to help local partners stay on top of the sometimes-overwhelming volume of new funding opportunities. It has hosted complimentary webinars that go even more in depth and on topics like financial resilience, infrastructure development, and disaster response.



Keeping Local Governments Moving

The Houston-Galveston Area Council helped our local governments successfully pivot to a virtual environment by quickly assembling valuable resources such as webinars and trainings, data resources, funding opportunities, and educational materials on how to set up a virtual workplace.

HOLDING PUBLIC MEETINGS VIRTUALLY

During the onset of the pandemic, H-GAC helped local governments prepare to conduct business virtually and maintain operational continuity. H-GAC staff provided technical assistance and guidance on how to conduct virtual board meetings in compliance with the Texas Open Meetings Act and pivot to a virtual work environment.

WEBINARS, TRAININGS & RESOURCES

H-GAC hosted webinars that helped local governments pivot to a virtual environment and created a webinar hub for easy access of information and additional training resources.

SETTING UP A VIRTUAL WORKPLACE

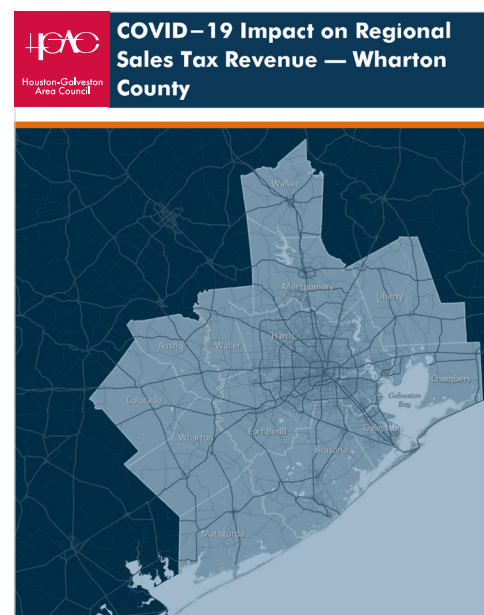
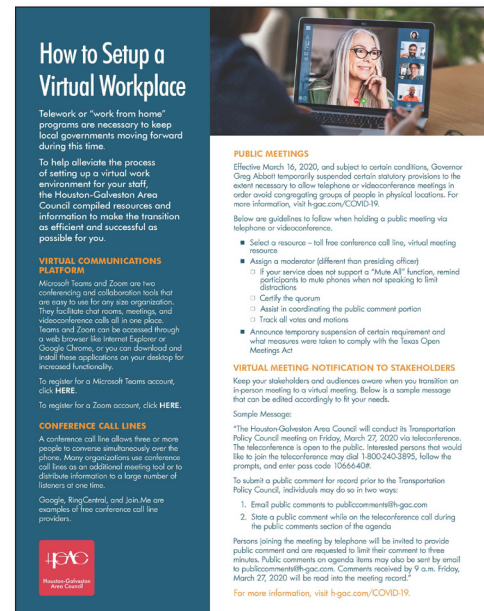
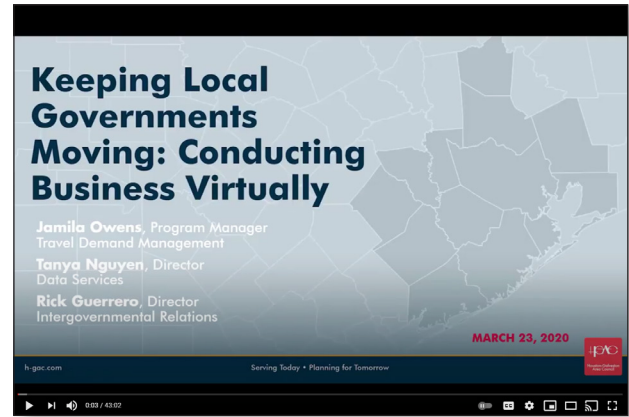
Telework or “work from home” programs became necessary to keep local governments moving forward during the pandemic. To help alleviate this process of setting up a virtual work environment, H-GAC complied resources and information to make the transition as efficient and successful as possible for cities, counties, and their staff.

SALES TAX REVENUE FORECASTING TOOL

H-GAC developed tools and datasets to assist member governments in navigating the economic impacts of the COVID-19 pandemic. One tool is a rapid forecast of local sales tax impacts and economic recovery scenarios. This forecast projects short-term impacts to sales tax revenue and provides forecasts on recovery rates based on a variety of scenarios.

2020 CENSUS OUTREACH

H-GAC partnered with local governments to continue regional outreach for the 2020 U.S. Census and connect with hard-to-reach populations. The social media, digital, radio, and direct mail campaign reached more than 2 million people, helping the region ensure an accurate population count.



Becoming More Equitable and Inclusive

While diversity and inclusion have been longstanding values at H-GAC, 2020 has brought this issue into sharp focus. In early July 2020, H-GAC held a series of internal listening sessions where staff had forthright conversations about whether we were truly doing all we could to create an equitable, inclusive region for everyone.

We listened closely. Out of these conversations emerged the race, equity, and inclusion work group. This work group – composed of H-GAC staff and leaders – is taking a thoughtful and purposeful approach to developing the right actions to

substantially and positively impact our agency culture and our communities. Many items are in the works, such as instituting stronger protections against discrimination, professional development right from the hiring process, a community voices speaker series, and events that celebrate diversity and inclusion. In addition, H-GAC departments and programs are examining their own planning processes to determine how they can make their programs more accessible to minority and underserved businesses and communities, and better address social, economic, environmental, and infrastructural inequities where they exist in the region.

