



12003 Iowa Colony Blvd.  
Iowa Colony Tx. 77583  
Phone: 281-369-2471  
Fax: 281-369-0005  
[www.iowacolonytx.gov](http://www.iowacolonytx.gov)

IOWA COLONY PLANNING AND ZONING COMMISSION  
MINUTES OF OCTOBER 3, 2022

Members present: David Hurst, Tim Varlack, Brenda Dillon, Les Hosey, Brian Johnson, Steven Byrum-Bratsen, and Terry Hayes

Members absent: None

Others present: Dinh Ho and Robert Hemminger

**MEETING- 7:00 P.M.**

1. Chairman Hurst called the meeting to order at 7:00 P.M.

2. Citizens Comments. There were no comments from the public.

"An opportunity for the public to address Planning and Zoning Commission 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 observe a three-minute time limit."

3. Consider approval of the following Planning and Zoning Commission meeting minutes

- September 6, 2022

Les Hosey made a motion to approve the September 6, 2022, Planning and Zoning Commission meeting minutes. Seconded by Steven Byrum-Bratsen. Approved unanimously.

4. Consideration and possible action for the Primrose Estates Preliminary Plat. Steven Byrum-Bratsen made a motion to approve the Primrose Estates Preliminary Plat. Seconded by Tim Varlack. Approved unanimously.

5. Consideration and possible action for the Meridiana Section 34B Final Plat. Les Hosey made a motion to approve the Meridiana Section 34B Final Plat. Seconded by Terry Hayes. Approved with six ayes and one opposed. Steven Byrum-Bratsen voted against the motion.

6. Consideration and possible action for the Meridiana Section 37B Final Plat. Les Hosey moved to approve the Meridiana Section 37B Final Plat with the condition that they put a masonry wall between the commercial and residential. Seconded by Brenda Dillon. Approved unanimously.

7. Consideration and possible action for the George Subdivision Preliminary Plat. Steven Byrum-Bratsen made a motion to approve the George Subdivision Preliminary Plat. Seconded by Tim Varlack. Approved unanimously.

8. The meeting was adjourned by a unanimous vote at 7:18 P.M.

APPROVED THIS 1st DAY OF NOVEMBER, 2022.

ATTEST:

\_\_\_\_\_  
Kayleen Rosser, City Secretary

\_\_\_\_\_  
David Hurst, Chairman

Copy

## MEMORANDUM

**Date:** November 1, 2022  
**To:** Planning Commission Members  
**From:** Dinh V. Ho, P.E.  
**RE:** City of Iowa Colony Planning & Zoning Commission Meeting, November 2022  
**CC:** Mayor Michael Byrum-Bratsen, Robert Hemminger Kayleen Rosser

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Below is a summary of the Engineer's recommendations for agenda items for Planning and Zoning Meeting on November 1, 2022.

1. **Castillo Subdivision Final Plat**
  - a. 1.406 acres, 1 lot  
**Recommendation: Approve per Letter of Recommendation**
2. **Caldwell Crossing Section 1 Preliminary Plat**
  - a. 43.89 acres, 106 Lots, 6 Block and 17.163 acre Reserves  
**Recommendation: Approve per Letter of Recommendation**
3. **Bullard Parkway Section 1 Street Dedication Preliminary Plat**
  - a. 1.25 acres  
**Recommendation: Approve per Letter of Recommendation**

Friday, October 21, 2022

Katy Harris  
LJA Engineering  
1904 W. Grand Parkway N., Suite 100  
Katy, Texas 77449

**Re: Caldwell Crossing Section 1 Preliminary Plat  
Letter of Recommendation to Approve  
City of Iowa Colony Project No. 1736  
Adico, LLC Project No. 16007-2-264**

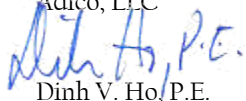
Dear Ms. Harris;

On behalf of the City of Iowa Colony, Adico, LLC has reviewed the second submittal of Caldwell Crossing Section 1 Preliminary Plat, received on or about October 20, 2022. 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 upon our review, we have no objections to the plat as resubmitted on October 20, 2022. Please provide Kayleen Rosser, City Secretary, ten (10) folded prints by no later than Tuesday, October 25, 2022, for consideration at the November 1, 2022, Planning and Zoning 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: 16007-2-264**



## GENERAL NOTES:

- THE COORDINATES SHOWN HEREON ARE TEXAS SOUTH CENTRAL ZONE NO. 4284 STATE PLANE GRID COORDINATES (NAD 83) AND MAY BE BROUGHT TO SURFACE BY APPLYING THE FOLLOWING SCALE FACTOR 0.9998724707.
- ACCORDING TO THE FEDERAL EMERGENCY MANAGEMENT AGENCY FLOOD INSURANCE RATE MAP, BRAZORIA COUNTY, TEXAS, COMMUNITY PANEL NO. 48030C0195K DECEMBER 30, 2020 THE PROPERTY DOES NOT LIE WITHIN A FLOOD ZONE.
- 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.
- T.B.M. INDICATES TEMPORARY BENCHMARK: TBM-171: 5/8 INCH IRON ROD SET.
- ELEVATION = 59.25, NAVD 88, GEOD 18.
- THE PROPERTY SUBDIVIDED IN THE FOREGOING PLAT LIES IN BRAZORIA COUNTY AND THE CITY OF IOWA COLONY, BRAZORIA COUNTY MUD 87, AND BRAZORIA DRAINAGE DISTRICT NO. 5.
- PROPERTY WITHIN THE BOUNDARIES OF THIS PLAT AND ADJACENT TO ANY DRAINAGE EASEMENT, DITCH, GULLY, CREEK, OR NATURAL DRAINAGE WAY SHALL HEREBY BE RESTRICTED TO KEEP SUCH DRAINAGE WAY AND EASEMENTS CLEAR OF ENCLOSURE BUILDINGS, PLANTINGS, AND OTHER OBSTRUCTIONS.
- CONTOUR LINES SHOWN HEREON ARE BASED ON THE NOS BENCHMARK E 306 BEING NOTED HEREON.
- THIS DOCUMENT SHALL NOT BE RECORDED FOR ANY PURPOSE AND SHALL NOT BE USED OR VIEWED OR RELIED UPON AS A FINAL SURVEY DOCUMENT.
- THE APPROVAL OF THE PRELIMINARY PLAT SHALL EXPIRE TWELVE (12) MONTHS AFTER CITY COUNCIL APPROVAL UNLESS THE FINAL PLAT HAS BEEN SUBMITTED FOR FINAL APPROVAL DURING THAT TIME. AN EXTENSION OF TIME MAY BE GIVEN AT THE DISCRETION OF THE CITY COUNCIL FOR A SINGLE EXTENSION PERIOD OF SIX (6) MONTHS.
- SUBJECT TO ORDINANCE NO. 281-4 (PIPELINE SETBACK ORDINANCE), NO RESIDENTIAL STRUCTURES SHALL BE CONSTRUCTED WITHIN 50' OF THE PIPELINES LOCATED INSIDE OF THIS PLAT BOUNDARY.
- DRAINAGE PLANS TO BE PROVIDED PRIOR TO FINAL PLAT SUBMITTAL.
- ONE FOOT RESERVE DEDICATED TO THE PUBLIC IN FEE AS A BUFFER SEPARATION BETWEEN THE SIDE OR ENDS OF STREETS WHERE SUCH STREETS ABUT ADJACENT PROPERTY, THE CONDITION OF SUCH DEDICATION BEING THAT WHEN THE ADJACENT IS SUBDIVIDED OR RE-SUBDIVIDED IN A RECORD PLAT THE ONE FOOT RESERVE SHALL HEREOFOR BECOME VESTED IN THE PUBLIC FOR STREET RIGHT-OF-WAY PURPOSES AND THE FEE TITLE THERE SHALL REVERT TO AND REVERT IN THE DEDICATOR, HIS HEIRS, ASSIGNS, OR SUCCESSORS.
- OWNERS DO HEREBY CERTIFY THAT THEY ARE OWNERS OF ALL PROPERTY IMMEDIATELY ADJACENT TO THE BOUNDARIES OF THE ABOVE AND FOREGOING SUBDIVISION OF (NAME AND SECTION) WHERE BUILDING SETBACK LINES OR PUBLIC UTILITY EASEMENTS ARE TO BE ESTABLISHED OUTSIDE 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 ACRES.
- ALL STREETS SHALL BE CONSTRUCTED IN ACCORDANCE WITH THE CITY'S DESIGN CRITERIA.
- ALL WATER AND WASTEWATER FACILITIES SHALL CONFORM TO THE CITY'S DESIGN CRITERIA.
- THIS PLAT IS IN ACCORDANCE WITH THE DEVELOPMENT AGREEMENT APPROVED BY CITY COUNCIL ON MAY 23, 2022 BETWEEN CITY OF IOWA COLONY, 288 COLONY INVESTMENTS, LTD.; 688 COLONY INVESTMENTS, LTD.; AND D.R. HORTON.

