



NOTICE OF MEETING OF THE GOVERNING BODY OF THE CITY OF BURNET

Notice is hereby given that a **Workshop Meeting** of the governing body of the above named City will be held on the **26th day of March, 2019** at **5:00 p.m.** in the Council Chambers, Burnet Municipal Airport, 2402 S. Water, Burnet, at which time the following subjects will be discussed, to-wit:

This notice is posted pursuant to the Texas Government Code, Chapter §551-Opening Meetings.

1. CALL TO ORDER:

2. DISCUSS AND REVIEW:

2.1) Proposed Tree Preservation Ordinance: W. Meshier

3. ADJOURN:

Dated this the 22nd day of March, 2019

**CITY OF BURNET
CRISTA GOBLE BROMLEY, MAYOR**

I, the undersigned authority, do hereby certify that the above NOTICE OF MEETING of the governing body of the above named City, BURNET, is a true and correct copy of said NOTICE and that I posted a true and correct copy of said NOTICE on the bulletin board, in the City Hall of said City, BURNET, TEXAS, a place convenient and readily accessible to the general public at all times, and said NOTICE was posted on March 22nd, 2019 at or before 6 o'clock p.m. and remained posted continuously for at least 72 hours preceding the scheduled time of said Meeting.

Kelly Dix, City Secretary

NOTICE OF ASSISTANCE AT THE PUBLIC MEETINGS:

The City Council Chamber is wheelchair accessible. Persons with disabilities who plan to attend this meeting and who may need auxiliary aids or services, such as interpreters for persons who are deaf or hearing impaired, readers, or large print, are requested to contact the City Secretary's office (512.756.6093) at least two working days prior to the meeting. Requests for information may be faxed to the City Secretary at 512.756.8560.

RIGHT TO ENTER INTO EXECUTIVE SESSION:

The City Council for the City of Burnet reserves the right to adjourn into executive session at any time during the course of this meeting to discuss any of the matters listed above, as authorized by Texas Government Code Sections 551.071 (Consultation with Attorney), 551.072 (Deliberations about Real Property), 551.073 (Deliberations about Gifts and Donations), 551.074 (Personnel Matters), 551.076 (Deliberations about Security Devices) and 551.087 (Economic Development).

ORDINANCE 2019-04

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF BURNET, TEXAS, CHAPTER 98 – SUBDIVISIONS, SECTIONS 98-7, 98-22, 98-23, AND APPENDIX B, ADOPTING CHAPTER 98, ARTICLE IX – TREE PRESERVATION, MITIGATION, AND REMOVAL, AND AMENDING CHAPTER 118 – ZONING, SECTIONS 118-61 AND 118-62; PROVIDING A SAVINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A REPEALER CLAUSE; FINDING PROPER NOTICE OF MEETING; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Council seeks to amend the Code of Ordinances, Chapters 98 and 118, incorporating amendments regarding tree preservation, mitigation, and removal; and

WHEREAS, the City Council determines that the amendment provided for herein promotes the health, safety, morals and protects and preserves the general welfare of the community; and

WHEREAS, on the 12th day of February, 2019, after proper notification, the City Council held a public hearing on the proposed amendment; and

WHEREAS, all requirements set forth in Chapter 212, Section 212.905, Texas Local Government Code concerning regulation of tree removal has been fully complied with,

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF BURNET, TEXAS:

Section 1. That the foregoing recitals are hereby found to be true and correct and are hereby adopted by the City Council and made a part hereof for all purposes as findings of fact.

Section 2. That the City of Burnet Code of Ordinances, Chapter 98, Article I, Sec. 98-7. - Definitions, is hereby amended to include the changes described in **Exhibit “A”** attached hereto and incorporated herein.

Section 2. That the City of Burnet Code of Ordinances, Chapter 98, Article II, Sec. 98-22. - Preliminary plat, and Chapter 98, Article II, Sec. 98-23. - Construction plans, are hereby amended to include the changes described in **Exhibit “B”** attached hereto and incorporated herein.