All of this is being done with the goal of better understanding our region, each other, and finding ways to ensure that everyone who calls our region home has the opportunity to succeed. H-GAC honors, respects, and promotes the great diversity of our region while serving today and planning for tomorrow.

H-GAC EQUITY WORKING GROUP



H-GAC's Equity Working Group is taking a thoughtful and purposeful approach to developing the right actions to substantially and positively impact our culture and our communities.

Planning the Future of Transportation

The COVID-19 pandemic has rapidly changed the way residents move throughout the region. More people are biking, walking, and teleworking than ever before. Increases in online deliveries highlight the need for strong freight and movement of goods. And while the number of vehicles traveling the roads has decreased, fatalities have not. The volatility of this year has demonstrated the critical importance of transportation. Our network must be interconnected, taking advantage of the latest innovations, and multimodal to account for evolving traveling habits. It must be adaptable to our rapid growth and development. It must be resilient against disasters and a changing environment. Most importantly, it must be safe and reliable for everyone who uses it. In 2020, H-GAC completed studies and launched key initiatives that will lay the foundations for the transportation system of the future.

MEETING COMPLEX PROBLEMS WITH BOLD SOLUTIONS

The North Houston Highway Improvement Project stands to be one of the most transformative infrastructure projects our region will see in a generation. The H-GAC Transportation Policy Council took the lead in encouraging collaboration and shared governance by spearheading the creation of a memorandum of understanding between the key cooperating entities of the project – the Texas Department of Transportation, Harris County, the City of Houston, the Metropolitan Transit Authority of Harris County (METRO), and the Harris County Flood Control District. If adopted, this memorandum will showcase the entities' commitment to working together on advancing the project while also addressing the key concerns from communities that will be directly impacted.

ADVANCING MOBILITY IN THE REGION

In the summer of 2020, the Transportation Policy Council approved the 2020-24 Transportation

Improvement Program, which names hundreds of priority improvement projects to our region's roadways, streets, public transit system, and freight network that will ensure our transportation network remains safe, reliable, and sustainable now and in the decades to come. Standout projects include upgrades to several sections of IH 10, SH 99, and Hempstead Highway that will help relieve congestion and increase connectivity; development of a new Inner Katy Bus Rapid Transit system along IH 10 from the Northwest Transit Center to Downtown Houston; new park and ride facilities in Sienna Plantation and Texas City; and countless street, sidewalk, and trail improvements for bicyclists and pedestrians.

In May 2020, H-GAC completed the Ports Area Mobility Study, which assessed and recommended improvements that will allow for better movement of goods between the region's four deepwater ports and emerging population and employment centers. Many of these improvements incorporate emerging technologies, such as Hyperloop and EagleRail – a fully automated, electric conveyor system for shipping containers. In February 2020, researchers at Texas Southern University completed an eight-month pilot study assessing the resiliency and performance of an autonomous shuttle as it escorted students, faculty, staff, and visitors along the Tiger Walk promenade. H-GAC provided funding support for the study.

KEEPING OUR ROADWAYS SAFE

In July 2020, the Gulf Coast Regional Tow and Go™ Program – which provides no-cost tows to vehicles that break down due to mechanical failure – expanded its service area to cover all camera-monitored freeways in unincorporated Harris County, Bellaire, La Porte, and Humble, Texas. With this and future expansions already in the works, Tow and Go is leading the way in keeping our freeways clear and motorists safe and on the move. In October, the Transportation Policy Council adopted a resolution to create a regional Vision Zero action plan, with the ambitious goal of eliminating traffic fatalities in the region by 2050. This resolution expands on existing Vision Zero initiatives under way at the City of Houston and Harris County and is in conjunction with the Texas Transportation Commission's Road to Zero policy. In the fall of 2020, H-GAC began a series of audits that will identify traffic intersections in the region at high risk of serious or fatal crash incidents for targeted safety improvements.



CONNECTING COMMUNITIES THROUGH LIVABLE CENTERS

The Livable Centers program – which aims to reimagine car-centric infrastructure to create better connected, more walkable and bikeable streets for cities, districts, neighborhoods, and municipalities – received two awards from the American Planning Association – Texas Chapter in 2020. The North Houston Livable Centers Study received the gold award for best urban design in creating a sense of place for a community, and the Houston International Management District Livable Centers Study received the silver award for outstanding achievement in public outreach.

Additionally, Livable Centers made key steps towards increasing community participation in ongoing study areas and study opportunities for economically disadvantaged communities. The Montrose Livable Centers Study introduced a new tool for members of the public to take virtual walking tours in the

study area to experience how recommended improvements would look once implemented. Seven new Livable Centers studies kicked off in 2020, and three have been completed.

SUPPORTING OUR TRANSIT AGENCIES

As the pandemic significantly impacted ridership in the region, H-GAC answered the call to support our partners and reassure essential workers that transit remains a safe, convenient, cost-effective travel method. Commute Solutions joined with 10 regional transit, rideshare, and bikeshare providers in May 2020 to host a webinar communicating safety tips for riders to protect themselves during the pandemic. Commute Solutions also dedicated a week of its signature awareness campaign, Commute Solutions Month, to showcase the extensive measures our region's transit and rideshare agencies were applying to protect the health and welfare of its riders and staff.