## LEGEND

- RES. INDICATES RESERVE  
B.L. INDICATES BUILDING LINE  
U.E. INDICATES UTILITY EASEMENT  
M.C.O.P.R. INDICATES MONTGOMERY COUNTY OFFICIAL PUBLIC RECORDS  
F.B.C.P.R. INDICATES FORT BEND COUNTY PUBLIC RECORDS  
F.B.C.D.R. INDICATES FORT BEND COUNTY DEED RECORDS  
O.P.R.B.C. INDICATES OFFICIAL PUBLIC RECORDS BRAZORIA COUNTY  
O.R.F.B.C. INDICATES OFFICIAL RECORDS FORT BEND COUNTY  
R.O.W. INDICATES RIGHT-OF-WAY  
DOC. NO. INDICATES DOCUMENT NUMBER  
INDICATES STREETNAME CHANGE

LINE TABLE		
LINE	BEARING	DISTANCE
L1	N 48°24'35" E	80.00'
L2	S 42°02'38" E	5.82'
L3	N 54°56'13" E	115.00'
L4	S 78°10'34" E	13.67'
L5	S 31°17'22" E	63.05'
L6	S 23°44'31" E	36.04'
L7	N 86°57'02" E	52.09'
L8	S 03°01'57" E	77.00'
L9	S 77°36'51" E	38.33'
L10	N 86°56'51" E	84.73'
L11	N 42°02'38" W	18.49'
L12	S 03°03'09" E	1154.64'
L13	N 86°56'51" E	845.20'
L14	N 03°03'09" W	193.78'
L15	S 48°03'09" E	2.00'
L16	S 86°56'51" W	418.30'
L17	N 12°23'09" E	818.90'
L18	N 03°03'09" W	7.34'
L19	N 40°20'00" W	2.25'
L20	S 86°56'51" W	189.92'
L21	N 12°23'09" E	214.66'
L22	N 86°56'51" E	417.06'
L23	N 40°20'00" W	4.60'
L24	N 49°40'00" E	11.04'
L25	S 77°35'32" E	465.00'

CURVE TABLE				
CURVE	RADIUS	DELTA	ARC CHORD BEARING	CHORD
C1	645.00'	32°34'58"	S 70°27'33" W	361.87'
C2	30.00'	83°47'18"	S 83°56'17" E	40.07'
C3	430.00'	6°58'51"	S 38°33'12" E	52.36'
C4	400.00'	38°59'29"	N 22°32'54" W	266.99'
C5	55.00'	90°00'00"	N 41°56'51" E	77.78'
C6	55.00'	90°00'00"	S 41°56'51" W	77.78'
C7	55.00'	74°33'42"	S 49°40'00" W	66.63'
C8	300.00'	15°26'18"	S 04°40'00" W	80.59'
C9	55.00'	74°33'42"	S 49°40'00" W	66.63'
C10	55.00'	105°26'18"	S 40°20'00" E	87.52'

## A PRELIMINARY PLAT OF

# CALDWELL CROSSING

## SECTION 1

±43.89 ACRES

106 LOTS (60' x 120' TYP.) AND  
17 RESTRICTED RESERVES IN 6 BLOCKS

ENGINEER:

**LJA Engineering, Inc.**

1904 W. Grand Parkway North  
Suite 100  
Katy, Texas 77449

Phone 713.953.5200  
Fax 713.953.5026  
FRN-F-1386

OUT OF THE  
**WILLIAM HALL SURVEY, A-713**4727 VISTA ROAD  
PASADENA, TX 77505

281-499-4559

CITY OF IOWA COLONY ETJ, BRAZORIA COUNTY, TEXAS

SURVEYOR:

**LJA Surveying, Inc.**

3600 W Sam Houston Pkwy S  
Suite 600  
Houston, Texas 77042

Phone 713.953.5200  
Fax 713.953.5026  
T.B.P.L.S. Firm No. 10194382

PLANNER:

**LJA** Planning +  
Landscape  
Architecture

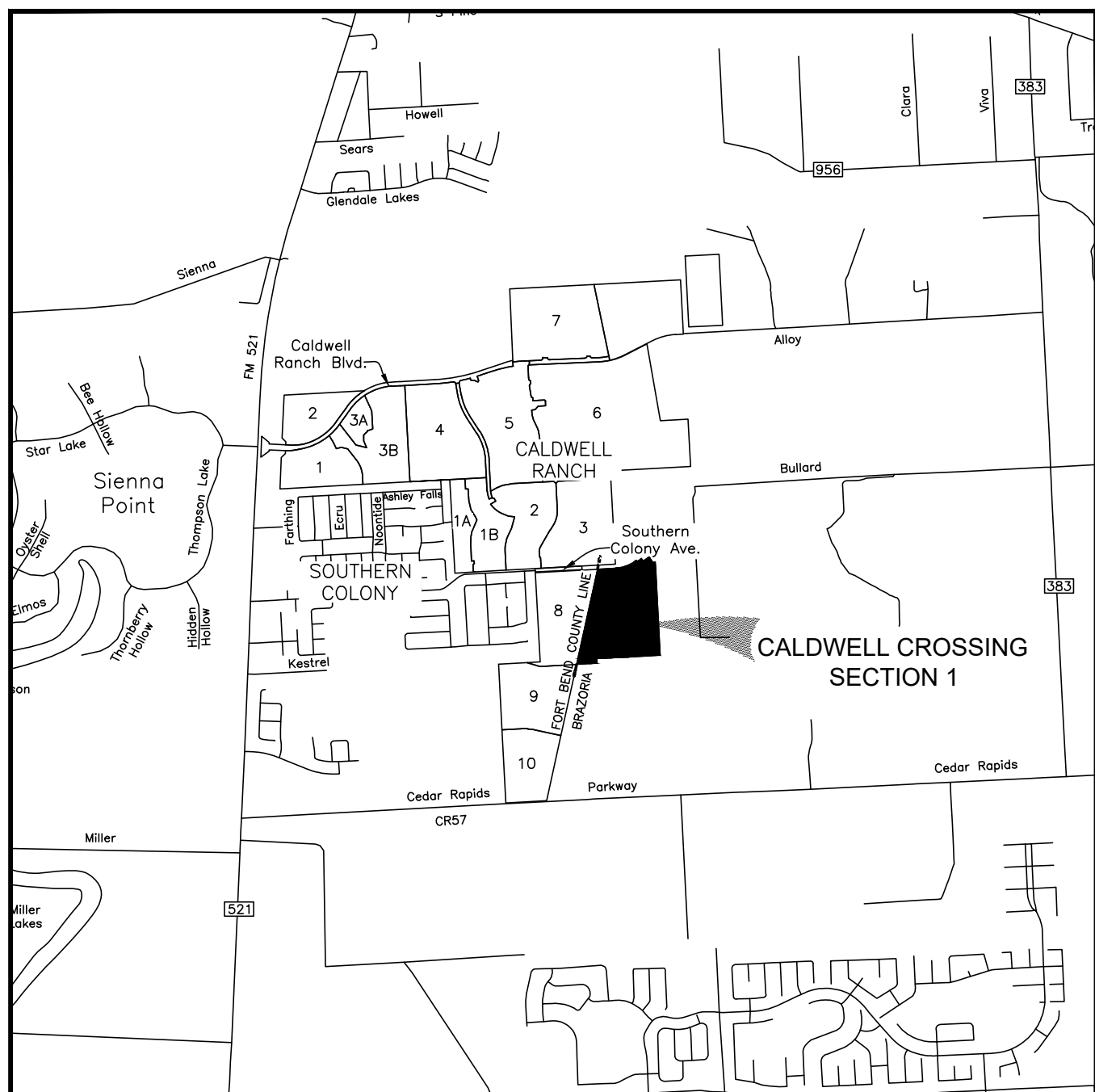
3600 W Sam Houston Pkwy S, Suite 600  
Houston, Texas 77042  
713.953.5200



LJA# 1931-35001

PAGE 1 OF 2

10.20.2022



**Vicinity Map**  
1 inch = 1/2 mile

RESERVE TABLE			
RESERVE	ACREAGE	SQ.FT.	TYPE
A	0.432	18,819	Landscape / Open Space
B	0.026	1,140	Landscape / Open Space
C	0.026	1,140	Landscape / Open Space
D	0.589	25,671	Landscape / Open Space
E	0.028	1,208	Landscape / Open Space
F	0.063	2,749	Landscape / Open Space
G	6.975	303,841	Landscape / Open Space / Detention
H	0.026	1,140	Landscape / Open Space
I	0.026	1,140	Landscape / Open Space
J	7.673	334,236	Landscape / Open Space / Detention
K	0.060	2,609	Landscape / Open Space
L	0.025	1,089	Landscape / Open Space
M	0.327	14,225	Landscape / Open Space / Park
N	0.025	1,090	Landscape / Open Space
O	0.025	1,090	Landscape / Open Space
P	0.100	4,350	Landscape / Open Space
Q	0.737	32,105	Landscape / Open Space / Park
TOTAL	17.163	747,639	

**CALDWELL RANCH  
SECTION 8  
F.B.C.P.R.**

30' DOW PIPELINE ESMT  
FILE No. 2000067652  
O.R.F.B.C.

**FUTURE CALDWELL  
CROSSING DEVELOPMENT  
FILE No.  
O.P.R.B.C.**

## DISCLAIMER AND LIMITED WARRANTY

THIS PRELIMINARY SUBDIVISION PLAT HAS BEEN PREPARED IN ACCORDANCE WITH THE PROVISIONS OF THE CITY OF IOWA COLONY ORDINANCES GOVERNING LAND PLATTING IN EFFECT AT THE TIME THIS PLAT WAS PREPARED ALONG WITH ANY VARIANCE OR VARIANCES TO THE PROVISIONS OF THE AFOREMENTIONED ORDINANCE WHICH ARE SUBSEQUENTLY GRANTED BY THE IOWA COLONY PLANNING COMMISSION. THIS PLAT WAS PREPARED FOR THE LIMITED PURPOSE OF GUIDANCE IN THE PREPARATION OF ACTUAL ENGINEERING AND DEVELOPMENT PLANS. THIS LIMITED WARRANTY IS MADE IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, AND NEITHER LJA ENGINEERING, INC., NOR ANY OF ITS OFFICERS, OR DIRECTORS, OR EMPLOYEES MAKE ANY OTHER WARRANTIES OR REPRESENTATIONS, EXPRESS OR IMPLIED CONCERNING THE DESIGN, LOCATION, QUALITY, CHARACTER OF ACTUAL CONSTRUCTION, SAFETY OR SUITABILITY TO THE PURPOSES INTENDED, OR ANY UTILITIES OR OTHER FACILITIES IN, ON, OVER, OR UNDER THE PREMISES INDICATED IN THE PRELIMINARY SUBDIVISION PLAT. ANY DRY UTILITIES SHOWN ON THIS PLAT (POWER, GAS, TELEPHONE, CABLE, ETC.) HAVE NOT BEEN DESIGNED, REVIEWED NOR APPROVED BY ANY DRY UTILITY PROVIDER. ANY DRY UTILITY ONE-LINES SHOWN ON THIS PLAT ARE CONCEPTUAL AND BASED SOLELY ON THE LOCATION OF THE PROPOSED DRY UTILITY EASEMENTS.