Section 3. That the City of Burnet Code of Ordinances, Chapter 98, Appendix B. – Preferred Plant Species, is hereby removed in its entirety.

Section 4. That the City of Burnet Code of Ordinances, Chapter 98, Article IX, is hereby adopted and added to include the changes described in **Exhibit “C”** attached hereto and incorporated herein.

Section 5. That the City of Burnet Code of Ordinances, Chapter 118, Article III, Sec. 118-61. - Construction Plans, and Chapter 118, Article II, Sec. 118-62. - Landscaping and screening requirements, are hereby amended to include the changes described in **Exhibit “D”** attached hereto and incorporated herein.

Section 6. *Savings clause.* The repeal of any ordinance or part of ordinances effectuated by the enactment of this ordinance shall not be construed as abandoning any action now pending under or by virtue of such ordinance or as discontinuing, abating, modifying or altering any penalty accruing or to accrue, or as affecting any rights of the City under any section or provisions of any ordinances at the time of passage of this ordinance.

Section 7. *Severability clause.* The provisions of this ordinance are severable, and if any sentence, section, or other parts of this ordinance should be found to be invalid, such invalidity shall not affect the remaining provisions, and the remaining provisions shall continue in full force and effect.

SECTION 8. *Repealer clause.* The provisions of this ordinance shall be cumulative of all other ordinances or parts of ordinances governing or regulating the same subject matter as that covered herein, provided, however, that all prior ordinances or parts of ordinances inconsistent or in conflict with any of the provisions of this ordinance are hereby expressly repealed to the extent that such inconsistency is apparent. This ordinance shall not be construed to require or allow any act that is prohibited by any other ordinance.

SECTION 9. *Open meeting clause.* The City Council hereby finds and declares that written notice of the date, hour, place, and subject of the meeting at which this ordinance was adopted was posted and that such meeting was open to the public as required by law at all times during which this ordinance and the subject hereof were discussed, considered, and formerly acted upon, all as required by the Open Meetings Act, Chapter 551, Texas Government Code, as amended.

SECTION 10. *Effective date.* This ordinance shall take effect immediately from and after its passage.

READ AND APPROVED on first reading this 22nd day of January, 2019.

PASSED AND ADOPTED on second reading this 12th day of February, 2019.

CITY OF BURNET, TEXAS

ATTEST:

Crista Goble, Mayor

Kelly Dix, City Secretary

Exhibit “A”

Amendments to Sec. 98-7

Chapter 98 - SUBDIVISIONS

ARTICLE I. - GENERAL PROVISIONS

Sec. 98-7. - Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning. Words used in the present tense include the future tense. Words used in the plural number include the singular, and words in the singular include the plural. The word "shall" is always mandatory. The word "herein" means in this chapter. The word "regulations" means the provisions of any applicable ordinance, rule, regulation or policy. The word "person" means any human being or legal entity and includes a corporation, a partnership, and an incorporated or unincorporated association. The words "used or occupied" as applied to any land or building shall be construed to include the words intended, arranged, or designed to be used or occupied.

Access means a way of approaching or entering a property.

Access street means a street providing access to cluster housing units limited to ten dwelling units or less. Access streets provide direct vehicular access to individual garages, drives, or a common parking court.

Adjacent means abutting and directly connected to or bordering on.

Administratively complete means a plan or plat tendered to the city with all of the appropriate fees, documents, data and information required in this chapter and other applicable ordinances.

Alley means a minor right-of-way, dedicated to public use, which gives a secondary means of vehicular access to the back or side of properties otherwise abutting a street, and which may be used for public utility purposes.

Applicant means a person applying for plat approval under this chapter.

Approval means the final approval in a series of required actions. For instance, the approval date of a plat requiring approval of the commission and then the council is the date of council approval.

Arterial street means a principal traffic artery or traffic way, having continuous routing over long distances, whose function is to serve as a principal connecting street with state or federal highways.

As-built-plans means a set of construction plans certified by a registered professional engineer specifying how the public improvements required for the subdivision were actually constructed.