A Model for Organizations Regionally and Nationwide

For its efforts to help the region endure and recover from the pandemic, H-GAC received accolades by state, regional, and national associations. Programs and policies H-GAC developed to operate in a virtual work environment have become models for councils of government across the state and the country.

LEADING THE WAY IN VIRTUAL PUBLIC ENGAGEMENT

In June 2020, H-GAC released a groundbreaking report on using digital tools, applying innovative tactics, and utilizing best practices to connect with and engage a wider, more diverse public audience and how to bridge the digital divide. The report also touched on methods to make virtual public meetings more authentic and personal to members of the community as well as more accommodating to individuals with disabilities. This report was shared with councils of government and metropolitan planning organizations across the country, who are already applying it to modernize and enhance their public engagement tactics.

RECOGNIZED BY STATE AND NATIONAL PEERS

In September 2020, the Texas Association of Regional Councils appointed Chuck Wemple to lead the Executive Directors' Council. Key initiatives Wemple will pursue during his one-year term include funding opportunities for rural transportation planning organizations and increasing broadband access statewide. The association also awarded Honorable Judge Nate McDonald of Matagorda County – who has served on the H-GAC board of directors since 2007 and as chair in 2016 – the Wilbur R. Dunk Award for Regional Leadership for his dedication to fostering regional cooperation through councils of government.



VIRTUAL TEAM H-GAC



H-GAC presented to the Texas Association of Regional Councils and the National Association of Regional Councils on multiple occasions discussing policies and processes such as the virtual public engagement plan, best practices for conducting board, committee, and public meetings virtually,

and creating the network infrastructure and policies for staff to work and collaborate remotely. H-GAC leaders also helped drive national policy and direction by serving leading roles on National Association of Regional Councils' committees and its executive council.

Our 2020 Journey



MARCH 6 – H-GAC staff transition to working remotely.

MARCH 15 – The Houston-Galveston Area Agency on Aging converts congregate meals for seniors to curbside delivery service.



JAN

FEB

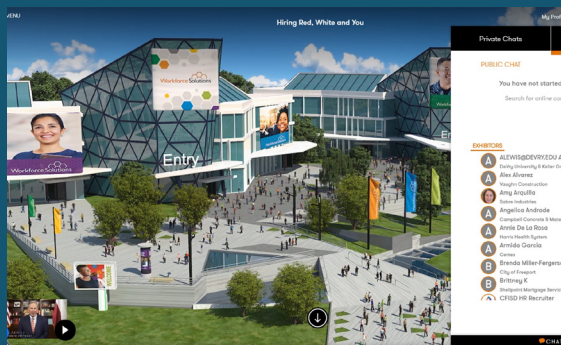
MAR

APR

MAY

JUN

Workforce Solutions



MARCH 24 – Workforce Solutions begins hosting weekly Facebook live sessions, virtual jobs fairs, and seminars to help people find jobs quickly.

APRIL 7 – The Houston-Galveston Local Development Corporation and Harris County launch the COVID-19 Forgivable Loan Program to provide immediate relief to small businesses.

Harris County COVID-19 Forgivable Loan Program

In partnership with the Houston-Galveston Area Council, Harris County has established a \$10 million-backed loan program to help area small businesses economically impacted by COVID-19 stay open and meet necessary operating expenses. These zero-interest loans are up to \$25,000 each with a five-year term and a loan forgiveness component. The Houston-Galveston Area Local Development Corporation (H-GALDC) will administer the program.

LOAN TERMS

- Up to \$25,000 per loan
- 0% interest
- Five-year terms
- Three-month grace period
- 100% of loan forgiven after 5 years pending program compliance
- Option of applying loan forgiveness proceeds to tax bill
- No prepayment penalty

HOW TO APPLY

Visit harriscountylloan.com

CONTACT US

Houston-Galveston Area Local Development Corporation

Website: hgaldc.com

Email: harriscountylloan@h-gac.com

Toll Free: 833-765-0195

Local: 713-993-2494

Business Hours: 9 a.m. - 4 p.m.

The Harris County COVID-19 Forgivable Loan Program, administered by Harris County and the Houston-Galveston Area Council through the Local Development Corporation, is committed to meeting all applicants and borrower needs, consistently, and equitably in its eligibility determination, credit analysis, lending, and service practices and to comply with all applicable fair lending laws and regulations.

hgaldc.com

Commute Solutions

Commute with
Confidence:
A Special Edition
Brown Bag Webinar

May 21, 2020
12-1 PM

Register at

[https://bit.ly/
CommuteWithConfidenceWebinar](https://bit.ly/CommuteWithConfidenceWebinar)

Commute Solutions



JUNE 26 – The Transportation Policy Council (TPC) spearheads the creation of a memorandum of understanding to encourage collaboration and shared governance on the North Houston Highway Improvement Project.



MAY 21 – Commute Solutions hosts the “Commute with Confidence” webinar with regional transit partners to help employers throughout the region plan a safer commute.



AUGUST 1 – The Gulf Coast Regional Tow and Go™ Program, which provides no-cost towing off freeways, expands its service area to include all camera-monitored freeways in Harris County, Bellaire, Jersey Village, La Porte, and Humble.

JUL

AUG

SEP

OCT

NOV

DEC



OCTOBER 23 – The Transportation Policy Council adopts a regional Vision Zero resolution to end traffic fatalities in the eight-county metropolitan planning area by 2050.