**CALL 25.0 ACRES  
BAYOU RIFLES, INC.  
FILE NO. 2016033329  
O.P.R.B.C.**

**AA SHARP  
INVESTMENTS, LTD.  
FILE No. 2007068904  
O.P.R.B.C.**

**CALL 19.4976 ACRES  
CORREIA HOLDINGS, INC.  
FILE No. 2005017738**

**CALL 19.511 ACRES  
CORREIA HOLDINGS, INC.  
FILE No. 2007019204**

**CALL 28.1869 ACRES  
BAYOU RIFLES, INC.  
FILE No. 1997002566  
O.P.R.B.C.**

**CALL 92.286 ACRES  
PARCEL 2  
608 COLONY  
INVESTMENTS, LTD  
FILE No. 2021062781  
O.P.R.B.C.**

**CALL 20.00 ACRES  
AREA STORAGE AND  
BUSINESS PARK, INC.  
FILE No. 2006058190  
O.P.R.B.C.**



Friday, October 21, 2022

Lowell Pinnock  
America's Home Place  
1200 N. Hwy 35 Bypass, Suite B100  
Alvin, TX  
Email: [lpinnock@americashomeplace.com](mailto:lpinnock@americashomeplace.com)

Re: Castillo Subdivision Final Plat  
1<sup>st</sup> Review  
City of Iowa Colony Project No. 1727  
Adico, LLC Project No. 16007-2-265


Dear Mr. Pinnock;

On behalf of the City of Iowa Colony, Adico, LLC has reviewed the second submittal of Castillo Subdivision Final Plat package received on or about October 20, 2022. 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 21, 2022. Please provide Kayleen Rosser, City Secretary, with two (2) sets of mylars and ten (10) folded prints by no later than Tuesday, October 25, 2022 for consideration at the November 1, 2022 Planning and Zoning meeting.

Should you have any questions, please do not hesitate to contact our office.

Sincerely,  
Adico, LLC

  
Dinh V. Ho, P.E.  
TBPE Firm No. 16423

Cc: Kayleen Rosser, COIC  
Robert Hemminger, COIC  
File: 16007-2-265

BRAZORIA COUNTY  
TEXAS

DEDICATION:

I, DANIEL CASTILLO, OWNER AND BRIAN BONNER, LIENHOLDER, EXECUTIVE VICE PRESIDENT, FIRST FINANCIAL BANK, N. A. KINGWOOD, TX. OF A CALLED 1.406 ACRE TRACT, IN THE LAVACA NAVIGATION COMPANY'S SURVEY, ABSTRACT 328, BRAZORIA COUNTY, TEXAS, CITY OF IOWA COLONY, AND BEING THE PROPERTY SUBDIVIDED IN THIS REPLAT, DO HEREBY MAKE SUBDIVISION OF SAID PROPERTY, ACCORDING TO THE LINES, LOTS, BUILDING LINES, STREETS, ALLEYS, PARKS AND EASEMENTS AS SHOWN HEREON, AND DEDICATED FOR PUBLIC USE THE STREETS, ALLEYS, PARKS AND EASEMENTS SHOWN HEREON FOREVER, AND 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 ASSIGNED TO WARRANT AND DEFEND THE TITLE TO THE LAND SO DEDICATED.

WITNESS MY HAND IN THE CITY OF IOWA COLONY,

BRAZORIA COUNTY, TEXAS, THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2022.

DANIEL CASTILLO  
OWNER

NOTARY PUBLIC  
STATE OF TEXAS  
COUNTY OF BRAZORIA

BEFORE ME, THE UNDERSIGNED AUTHORITY, ON THIS DAY PERSONALLY APPEARED, DANIEL CASTILLO, 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 CONSIDERATION THEREIN SET FORTH.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_.

NOTARY PUBLIC IN AND FOR THE STATE OF TEXAS

MY COMMISSION EXPIRES \_\_\_\_\_, 20\_\_.

BRIAN BONNER  
LIENHOLDER

NOTARY PUBLIC  
STATE OF TEXAS  
COUNTY OF BRAZORIA

BEFORE ME, THE UNDERSIGNED AUTHORITY, ON THIS DAY PERSONALLY APPEARED, BRIAN BONNER, 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 CONSIDERATION THEREIN SET FORTH.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_.

NOTARY PUBLIC IN AND FOR THE STATE OF TEXAS

MY COMMISSION EXPIRES \_\_\_\_\_, 20\_\_.

PLANNING & ZONING COMMISSIONERS

THIS IS TO CERTIFY THAT THE PLANNING & ZONING COMMISSION OF THE CITY OF IOWA COLONY, TEXAS, HAS APPROVED THIS PLAT OF A 1.406 ACRE TRACT, IN CONFORMANCE WITH THE LAWS OF THE STATE OF TEXAS AND THE ORDINANCE OF THE CITY OF IOWA COLONY AS SHOWN HEREON AND AUTHORIZED THE RECORDING OF THIS PLAT THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_.

DAVID HURST  
CHAIRMAN

BRENDA DILLON  
COMMISSIONER

STEVEN BYRUM-BRATSEN  
COMMISSIONER

BRIAN JOHNSON  
COMMISSIONER

LES HOSEY  
COMMISSIONER

TERRY HAYES  
COMMISSIONER

TIMOTHY VARLACK  
COMMISSIONER

DINH V. HO, P.E.  
CITY ENGINEER

CERTIFICATE OF CITY COUNCIL

THIS IS TO CERTIFY THAT THE CITY COUNCIL OF THE CITY OF IOWA COLONY, TEXAS THIS THE \_\_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_, HAS APPROVED THIS PLAT OF A 1.406 ACRE TRACT, AS SHOWN HEREON.

MICHAEL BYRUM-BRATSEN  
MAYOR

MARQUETTE GREENE-YOUNG  
COUNCIL POSITION 3

MCLEAN BARNETT  
COUNCIL POSITION 1

WIL KENNEDY  
COUNCIL POSITION 4

ARNETTA HICKS-MURRAY  
COUNCIL POSITION 2

CHAD WILSEY  
COUNCIL POSITION 5

I, TERRY SINGLETARY, REGISTERED PROFESSIONAL LAND SURVEYOR DO HEREBY CERTIFY THAT THE ABOVE PLAT IS A TRUE REPRESENTATION OF A SURVEY MADE UNDER MY SUPERVISION, ON THE GROUND, AND THAT THERE ARE NO EXCESSES NOR INTRUSIONS ON THIS PROPERTY, EXCEPT AS SHOWN. DATE SURVEYED: AUGUST 15, 2022



Terry Singletary  
TERRY SINGLETARY  
REGISTERED PROFESSIONAL LAND SURVEYOR  
TEXAS REGISTRATION NUMBER 4808

ANCIANO CASTILLO  
CALLED 1.00 ACRE  
C.F. NO. 2003-060109  
B.C.O.R.