Attendant documents means either material needed to address the specific requirements of this chapter which are not shown on plats or plans, or any information which the developer feels necessary to explain the submittal.

Block means a parcel of land, intended to be used for development purposes, which is entirely surrounded by public streets, highways, railroad right-of-way, public walks, parks or green strips, rural land, drainage channels, or a combination thereof.

Bond means any form of security including a cash deposit, surety bond, collateral, property, or instrument of credit in an amount and form satisfactory to the city council.

Buffer yard means a land area used to separate one use from another or to shield, reduce or block noise, lights, or other nuisances.

Building or setback line means a line or lines designating the interior limit of the area of a lot within which structures may be erected. The building lines generally provide the boundaries of the buildable area of any given lot.

Buffer means a barrier constructed of wood, masonry, vegetation, and/or other landscape material in such a manner that adjacent uses will be separated to such a degree that objectionable noise, heat, glare, visual clutter, dust, loss of privacy, air circulation, and other negative externalities shall be abated.

Caliper inch is a unit of measurement used to state, in inches, the diameter of a tree's trunk at a height of four feet six inches from the base of the tree at grade level.

Centerline, when referring to a waterway or drainage, means the centerline of the waterway and refers to existing topographically defined channels. If not readily discernible, the centerline shall be determined by (first) the low flow line, or (second) the center of the two-year flood plain.

City means the City of Burnet, Texas.

City manager means the chief administrative officer of the city or his/her designated representative.

City council or *council* means the Burnet City Council.

City engineer means the city engineer for the city or his/her designated representative.

City limits means within the incorporated boundaries of the city.

City staff means the officers, employees and agents of the city assigned and designated from time to time by the city manager and/or council, including but not limited to the city engineer, to review and/or comment and report on development plans.

City technical construction standards and specifications (TCSS) means a library of city approved drawings and technical data representing typical drainage, transportation, erosion and sedimentation control, and utility appurtenances to be constructed for city acceptance.

Collector street means a street whose function is to collect and distribute traffic between major thoroughfares and minor streets, is not necessarily a continuous routing for long distances, has intersections at grades and provides direct access to abutting property and includes those streets designated as secondary streets.

Commission means the planning and zoning commission of the city, or the city council if a planning and zoning commission is not operational.

Construction plans means the maps, drawings, plans and specifications indicating the proposed location and design of improvements to be installed as part of a development.

Contiguous means adjacent property whose property lines are shared or are separated by only a street, alley, easement or right-of-way.

Corner lot means a lot located at the intersection of and abutting on two or more streets.

County means Burnet County, Texas.

County appraisal district means the county appraisal district.

Critical root zone means a circular area around a ~~significant protected~~ tree, ~~equal to one foot in radius for each one-inch caliper, and the center of the circular area located at the trunk which is 10 ft. from the trunk or one-half of the drip line, whichever is more.~~

Crossfall means the transverse slope as related to a given longitudinal slope and measured by the rise to run ratio.

Crosswalk means a strip of land dedicated for public use and which is reserved across a lot or block for the purpose of providing pedestrian access to adjacent areas.

Cul-de-sac means a minor street having one end open to vehicular traffic and having one closed end terminated by a permanent turnaround.

Dedication means the grant of an interest in property for public purpose.

Design storm means a probable rainfall event the frequency of which is specified in periods of years and which is used to design drainage facilities and determine flood elevations.

Developer means the legal owner of land to be improved and/or subdivided or his/her

authorized representative.

Developed area means that portion of a lot, easement, or parcel upon which a building, structure, pavement or other improvements have been placed.

Development means a subdivision of land as defined herein or the construction or placement of any buildings, utilities, access, roads or other structures, excavation, mining, dredging, grading, filling, clearing or removing vegetation, and the deposit of refuse, waste or fill. Lawn and yard care, including mowing of tall weeds and grass, gardening, tree care and maintenance, removal of trees or other vegetation damaged by natural forces, and ranching and farming shall not constitute development. Utility, drainage, and street repair, and any construction maintenance and installation which does not require land disturbance or result in additional impervious cover shall also not constitute development.