NOVEMBER 30 – The final Harris County COVID-19 small business forgivable loan is converted, bringing the total to 444 loans converted into grants.

The Road Ahead

The old adage of Murphy's Law says anything that can happen will happen. 2020 fits that to a tee. It has been a challenging year. However, our work at H-GAC has not stopped nor has momentum diminished. With flexibility and quick thinking, H-GAC positioned itself as a pillar of support for businesses and communities impacted by the pandemic and economic downturn. We're taking the successes and lessons learned to prepare for the road ahead.

We've learned that we must be adaptable and proactive in anticipating the needs of our region. That is why we have adopted planning strategies and initiatives that create better resiliency, flexibility, and look to the technologies and trends of the future. We understand the significance of the digital divide, which is why we have embraced virtual technologies and outreach strategies that ensure as many people as possible, whatever their technological capabilities, have a voice. Additionally, we're partnering with our local leaders and stakeholders to close the digital divide in Texas by pushing for broadband access for all, regardless of location, income, or accessibility.

We've learned the true value of collaboration within our agency, with our partners, and with our fellow councils of government. That is why we're embracing new processes that foster more teamwork across programs and agencies. We recognize the importance of diversity and inclusivity, so we're opening ourselves to more diversity within our agency and to more diversity in who we work with outside of H-GAC. We're building relationships with a wider range of community leaders, colleges and universities, and planning organizations as well as creating more opportunities for people to have a say in our planning processes.

We can't predict exactly what will happen in the years to come, but never has H-GAC been more prepared. The lessons learned from 2020 have made us more flexible, collaborative, and inclusive as a team and as an agency. Our board and our team stand ready to carry our region and the 7 million people who live and work here through the hardest and the greatest the future has to offer.





The Impact of Covid-19 on Regional Mobility

Although the data presented in the Mobility Report covers 2019, additional information is provided to examine the impact of the COVID-19 pandemic on the regional transportation system during the first half of 2020. The region's response to the pandemic and subsequent mitigation efforts, such as social distancing guidelines, stay home orders, and mandatory closure of businesses, has had a dramatic effect on travel patterns in the Houston-Galveston area over the last several months.

VEHICULAR TRAVEL

The Houston-Galveston Area Council's Transportation Department monitors regional travel volumes with a platform that collects travel data from GPS capable devices. Figure 1 illustrates the percentage of daily Vehicle Miles Traveled (VMT) as compared to the baseline date of March 7. Following the issuance of a federal emergency declaration on March 13 and declaration of Texas public health disaster on March 19, there was a sharp decline in daily VMT throughout the region.

With the March 19 Texas public health disaster declaration came prohibition of groups larger than 10, closure of gyms, bars, and schools, and change to takeout only at restaurants. From this date onward, the region sustained traffic volumes significantly lower than baseline as mitigation measures continued. Regional travel declined 70% to nearly 90% of baseline volumes through the end of April, when the statewide stay home order expired. Since initiating Phase I of the reopening of Texas on May 1, there has been a steady rise in regional travel. However, even as most businesses reopened to some capacity as Phase II began on May 18, travel in the region has remained still approximately 50% lower than pre-pandemic volumes.

Figure 1: Percent of Baseline Vehicle Miles Traveled

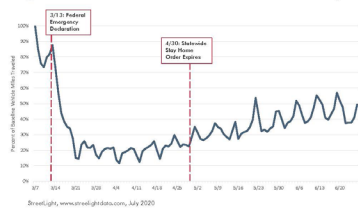
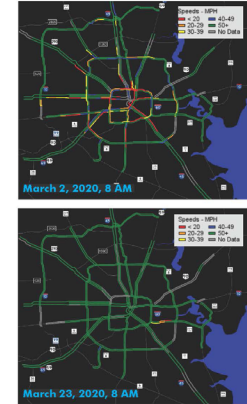


Figure 2: Freeway Speeds Before & After COVID-19



As a result of decreased vehicular volumes, travel speeds throughout the region have increased. Comparing the first Monday of March, before the region's first case of COVID-19, to the third Monday, after state and federal emergency health declarations, most major freeways experienced congestion-free speeds.



Regional High-Speed Internet Strategy

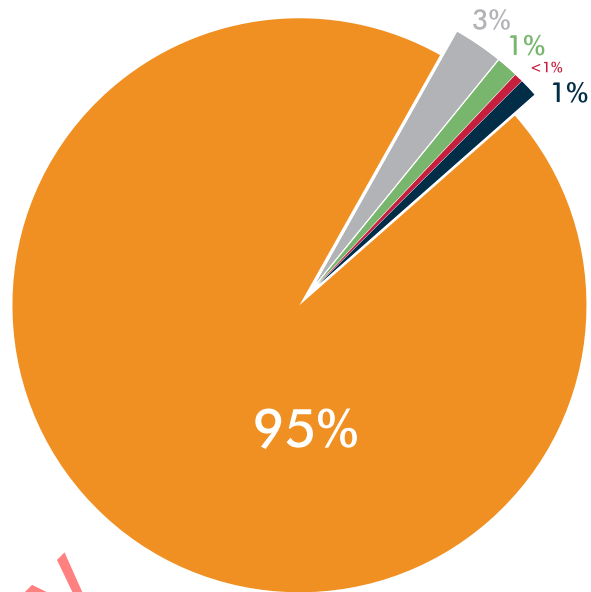
Approved by the
GCEDD Board on:
July 10, 2020