40' DEDICATED FOR  
RIGHT-OF-WAY (HATCHED AREA)  
THIS 0.203 ACRE TRACT IS HEREBY  
DEDICATED TO THE PUBLIC FOR  
RIGHT-OF-WAY PURPOSES

Copy

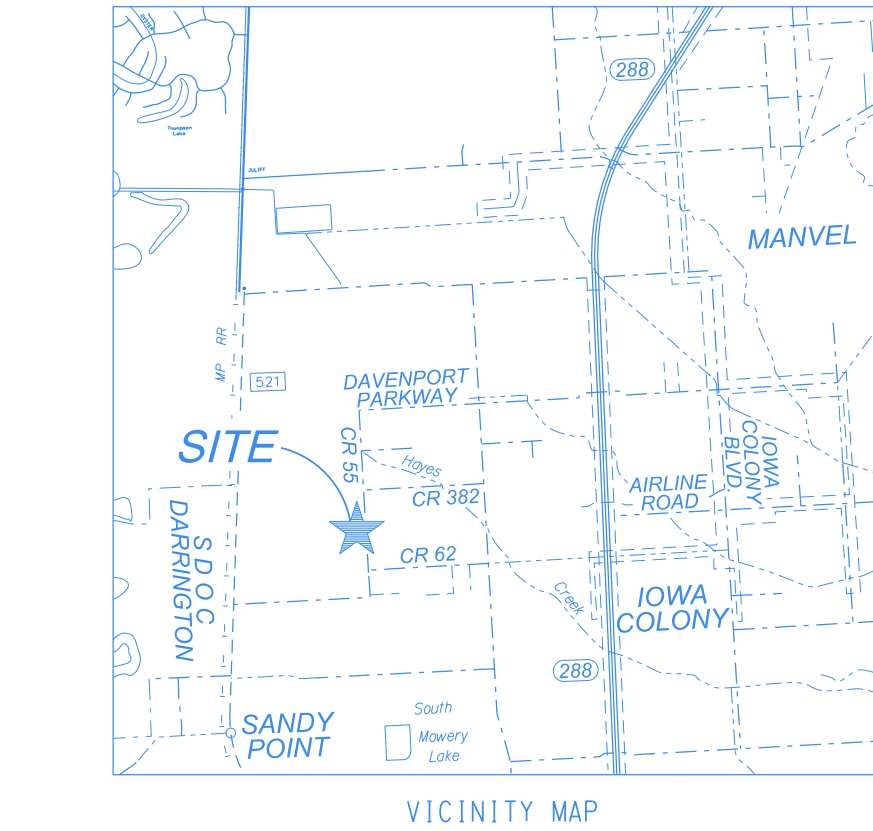
ANCIANO CASTILLO  
RESIDUAL OF A CALLED 10.00 ACRE  
C.F. NO. 2003-060109  
B.C.O.R.

SANDY POINT ESTATES  
VOLUME 16, PAGE 313-314  
B.C.P.R.

NOTES:

- ALL COORDINATES AND BEARINGS ARE RELATIVE TO THE TEXAS STATE PLANE COORDINATE SYSTEM, SOUTH CENTRAL ZONE (NAD 83).
- ALL DISTANCES ARE HORIZONTAL SURFACE LEVEL LENGTHS. (0.9998666666)
- THIS PROPERTY IS LOCATED WITHIN THE LIMITS OF ZONE "X" PER FEMA FLOOD INSURANCE RATE MAP NUMBER 48039C0115K, DATED DECEMBER 30, 2020.
- THE PROPERTY SUBDIVIDED IN THE FOREGOING PLAT LIES WITHIN BRAZORIA COUNTY DRAINAGE DISTRICT NO. 5.
- OTHER THAN SHOWN HEREON, THERE ARE NO VISIBLE PIPELINE EASEMENTS OR PIPELINES WITHIN THE BOUNDARIES OF THIS PLAT.
- THE BOUNDARY ERROR OF CLOSING FOR THIS PLAT IS LESS THAN 1:1500.
- THIS SURVEY RELIES ON A TITLE COMMITMENT FROM TEXAN TITLE INSURANCE COMPANY, OF NO.: GV2292105, WITH AN EFFECTIVE DATE OF MAY 5, 2022, AND AN ISSUE DATE OF MAY 12, 2022, FOR ALL ITEMS OF RECORD.
- BUILDING LINES ARE SUBJECT TO CITY OF IOWA COLONY.
- THERE IS AN UNOBSTRUCTED AERIAL EASEMENT 10 FEET WIDE BEGINNING AT A PLANE SIXTEEN FEET FROM THE GROUND UPWARDS, LOCATED ON BOTH SIDES ADJACENT TO THE 10 FOOT WIDE H.L. & P. CO. EASEMENT.
- THE PURPOSE OF THIS SURVEY IS TO DIVIDE A 1.406 ACRE TRACT OUT OF A CALLED 10.00 ACRE TRACT.
- THERE ARE INSTRUMENTS REGARDING ON-SITE WASTEWATER TREATMENT SYSTEM RECORDED IN COUNTY CLERK'S FILE NO. 2015-061505 AND 2022-023200, OF THE BRAZORIA COUNTY OFFICIAL RECORDS.
- ALL MONUMENTS ARE SET TO THE STANDARD OF THE TEXAS SOCIETY OF PROFESSIONAL LAND SURVEYING PRACTICES ACT AND THE GENERAL RULES OF PROCEDURES AND PRACTICES OF THE TEXAS BOARD OF PROFESSIONAL LAND SURVEYING AND SHALL BEAR REFERENCE COPS AS INDICATED.
- DENOTES A FOUND IRON PIPE/ROD.
- DENOTES A SET 5/8" IRON ROD.
- ELEVATIONS ARE RELATIVE TO THE NORTH AMERICAN VERTICAL DATUM OF 1988 (NAVD 88) BASED ON N.G.S.'S BENCHMARK "LUN A" AT PUBLISHED ELEVATION OF 23.00 FEET.
- THE APPROVAL OF THE PRELIMINARY PLAT SHALL EXPIRE TWELVE(12) MONTHS AFTER CITY COUNCIL APPROVAL UNLESS THE FINAL PLAT HAS BEEN SUBMITTED FOR FINAL APPROVAL DURING THAT TIME. AN EXTENSION OF TIME MAY BE GIVEN AT THE DISCRETION OF THE CITY COUNCIL FOR A SINGLE EXTENSION PERIOD OF SIX (6) MONTHS.
- SITE DRAINAGE PLANS FOR FUTURE DEVELOPMENT OF THIS RESERVE/LDT MUST BE SUBMITTED TO THE CITY OF IOWA COLONY AND BRAZORIA COUNTY DRAINAGE NO. 5 FOR REVIEW AND APPROVAL PRIOR TO ISSUANCE OF A BUILDING PERMIT.