Development plan means a scaled drawing representing an area of land to be improved and/or developed and indicating the legal boundary of said property and the nature and extent of all existing and proposed improvements to said project.

Diseased tree means a tree weakened by disease, infestation, decay, age or fire, or any other form of damage, to an extent where there is a risk the tree may die in five years, split, fall, threaten the viability of healthy trees, or pose a hazard to any adjoining property; and the problem cannot be fixed or healed through normal horticultural practices.

Double frontage lot means a lot which runs through a block from street to street and which abuts two or more streets.

Drainageway. See waterway.

Drainfield means private sewage facility, disposal area, trench or bed utilized for final wastewater disposal.

Drip line means an imaginary line around a tree that corresponds with the outermost edge of the canopy of said tree if projected directly downward, or, if the tree is damaged or deformed, a circular area with a radius equal to two feet per inch of caliper. When depicted on a survey or site plan, the drip line of a tree will generally appear as an irregularly shaped circle that follows the contour of the branches of the tree.

Drive approach means a paved surface connecting the street to a front lot line.

Driveway means the surface connecting a drive approach with a parking space, parking lot, loading dock or garage.

Dwelling unit means a residential unit designed to accommodate one household.

Easement means a grant by the property owner of the use of a strip of land for stated

purposes.

Environment means the aggregate of social and physical conditions that influence the life of the individual and/or community.

Escrow funds means a deposit of cash or other approved security with the local government or approved bank or other financial institution in-lieu of a performance or maintenance bond.

Extraterritorial jurisdiction (ETJ) means the unincorporated area, not a part of any other city, which is contiguous to the corporate limits of the city, the outer limits of which are measured from the extremities of the corporate limits of the city outward for such distances as may be stipulated in the state local government code as may be amended from time to time in accordance with the total population of the incorporated city, or as expanded pursuant to state law and in which area, within the terms of the state law, the city may enjoin the violation of its subdivision ordinance.

Filing date means, with respect to plats and plans, the date the requested action is submitted to the city for consideration.

Final plat means a map of a land subdivision prepared in a form suitable for filing of record with necessary affidavits, dedications and acceptances, and with complete bearings and dimensions of all lines defining lots and blocks, streets, alleys, public areas and other dimensions of land.

Flood plain means the channel of a waterway and the adjacent land area subject to inundation during the design storm. Floodplains are typically identified by the federal emergency management administration (FEMA) in their flood insurance rate maps (FIRM).

Floodway means channel of a waterway and the adjacent land areas that must be reserved in order to discharge the design storm without cumulatively increasing the water surface elevation.

Front yard means a space extending the full width of the lot between any building set back line and the front lot line, and measured perpendicular to the building at the closest point to the front lot line.

Frontage means that side of a lot, parcel or tract of land abutting a street right-of-way and ordinarily regarded as the frontal orientation of the lot.

Governing body means the city council.

Grade means the slope of a road, street, other public way or utility line specified in

terms of percent; the topographic relief of a parcel of land; the average elevation at ground level of the buildable area of a lot or parcel of land.

Grading means any stripping, cutting, filling or stockpiling of earth or land, including the land in its cut or filled condition.

Ground cover means low growing plants planted in such a manner as to form a continuous cover over the ground, such as liriop, low growing varieties of honeysuckle, confederate jasmine, English ivy or others.

Healthy tree means a tree showing good structural integrity, free of serious diseases, and maintaining normal appearance appropriate to the species including size of tree and leaves, normal coloration, and displaying normal vigor and growth characteristics of the species.

Heritage tree means a healthy, native tree having a trunk of twenty-four (24) inches or greater in caliper at four feet six inches above the ground.

Impervious cover means roads, parking areas, buildings, swimming pools, rooftop landscapes and other construction limiting the absorption of water by covering the natural land surface; this shall include, but not be limited to, all streets and pavement within the development.

Improvements means any street, alley, roadway, barricade, sidewalk, bikeway, pedestrian way, water line system, wastewater system, storm drainage network, public park land, landscaping, or other facility or portion thereof for which the local government may ultimately assume responsibility for maintenance and operation or which may affect an improvement for which local government responsibility is established.