Financials and Auditing

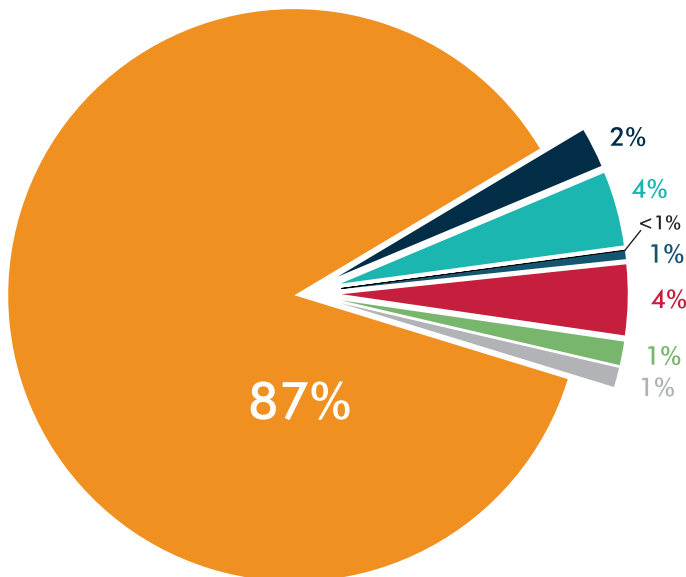
In 2020, the H-GAC finance department initiated an automated billing portal to allow subrecipients to bill H-GAC electronically. This system will be fully integrated with the contract management system and the accounting system, resulting in a more efficient and transparent payment process. Completion is anticipated in early 2021. To account for the pandemic, many processes transitioned to secure, electronic formats. Accounting completed annual audits and multiple grantor monitoring reviews remotely with no fiscal findings or questioned costs. More than 3,600 electronic payments totaling more than \$369 million were distributed to vendors and subrecipients, and 182 grant programs were fiscally administered. These grant programs included more than 270 projects across 10 departments. Additionally, accounting staff provided training for more than 100 local government attendees on new federal requirements for grant administration.

PERCENTAGE OF FUNDING BY SOURCE



- Federal Funds
- State Funds
- Other Public Agencies
- Local Contracts
- H-GAC Funds

PERCENTAGE OF EXPENDITURES BY PROGRAM



- Aging
- Community & Environmental
- Data Services
- Workforce
- Public Services
- Transportation
- Local Activities
- Capital Expenditures

H-GAC's unified budget for 2020 is presented below. This summary provides an overview of the funding streams and anticipated expenditures by program area. Budget documents and audit reports can be viewed at h-gac.com. In addition to the independent annual audit, H-GAC routinely

undergoes monitoring and evaluation by funding partners and the internal auditing department. The internal auditing staff conducts pre-award assessments, contracts compliance inspections, and works with departments across the agency to identify process improvement opportunities.

EXPENDITURE BY PROGRAM

Aging	\$14,840,938
Community & Environmental	\$4,982,651
Data Services	\$4,108,948
Workforce	\$324,018,982
Public Services	\$8,364,061
Transportation	\$15,675,765
Local Activities	\$119,800
Capital Expenditures	\$1,634,000
TOTAL	\$373,745,945

FUNDING SOURCES

U.S. Environmental Protection Agency	\$3,483,784
U.S. Department of Energy	\$72,283
U.S. Department of Agriculture	\$210,823
Commission on State Emergency Communication	\$132,000
Texas Department of Emergency Management	\$370,975
Texas Department of Transportation	\$11,785,693
Texas Criminal Justice Division	\$1,175,454
Texas Workforce Commission	\$324,668,883
Texas Commission on Environmental Quality	\$2,923,286
Texas General Land Office	\$92,848
Department of Aging and Disability Services	\$12,577,008
Other Public Agencies	\$10,120,941
Local Contracts	\$4,362,158
Houston-Galveston Area Council Funds	\$1,769,809
TOTAL	\$373,745,945