LAVACA NAVIGATION CO. SURVEY  
ABSTRACT #328  
SECTION 3  
LOT 307



0 30 60  
1" = 30'

OWNER:  
DANIEL CASTILLO  
1103 COUNTY ROAD 62  
ROSHARON, TX. 77583

SURVEYOR:  
TERRY R. SINGLETARY, REG.#4808  
DOYLE & WACHTSTETTER, INC.  
131 COMMERCE STREET  
CLUTE, TX 77531  
(979) 265-3622

TBM  
SET 5/8" IRON ROD WITH ORANGE DWI TRAVERSE  
POINT CAP WEST OF THE SOUTH END OF 24" CONCRETE  
CULVERT. ELEVATION= 54.40 FEET.

CASTILLO  
FINAL PLAT

OF A

1.406 ACRE TRACT

OUT OF A

CALLED 10.00 ACRE TRACT

KNOWN AS TRACT 1 BEING DESCRIBED AND RECORDED IN

COUNTY CLERK'S FILE NO. 2003-060109

OF THE

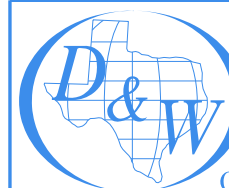
BRAZORIA COUNTY OFFICIAL RECORDS

OF THE

LAVACA NAVIGATION COMPANY'S SURVEY  
ABSTRACT 328

CITY OF IOWA COLONY  
BRAZORIA COUNTY, TEXAS

AUGUST 2022



Doyle & Wachtstetter, Inc.  
Surveying and Mapping GPS/GIS  
131 COMMERCE STREET, CLUTE, TEXAS 77531  
OFFICE: 979.265.3622 FIRM NO.: 10024500 FAX: 979.265.9940

Friday, October 21, 2022

Katy Harris  
LJA Engineering  
1904 W. Grand Parkway N., Suite 100  
Katy, Texas 77449

**Re: Bullard Parkway Section One Street Dedication Preliminary Plat  
Letter of Recommendation to Approve  
City of Iowa Colony Project No. 1737  
Adico, LLC Project No. 16007-2-266**

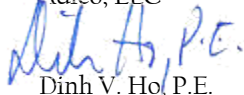
Dear Ms. Harris;

On behalf of the City of Iowa Colony, Adico, LLC has reviewed the second submittal of Bullard Parkway Section One Street Dedication Preliminary Plat, received on or about October 18, 2022. 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 upon our review, we have no objections to the preliminary plat as resubmitted on October 18, 2022. Please provide Kayleen Rosser, City Secretary, with ten (10) folded prints by no later than Tuesday, October 25, 2022, for consideration at the November 1, 2022, Planning and Zoning meeting.

Should you have any questions, please do not hesitate to call me.

Sincerely,  
Adico, LLC



Dinh V. Ho, P.E.  
TBPE Firm No. 16423

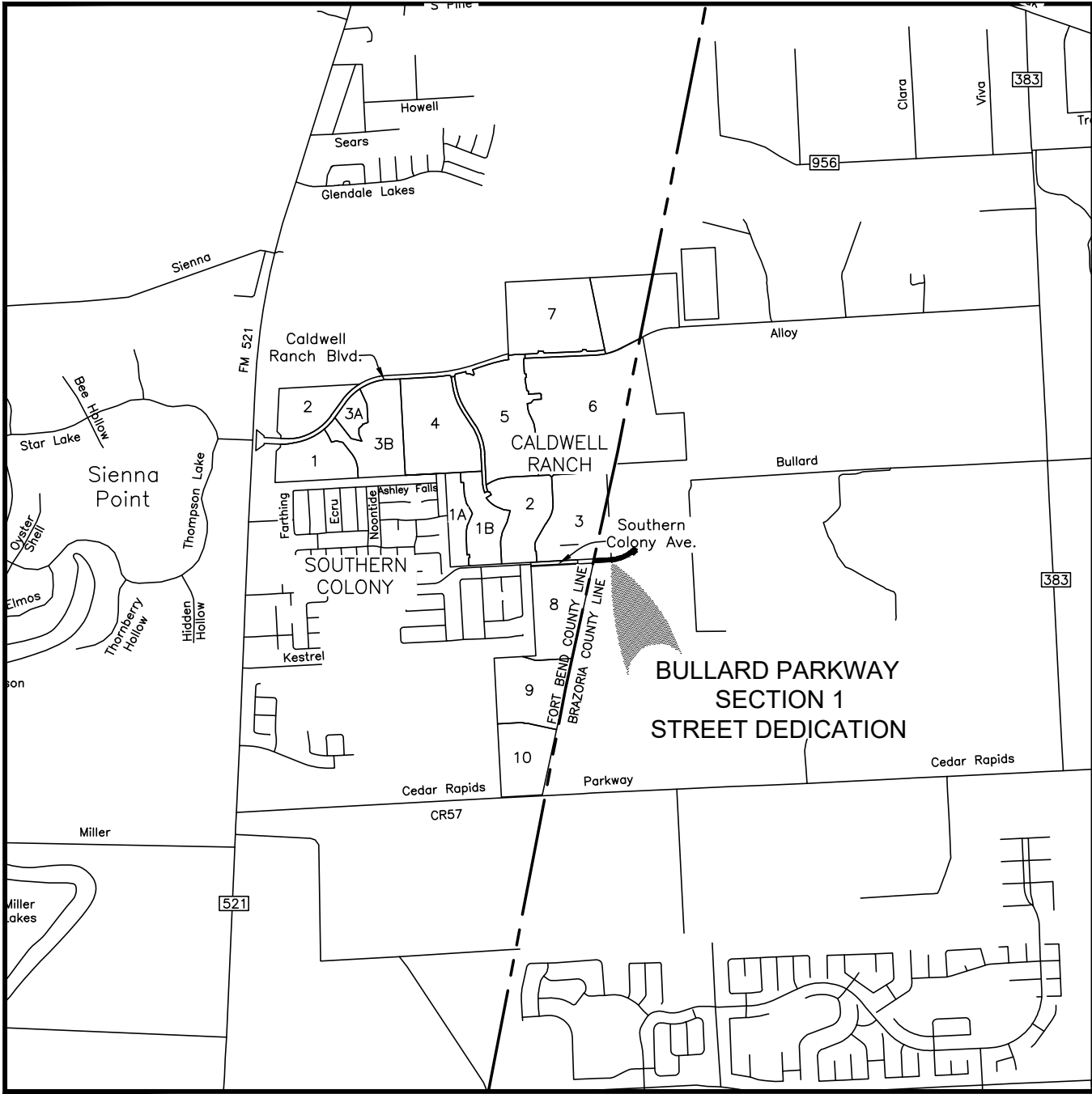
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Cc: Kayleen Rosser, COIC  
Robert Hemminger, COIC  
File: 16007-2-266