Individual on-site wastewater system or *private sewage facility* means all systems and methods used for the disposal of sewage, other than organized sewage disposal systems. Private sewage facilities are usually composed of three units: the generating unit (the residence, institution, etc.), treatment unit, and the disposal unit (the drainfield that may be an absorption trench or bed, or an evapo- transpiration bed). A private sewage facility includes a septic tank, seepage tile sewage disposal system or any other on-lot sewage treatment device approved and installed in accordance with all local, state and federal laws and regulations.

Interior lot means a lot other than a corner lot and, bounded by a street on only one side.

Invasive tree means a tree that threatens native trees by competing for resources and habitat, including, but not limited to Juniper, Chinese Tallow, Hackberry, and Chinaberry.

Large lot subdivision means a subdivision development designed with lots a minimum of one-acre or more in size.

L.C.R.A. is a term used to identify and refer to the Lower Colorado River Authority.

Landscape development means trees, shrubs, ground cover, vines or grass installed in planting areas.

Legal lot means either a lot recorded in the official county records pursuant to and in compliance with the subdivision regulations in effect at the time of its creation, or a tract of land having existed in its present configuration prior to October 1, 1927.

Legally platted lot a lot which is part of a subdivision approved by the city and recorded in the official county records.

Letter of credit means a letter from a bank or other reputable creditor acceptable to the city that guarantees to the city that upon failure of the developer to fulfill any improvement requirements that at the city's request, funds will be provided to the city to complete the specified improvements.

Living unit equivalent (L.U.E.) means a unit of measure which represents the quantity of water utilized and wastewater generated on an average annual daily basis from a single-family, detached residence of average size and occupancy which is the standardized measure used for service units as more particularly described in the capital improvements plan ordinance.

Local health district means the county health district.

Lot means a subdivision of a block or other parcel intended as a unit for transfer of ownership, or for development, or for occupancy and/or use.

Marginal access street means a street whose function is to provide a buffer between a subdivision fronting on an arterial street or highway. The purpose of these streets is to permit better through traffic movement along arterials while preserving low density residential living environments.

Master plan means the overall development plan for the community which has been officially adopted to provide long-range development policies including all specified individual elements thereof among which are the plans for land intensities; land subdivision; circulation; and community facilities, utilities and services; and, if none, professional planning and engineering practices.

Minor arterial street means a street whose prime function is to provide access to abutting residential property within neighborhoods, with all intersections or grade, and

not of continuous routing for any great distances to discourage through traffic.

Minor plat means any plat consisting of four or fewer lots fronting on an existing street that are adequately served by streets, utilities, drainage facilities (if necessary), and easements or rights-of-way; and does not require the creation of any new street(s) or the extension of municipal facilities or vacating plat. An amended plat shall be considered a minor plat.

Minor street means a local street designed primarily for access to abutting residential properties. A minor street does not include a street designed or required to be designed for through traffic.

Monarch tree means a tree having a trunk of forty-eight (48) inches or greater in caliper at four feet six inches above the ground, or any identified Indian marker tree.

Native species means a tree, shrub, vine, or ground cover of a species native or well adapted to Central Texas, and which is not an invasive tree species. A list of preferred native plant species can be found in Article IX of this Chapter.

Natural channel means the topography of a waterway prior to construction, installation of improvements or any regrading.

Natural drainage means a stormwater runoff conveyance system not altered by development.

Natural state means substantially the same conditions of the land which existed prior to its development, including but not limited to, the same type, quality, quantity and distribution of soils, ground cover, vegetation and topographic features.

Neighborhood means the area of the city characterized by residential land uses which is bounded by physical (such as river, major street, back of access) and/or political features (such as voting districts, subdivision boundaries).

Neighborhood park means a privately owned parcel of land, within a subdivision, dedicated solely for recreational uses and maintained by the residents of said subdivision.