2020 Board of Directors

AUSTIN COUNTY

The Honorable Tim Lapham
County Judge

BRAZORIA COUNTY

The Honorable Stacy Adams
County Commissioner
Chair

CHAMBERS COUNTY

The Honorable Gary Nelson
County Commissioner

COLORADO COUNTY

The Honorable Ty Prause
County Judge

FORT BEND COUNTY

The Honorable Andy Meyers
County Commissioner

GALVESTON COUNTY

The Honorable Ken Clark
County Commissioner

HARRIS COUNTY

The Honorable Lina Hidalgo
County Judge

The Honorable Adrian Garcia
County Commissioner

LIBERTY COUNTY

The Honorable Jay Knight
County Judge

MATAGORDA COUNTY

The Honorable Nate McDonald
County Judge

MONTGOMERY COUNTY

The Honorable Charlie Riley
County Commissioner

WALKER COUNTY

The Honorable Jimmy Henry
County Commissioner

WALLER COUNTY

The Honorable Trey Duhon
County Judge

WHARTON COUNTY

The Honorable Phillip Spenrath
County Judge
Chair Elect

CITY OF BAYTOWN

The Honorable Charles R. Johnson
Council Member

CITY OF CONROE

The Honorable Raymond McDonald
Mayor Pro Tem

CITY OF DEER PARK

The Honorable Bill Patterson
Council Member

CITY OF FRIENDSWOOD

The Honorable Sally Branson
Council Member

CITY OF GALVESTON

The Dr. Craig Brown
Mayor

CITY OF HOUSTON

The Honorable Sallie Alcorn
Council Member

The Honorable Letitia Plummer
Council Member

CITY OF HUNTSVILLE

The Honorable Andy Brauning
Mayor

CITY OF LA PORTE

The Honorable Chuck Engelken, Jr.
Council Member

CITY OF LAKE JACKSON

The Honorable Ralph Buster Buell
Council Member

CITY OF LEAGUE CITY

The Honorable Pat Hallisey
Mayor

CITY OF MISSOURI CITY

The Honorable Dr. Cheryl Sterling
Council Member

CITY OF PASADENA

The Honorable Cary Bass
Council Member

CITY OF PEARLAND

The Honorable Tom Reid
Mayor

CITY OF ROSENBERG

The Honorable William Benton
Mayor

CITY OF SUGAR LAND

The Honorable Joe Zimmerman
Mayor

CITY OF TEXAS CITY

The Honorable Phil Roberts, Jr.
Commissioner at Large

HOME RULE CITIES

The Honorable William King, III
Council Member, City of Dickinson

The Honorable Natalie Picha
Council Member, City of Seabrook

GENERAL LAW CITIES

The Honorable Nancy Arnold
Council Member, City of Waller
Chair Elect

The Honorable Joe Garcia
Mayor, City of Pattison

INDEPENDENT SCHOOL DISTRICTS

The Honorable Rissie Owens
Trustee, Huntsville ISD

2020 Board of Directors Officers



HON. NANCY ARNOLD

Chair

Councilmember
City of Waller



HON. PHILLIP SPENRATH

Chair Elect

County Judge
Wharton County



HON. WILLIAM KING, III

Vice Chair

Councilmember
City of Dickinson



The board of directors is composed of 36 elected officials representing 13 counties, 108 cities, and 11 school districts. The board leads collaborative efforts with local governments that consider regional issues and fosters cooperation in solving area-wide challenges.

General Assembly

COUNTIES (13)

Austin
Brazoria
Chambers
Colorado
Fort Bend
Galveston
Harris
Liberty
Matagorda
Montgomery
Walker
Waller
Wharton

CITIES OVER 25,000 (16)

Baytown
Conroe
Deer Park
Friendswood
Galveston
Houston
Huntsville
La Porte
Lake Jackson
League City
Missouri City
Pasadena
Pearland

Rosenberg
Sugar Land
Texas City

HOME RULE CITIES (37)

Alvin
Angleton
Bay City
Bellaire
Cleveland
Clute
Dayton
Dickinson
El Campo
Freeport
Fulshear
Galena Park
Hempstead
Hitchcock
Humble
Jacinto City
Jersey Village
Katy
La Marque
Liberty
Manvel
Mont Belvieu
Nassau Bay
Palacios

Prairie View
Richmond
Richwood
Santa Fe
Seabrook
Sealy
Stafford
Sweeny
Tomball
Webster
West University Place
Wharton
Willis

GENERAL LAW CITIES (55)

Anahuac
Arcola
Bayou Vista
Beach City
Bellville
Brazoria
Brookshire
Brookside
Village
Bunker Hill Village
Clear Lake Shores
Columbus
Daisetta
Danbury

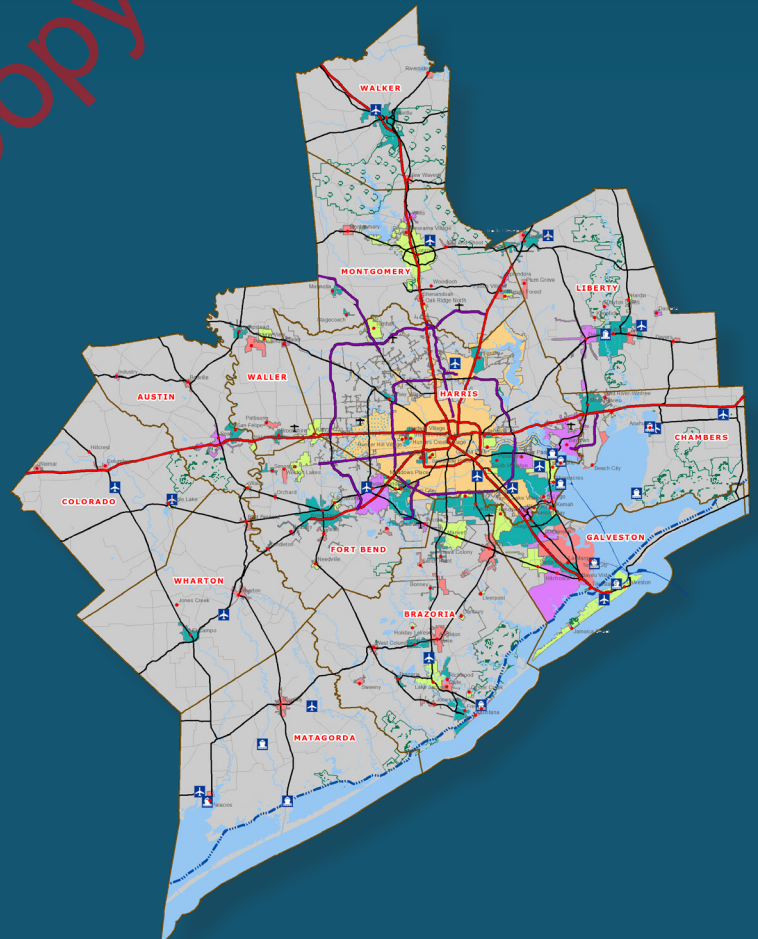
General Assembly

Eagle Lake
East Bernard
El Lago
Hedwig Village
Hillcrest Village
Holiday Lakes
Hunters Creek Village
Iowa Colony
Jamaica Beach
Jones Creek
Kemah
Kendleton
Magnolia
Meadows Place
Morgan's Point
Needville
New Waverly
Oak Ridge North
Old River-Winfree
Oyster Creek
Panorama Village