GENERAL NOTES:

1. THE COORDINATES SHOWN HEREON ARE TEXAS SOUTH CENTRAL ZONE NO. 4284 STATE PLANE GRID COORDINATES (NAD 83) AND MAY BE BROUGHT TO SURFACE BY APPLYING THE FOLLOWING SCALE FACTOR 0.9998724707.
2. ACCORDING TO THE FEDERAL EMERGENCY MANAGEMENT AGENCY FLOOD INSURANCE RATE MAP, BRAZORIA COUNTY, TEXAS, COMMUNITY PANEL NO. 48038C0105K DECEMBER 30, 2020 THE PROPERTY DOES NOT LIE WITHIN A FLOOD ZONE.
- 2.1. 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.
3. T.B.M. INDICATES TEMPORARY BENCHMARK: TBM-171: 5/8 INCH IRON ROD SET.
4. ELEVATION = 59.25; NAVD 88, GEOID 18.
5. THE PROPERTY SUBDIVIDED IN THE FOREGOING PLAT LIES IN BRAZORIA COUNTY AND THE CITY OF IOWA COLONY, BRAZORIA COUNTY MUD 87, AND BRAZORIA DRAINAGE DISTRICT NO. 5.
6. PROPERTY WITHIN THE BOUNDARIES OF THIS PLAT AND ADJACENT TO ANY DRAINAGE EASEMENT, DITCH, GULLY, CREEK, OR NATURAL DRAINAGE WAY SHALL HEREBY BE RESTRICTED TO KEEP SUCH DRAINAGE WAYS AND EASEMENTS CLEAR OF FENCES, BUILDINGS, PLANTINGS, AND OTHER OBSTRUCTIONS.
7. CONTOUR LINES SHOWN HEREON ARE BASED ON THE NOS BENCHMARK 536 BEING NOTED HEREON.
8. THIS DOCUMENT SHALL NOT BE RECORDED FOR ANY PURPOSE AND SHALL NOT BE USED OR VIEWED OR RELIED UPON AS A FINAL SURVEY DOCUMENT.
9. THE APPROVAL OF THE PRELIMINARY PLAT SHALL EXPIRE TWELVE (12) MONTHS AFTER CITY COUNCIL APPROVAL UNLESS THE FINAL PLAT HAS BEEN SUBMITTED FOR FINAL APPROVAL DURING THAT TIME. AN EXTENSION OF TIME MAY BE GIVEN AT THE DISCRETION OF THE CITY COUNCIL FOR A SINGLE EXTENSION PERIOD OF SIX (6) MONTHS.
10. SUBJECT TO ORDINANCE NO. 2011-4 (PIPELINE SETBACK ORDINANCE), NO RESIDENTIAL STRUCTURES SHALL BE CONSTRUCTED WITHIN 50' OF THE PIPELINES LOCATED INSIDE OF THIS PLAT BOUNDARY.
11. DRAINAGE PLANS TO BE PROVIDED PRIOR TO FINAL PLAT SUBMITTAL.
12. ONE FOOT RESERVE DEDICATED TO THE PUBLIC IN FEE AS A BUFFER SEPARATION BETWEEN THE SIDE OR ENDS OF STREETS WHERE SUCH STREETS ABUT ADJACENT PROPERTY, THE CONDITION OF SUCH DEDICATION BEING THAT WHEN THE ADJACENT IS SUBDIVIDED RO RE-SUBDIVIDED IN A RECORD PLAT THE ONE FOOT RESERVE SHALL HEREOFOR BECOME VESTED IN THE PUBLIC FOR STREET RIGHT-OF-WAY PURPOSES AND THE FEE TITLE THERE SHALL REVERT TO AND REVEST IN THE DEDICATOR, HIS HEIRS, ASSIGNS, OR SUCCESSORS.
13. OWNERS DO HEREBY CERTIFY THAT THEY ARE OWNERS OF ALL PROPERTY IMMEDIATELY ADJACENT TO THE BOUNDARIES OF THE ABOVE AND FOREGOING SUBDIVISION OF (NAME AND SECTION) WHERE BUILDING SETBACK LINES OR PUBLIC UTILITY EASEMENTS ARE TO BE ESTABLISHED OUTSIDE 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 ACRES.
14. ALL STREETS SHALL BE CONSTRUCTED IN ACCORDANCE WITH THE CITY'S DESIGN CRITERIA.
15. ALL WATER AND WASTEWATER FACILITIES SHALL CONFORM TO THE CITY'S DESIGN CRITERIA.
16. THIS PLAT IS IN ACCORDANCE WITH THE DEVELOPMENT AGREEMENT APPROVED BY CITY COUNCIL ON MAY 23, 2022 BETWEEN CITY OF IOWA COLONY; 258 COLONY INVESTMENTS, LTD.; 608 COLONY INVESTMENTS, LTD.; AND D.R. HORTON.