Nuisance tree means a tree that may threaten the viability of native plant species and the integrity of the ecosystem, and shall include invasive trees and diseased trees, as defined herein.

Official county records means the Official Public Records of Burnet County, Texas (O.P.R.B.C.T.).

Off-site improvements means any required improvement which lies outside of the property being developed.

100-year flood plain means that flood which has a probability of occurring once in a 100-year period or a one-percent chance in any given year.

Overland drainage means stormwater runoff which is not confined by any natural or man-made channel such as a creek, drainage ditch, storm sewer, or the like.

Parent tract means tract or lot as described by deed or plat, which includes one or more

lots that are being subdivided.

Park fund means a special fund established by the city to retain monies paid by developers in accordance with the payment in-lieu of park land dedication provisions of these regulations and to be used for the purchase of park land or improvements in the vicinity of the subdivided property for which funds have been collected.

Planned unit development (PUD) means a land development project that promotes the planning of an individual tract of land to allow for a single use, such as residential, or for a harmonious combination of uses, such as a mixture of residential and commercial.

Planning and zoning commission means the city planning and zoning commission.

Planting area means any area designed for landscape planting having a minimum of ten square feet of actual plantable area and a minimum inside dimension on any side of 18 inches.

Playscape means any structure permanently anchored to the ground that is designed for recreational purposes. Sports courts such as basketball or tennis courts are not considered playscapes.

Preliminary plat means a map of a proposed land subdivision showing the character and proposed layout of the entire property being developed in sufficient detail to indicate the suitability of the proposed subdivision of land.

Primary structure means a structure in which the principal use of the lot is conducted. For example, for single family residential lots, the house is the primary structure.

Protected tree means a healthy, native tree having a trunk twelve (12) inches or greater in caliper at four feet six inches above the ground. Protected trees shall include heritage trees and monarch trees, but shall not include nuisance trees, as defined herein.

Protective fencing means chain link fencing, orange vinyl construction fencing or other fencing at least four feet high and supported at a maximum of ten-foot intervals by approved methods sufficient to keep the fence upright and in place. The fencing shall be of a highly visible material.

Public means, with respect to land and interests in land within the city limits, the city; and, with respect to land and interests in land within the ETJ limits, the general public.

Public use or purpose means places of non-commercial public assembly or administrative functions where the primary activity is contained within a building(s), including but not limited to churches, schools and government buildings.

Rear yard means a space extending across the full width of the lot between the principal building and the rear lot line, and measured perpendicular to the building to the closest point of the rear lot line.

Regulatory 100-year floodplain means the 100-year floodplain as defined by the federal emergency management act (FEMA).

Regulatory floodway means that area designated by FEMA or subsequent federal, state, or local authority administering a flood insurance program as being within the floodway of a 100-year flood storm.

Replacement trees means new landscape trees ~~approved by the city council to be~~ planted by the developer to replace significant trees removed during the development of property. A list of ~~approved preferred~~ replacement trees can be ~~obtained at the office of the city~~ found in Article IX of this Chapter.

Required yard means the open space between a lot line and the buildable area within which no structure shall be located except as provided for herein.

Reserve strip means a narrow strip of property usually separating a parcel of land from a roadway or utility line easement, or other parcel of land, that is characterized by limited depth which will not support development and which is intended to prevent access to the roadway or utility easement from adjacent property and which are prohibited by these regulations unless their control is given to the city.

Reverse frontage lot means a double frontage lot which is to be developed with the rear yard abutting a major street and with the primary means of ingress and egress provided on a minor street.

Right-of-way means a strip of land occupied or intended to be occupied by street, crosswalk, railroad, road, electric transmission line, or oil or gas pipe line, water main, sanitary or storm sewer main, or for other similar purpose or use.

Same ownership means ownership by the same person, corporation, firm, entity, partnership, or unincorporated association; or ownership by different corporations, firms, partnerships, entities, or unincorporated associations in which a stock holder, partner, or associate or a member of his/her/her family owns an interest in each corporation, firm, partnership, entity, or unincorporated association.