Pattison
Piney Point Village
Riverside
San Felipe
Shenandoah
Shoreacres
South Houston
Southside Place
Splendora
Spring Valley Village
Stagecoach
Surfside Beach
Taylor Lake Village
Thompsons
Tiki Island
Waller
Wallis
Weimar
West Columbia
Weston Lakes

INDEPENDENT SCHOOL DISTRICTS (11)

Alief ISD
Columbia-Brazoria ISD
Deer Park ISD
Fort Bend ISD
Hempstead ISD
Hitchcock ISD
Huntsville ISD
Magnolia ISD
Needville ISD
Pearland ISD
Waller ISD



Advisory Committees & Affiliate Groups

Advisory committees and its affiliate groups are an essential part of the work of H-GAC. The leadership and knowledge of the volunteers that serve on these committees is the key to their success. Many of H-GAC's advisory committees are appointed by H-GAC's board, based upon nominations from individual board members and other groups.

ADVISORY COMMITTEES

- Aging Programs Advisory Committee
- Clean Rivers Program Committees
- Criminal Justice Advisory Committee
- Geographic Data Workgroup
- Natural Resources Advisory Committee
- Regional Air Quality Planning Advisory Committee
- Regional Flood Management Council
- Regional Homeland Security Coordinating Council
- Solid Waste Management Committee

AFFILIATE GROUPS

- Area Emission Reduction Credit Organization
- Corporation for Regional Excellence
- Energy Purchasing Corporation
- Geographic Data Workgroup
- Gulf Coast Economic Development District
- Gulf Coast Regional 9-1-1 Emergency Communications District
- Gulf Coast Workforce Board
- Houston-Galveston Area Local Development Corporation
- Transportation Policy Council

Staff Contacts

9-1-1	Chuck Wemple	(713) 993-4514
Aerial Imagery	Brooks Andrews	(713) 993-4519
Aging/Senior Citizens	Curtis Cooper	(713) 993-4534
Air Quality – Conformity Analysis	Graciela Lubertino	(713) 993-4582
Bike Byways/Trails	Jamila Owens	(832) 681-2522
Census Information	Pramod Sambidi	(713) 993-2451
Clean Cities	Sandra Holliday	(713) 499-6671
Clean Vehicles	Sandra Holliday	(713) 499-6671
Clean Rivers	Todd Running	(713) 993-4549
Communications and Outreach	Meagan Coughlin	(713) 993-4504
Commute Solutions	Jamila Owens	(832) 681-2522
Comprehensive Planning	Jeff Taebel	(713) 993-4560
Congestion Management	Alan Rodenstein	(713) 993-2407
Cooperative Purchasing – HGACBuy	Ronnie Barnes	(713) 499-6665
Crime Prevention/Crime Stoppers	Madeline McGallion	(713) 993-2427
Crime Victims	Breann Stewart	(832) 681-2515
Criminal Justice	Larry Smith	(713) 993-2455
Disaster Recovery	Jeff Taebel	(713) 993-4560
Economic Development	Jillian Donatto	(631) 897-3817
Electronic Recycling	Erin Livingston	(832) 681-2525
Emergency Preparedness	Justin Riley	(832) 681-2548
Employment Data	Pramod Sambidi	(713) 993-2451
Evacuation Planning	Stephan Gage	(713) 499-6692
Floodplains/Flooding	Justin Bower	(713) 499-6653
Forecast – Population and Employment	Pramod Sambidi	(713) 993-2451
Freight and Goods Movement	Allie Isbell	(713) 993-2411
Geographic Data Workgroup	Brooks Andrews	(713) 993-4519
Household Hazardous Waste	Erin Livingston	(832) 681-2525
Juvenile Delinquency Prevention	Breann Stewart	(832) 681-2515
Labor Market Information	Parker Harvey	(713) 993-2462
Land Use Data	Sungmin Lee	(832) 681-2525
Landfills	Erin Livingston	(832) 681-2525
Law Enforcement Training	Larry Smith	(713) 993-2455
Livable Centers	Anita Hollmann	(713) 993-4857

Newly Elected Officials Workshop	Cynthia Jones	(713) 993-4591
Ombudsman Program/Nursing Homes	Lisa Hayes	(713) 993-4562
Parks	Andrea Tantillo	(832) 681-2507
Plans and Projects Review	Rick Guerrero	(713) 993-4598
Procurement	Kristina Kollaja	(713) 993-2417
Public Safety Answering Points	Kim Ward	(713) 993-2459
Public Transportation	Trenee-Elaine Bailey	(713) 993-4532
Rail Studies	Allie Isbell	(713) 993-2411
Recycling	Erin Livingston	(832) 681-2525
Regional Economic Data	Pramod Sambidi	(713) 993-2451
Regional Transportation Data	Vishu Lingala	(713) 993-4561
Small Business Loans	Omar Fortune	(713) 993-2409
Solid Waste	Erin Livingston	(832) 681-2525
Transportation Improvement Program	Adam Beckom	(713) 993-4567
Transportation Policy Council	Patrick Mandapaka	(713) 993-4513
Transportation Safety Council	Stephan Gage	(713) 499-6692
Transportation Advisory Committee	Patrick Mandapaka	(713) 993-4513
Travel Demand Modeling	Chris van Slyke	(713) 993-4574
Water Quality/Storm Water/ Wastewater	Todd Running	(713) 993-4549
Workforce Solutions	Mike Temple	(713) 993-4524