Vicinity Map  
1 inch = 1/2 mile

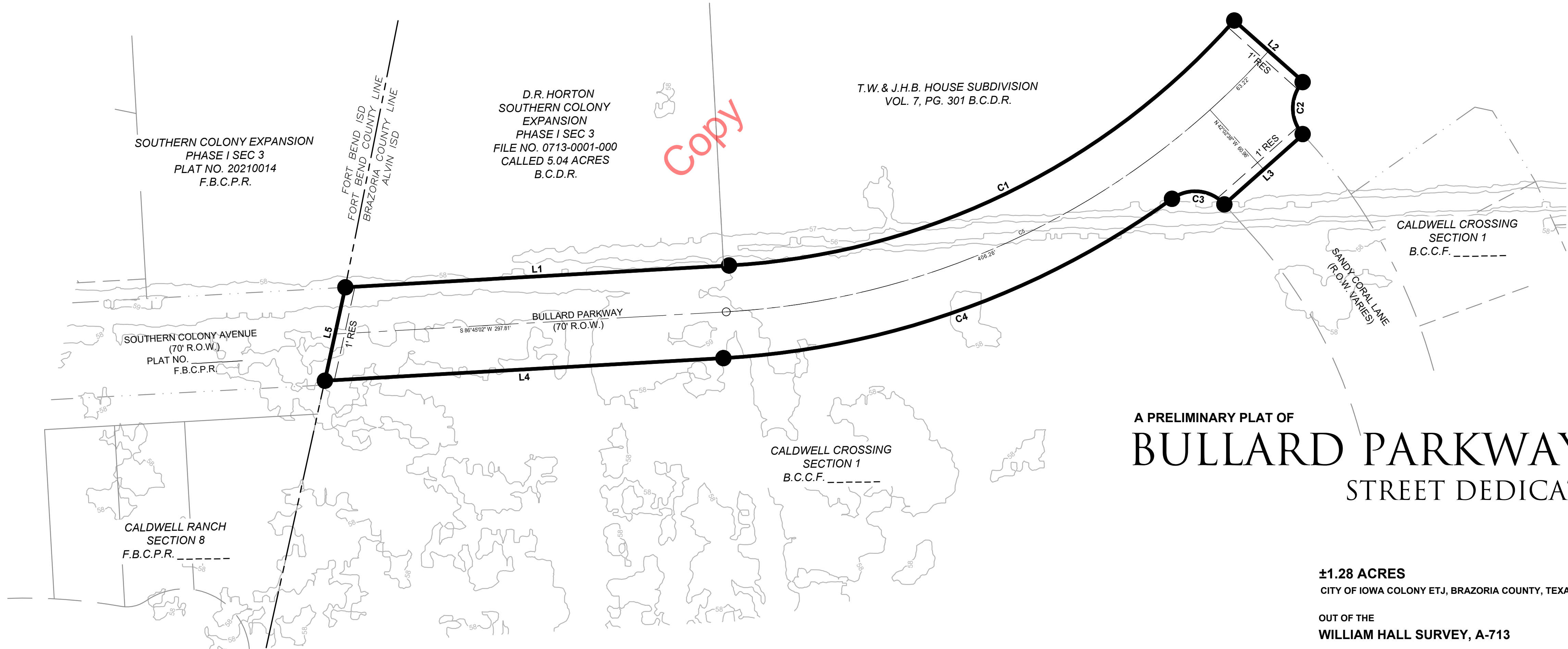
LEGEND

- RES. INDICATES RESERVE  
B.L. INDICATES BUILDING LINE  
U.E. INDICATES UTILITY EASEMENT  
R.O.W. INDICATES RIGHT-OF-WAY  
B.C.D.R. INDICATES BRAZORIA COUNTY DEED RECORDS  
F.B.C.P.R. INDICATES FORT BEND COUNTY PLAT RECORDS  
F.B.C.D.R. INDICATES FORT BEND COUNTY DEED RECORDS  
DOC. NO. INDICATES DOCUMENT NUMBER

BOUNDARY CURVE TABLE					
CURVE	RADIUS	DELTA	ARC	CHORD BEARING	CHORD
C1	555'	45°13'52"	438'	S 64°08'07" W	427'
C2	30'	84°18'24"	44'	N 00°06'34" E	40'
C3	30'	83°47'18"	44'	S 83°56'17" E	40'
C4	645'	32°34'58"	367'	N 70°27'33" E	362'
C5	600'	44°49'54"	469'	N 64°20'06" E	458'

BOUNDARY LINE TABLE		
LINE	BEARING	DISTANCE
L1	S 86°45'02" W	292'
L2	N 48°28'49" W	70'
L3	N 48°24'35" E	80'
L4	N 86°45'02" E	303'
L5	S 12°23'09" W	73'

T.W. & J.H.B. HOUSE SUBDIVISION  
VOL. 7, PG. 301 B.C.D.R.



A PRELIMINARY PLAT OF  
**BULLARD PARKWAY SECTION 1**  
STREET DEDICATION

±1.28 ACRES  
CITY OF IOWA COLONY ETJ, BRAZORIA COUNTY, TEXAS

OUT OF THE  
**WILLIAM HALL SURVEY, A-713**

OWNER:  
**D.R. HORTON**  
6744 HORTON VISTA DR.  
RICHMOND, TX 77407  
281-566-2100

PLANNER:

ENGINEER:

**LJA Engineering, Inc.**  
1904 W. Grand Parkway North Suite 100  
Katy, Texas 77449  
Phone 713.953.5200  
Fax 713.953.5026  
FRN-F-1386

SURVEYOR:

**LJA Surveying, Inc.**  
3600 W Sam Houston Pkwy S Suite 600  
Houston, Texas 77042  
Phone 713.953.5200  
Fax 713.953.5026  
T.B.P.L.S. Firm No. 10194382

DISCLAIMER AND LIMITED WARRANTY

THIS PRELIMINARY SUBDIVISION PLAT HAS BEEN PREPARED IN ACCORDANCE WITH THE PROVISIONS OF THE CITY OF IOWA COLONY ORDINANCES GOVERNING LAND PLATTING IN EFFECT AT THE TIME THIS PLAT WAS PREPARED ALONG WITH ANY VARIANCE OR VARIANCES TO THE PROVISIONS OF THE AFOREMENTIONED ORDINANCE WHICH ARE SUBSEQUENTLY GRANTED BY THE IOWA COLONY PLANNING COMMISSION. THIS PLAT WAS PREPARED FOR THE LIMITED PURPOSE OF GUIDANCE IN THE PREPARATION OF ACTUAL ENGINEERING AND DEVELOPMENT PLANS. THIS LIMITED WARRANTY IS MADE IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, AND NEITHER LJA ENGINEERING, INC., NOR ANY OF ITS OFFICERS, OR DIRECTORS, OR EMPLOYEES MAKE ANY OTHER WARRANTIES OR REPRESENTATIONS, EXPRESS OR IMPLIED CONCERNING THE DESIGN, LOCATION, QUALITY, CHARACTER OF ACTUAL CONSTRUCTION, SAFETY OR SUITABILITY TO THE PURPOSES INTENDED, OR ANY UTILITIES OR OTHER FACILITIES IN, ON, OVER, OR UNDER THE PREMISES INDICATED IN THE PRELIMINARY SUBDIVISION PLAT. ANY DRY UTILITIES SHOWN ON THIS PLAT (POWER, GAS, TELEPHONE, CABLE, ETC.) HAVE NOT BEEN DESIGNED, REVIEWED NOR APPROVED BY ANY DRY UTILITY PROVIDER. ANY DRY UTILITY ONE-LINES SHOWN ON THIS PLAT ARE CONCEPTUAL AND BASED SOLELY ON THE LOCATION OF THE PROPOSED DRY UTILITY EASEMENTS LOCATED IN THE LOTS.

**LJA** Planning +  
Landscape  
Architecture  
3600 W Sam Houston Pkwy S, Suite 600  
Houston, Texas 77042  
713.953.5200

PAGE 1 OF 2  
NORTH  
0 25 50 100  
LJA# 1931-35001 10.17.2022



## **UNIFIED DEVELOPMENT CODE**

**Originally adopted as on 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 (10<sup>th</sup>) 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 11<sup>th</sup> 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 (45<sup>th</sup>) 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 (10<sup>th</sup>) 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 45<sup>th</sup> 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 (2<sup>nd</sup>) 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.

**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 (30<sup>th</sup>) 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>Ungegnadia 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.
- 
- (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 4<sup>th</sup> 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 on 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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