A Final Word from Mayor Emeritus Tom Reid

The story of the Houston-Galveston region has been one of tremendous growth. When I moved to Pearland in 1965 working for the Johnson Space Center, it was a small town with a population of 3,500 residents. It didn't have a public library or a university campus. Now, Pearland has these and so much more. It has grown into one of the largest cities in the Texas Gulf Coast area. Every neighborhood, town, and city in our region – from the rural counties that mark our borders to the urban melting pot that is Houston – has experienced this growth.

As we look to a post-pandemic world, that growth will continue. People will keep flocking here by the thousands, driven by the call of good-paying jobs, affordable living, family-centered communities, and entrepreneurial centers. Such rapid growth unchecked will put major strain on our fiscal, infrastructural, and environmental resources. We're already seeing the growing pains in our air and water quality issues, our increasingly complex transportation system, and the growing need for connectivity. Federal and state regulations will also become ever more important, especially as we move to address the existential threat of climate change.

H-GAC is a proven leader in fostering cooperation, addressing state and federal compliance, and providing the critical support its member cities and counties need to grow strategically and sustainably. The strong membership of our board, forward-thinking mindset of H-GAC's leaders, and proactiveness of its staff in anticipating challenges and finding solutions have never ceased to amaze me. Based on H-GAC's projections of future water supplies for city water systems, Pearland secured water rights to the Brazos River. We are now building a 10 million gallon per day service water treatment plant addressing Pearland's water needs through 2065. Such success stories exist across the region. They demonstrate how H-GAC empowers us to be strong partners and what we accomplish when we all work together.

I encourage all our members – new or existing – to be active and stay active at H-GAC. Attend meetings regularly, get to know your fellow members and H-GAC staff, and listen closely to their guidance. Take advantage of the resources and services H-GAC provides. It is one of the best investments you'll ever make. To the experts at H-GAC, continue doing what you're doing. Keep moving forward and embrace every chance to learn and grow.

It's been a true honor to serve my city and my region. I'm proud to have worked with such qualified, talented individuals and of all we've accomplished together. We faced a challenging year, but the future is full of hope and opportunity. Whatever comes our way, H-GAC will be there to guide us. We will grow stronger and we will thrive together.

Connect with Us

HOUSTON-GALVESTON AREA COUNCIL

P.O. Box 22777
Houston, TX 77227-2777
713-627-3200



Learn more about H-GAC programs,
services, and initiatives by visiting h-gac.com
or by following us on social media.

@HouGalvAreaCog

Facebook

Twitter

LinkedIn

Instagram

YouTube



HOUSTON – GALVESTON AREA COUNCIL
OFFICE OF THE EXECUTIVE DIRECTOR

To: Mayors – General Law Cities
Subject: 2022 General Assembly Designations
From: Chuck Wemple
Date: September 1, 2021

As we approach 2022, the Houston-Galveston Area Council will be entering its 56th year of public service. We continue to explore new opportunities to better serve our members through ever evolving programs and innovative services. The General Assembly and Board of Directors are vitally instrumental in the agency's course of action during these unprecedented times. As Mayor, you have the opportunity to play a unique role in our future by designating the City Councilmembers that will represent your city at the annual gathering of our General Assembly.

I've attached a form for your city's use in officially designating a representative and an alternate. The two designees must be elected official members of your city's governing body. Please return the completed form by email to laura.parker@h-gac.com.

A dinner meeting of General Law city representatives is scheduled for the evening of November 4, 2021. At that meeting, your 2021 General Law Cities' H-GAC Board of Directors representatives will report on this year's activities and look ahead to issues and progress in 2022.

We are sending a copy of these designation materials to your city secretary as well. We would appreciate receiving your city's designation form **by October 29**.

If more information concerning General Assembly membership would be useful, please contact me at 713-993-4514 or Rick Guerrero at 713-993-4598. Thank you again for your city's continuing participation and support for the Houston-Galveston Area Council.

Sincerely,

Chuck Wemple

CW/cj

Attachment
cc: City Secretary

**DESIGNATION OF REPRESENTATIVE AND ALTERNATE
HOUSTON-GALVESTON AREA COUNCIL
2022 GENERAL ASSEMBLY**

BE IT RESOLVED, by the Mayor and City Council of _____,
Texas, that _____ be, and is hereby designated as
its Representative to the **GENERAL ASSEMBLY** of the Houston-Galveston Area
Council for the year 2022.

FURTHER, that the Official Alternate authorized to serve as the voting representative
should the hereinabove named representative become ineligible, or should he/she
resign, is _____.

THAT the Executive Director of the Houston-Galveston Area Council be notified of the
designation of the hereinabove named representative and alternate.

PASSED AND ADOPTED, this _____ day of _____,
2021.

APPROVED:

Mayor

ATTEST:

By: _____