Secondary (accessory) structure means any structure that is subordinate and incidental to the primary structure; and is subordinate in area, extent and purpose to the primary structure; and contributes to the comfort, convenience or necessity of the occupants, business or industry in the primary structure, and is located on the same lot as the primary structure.

Setback or building line means a line or lines designating the interior limit of the area of a lot between said line and the corresponding line within which area structures may not be erected. The building lines generally provide the boundaries of the buildable area of

any given lot.

Shrub means any self-supporting woody evergreen and/or deciduous species.

Side yard means a space extending from the front yard to the rear yard between the setback line and the side lot line measured perpendicular from the side lot line to the closest point of the setback line.

~~*Significant trees* means a native, living tree that the city requires preservation of to the greatest extent possible. A list of significant trees can be provided by city staff.~~

Slope means the vertical change in grade divided by the horizontal distance over which that vertical change occurred. The slope is usually given as a percentage.

Spring means a point or zone of natural groundwater discharge having measurable flow and/or a pool, however small, and characterized by the presence of a plant community adapted to the moist conditions of the site.

State health department means the Texas Department of State Health Services (DSHS).

Street means any public or private right-of-way which affords the primary means of vehicular access to abutting property.

Street line means that line limiting the right-of-way of the street and being identical with the property line of persons owning property fronting on the streets.

Street side yard means the side yard of a corner lot abutting the street right-of-way.

Street yard means a space extending across the length and/or width of a lot between the street right-of-way and the closest faces of the buildings on the lot.

Structure means anything constructed or erected on the ground or which is attached to something located on the ground.

Structures include without limitation; buildings, telecommunications towers, sheds, parking lots that are the primary use of a parcel and permanent signs. Sidewalks and paving shall not be considered structures unless located within a public utility or drainage easement.

Structural integrity means the ability of a structure to maintain stability against normal forces experienced by said structure.

Subdivision means the division or redivision of land into two or more lots, tracts, sites or parcels for the purpose of development, laying out any addition to the city, or for laying out any subdivision or building lots, or any lot, street, alley, access easement, public utility easement, park or other portion intended for use by the public, or for the use of any owner, purchaser, renter, occupant, person or entity.

Traffic impact analysis (TIA) means a study of the impacts of a development on the city's transportation system.

Tree means any self-supporting woody plant species which normally grows to an overall minimum height of 15 feet.

Tree removal and mitigation plan means a plan that specifies which protected trees on the site will be removed, and how the required mitigation will be achieved.

Tree survey means a scaled drawing accurately showing the location, caliper, drip line, and critical root zone, and species of significant protected trees in relation to the property boundaries, and prepared by a licensed arborist, surveyor, engineer, or landscape architect.

Tree topping means the significant removal or cutting back of whole tops of trees or large branches from the tops of trees, leaving only stubs or lateral branches, which results in irreparable damage to, or loss of, the tree.

Urbanization means the process of constructing public improvements required to support suburban or urban land use.

Variance means a grant of relief to a person from the requirements of this chapter when specific enforcement would result in unnecessary hardship. A variance, therefore, permits construction or development in a manner otherwise prohibited by this chapter.

Vines means any of a group of woody or herbaceous plants which may cling by twining, by means of aerial rootlets or by means of tendrils, or which may simply sprawl over the ground or other plants.

Watershed means area from which stormwater drains into a given basin, river or creek.

Waterway means any natural or man-made channel conducting storm water from a two-year storm event at a depth of eight inches or more and at a rate of 15 cubic feet per second or more. Street pavement shall in no instance be considered a waterway.

Working days means Monday through Friday exclusive of city recognized holidays.

Yard means an open space that lies between the principal or accessory building or buildings and the nearest lot line.

Yard depth means the shortest distance between a lot line and a yard line.

Yard line means a line drawn parallel to a lot line at a distance equal to the depth of the required yard.

Exhibit “B”
Amendments to
Secs. 98-22 and 98-23

Sec. 98-22. - Preliminary plat.

- (a) *Purpose.* The preliminary plat provides detailed graphic information and associated text indicating property boundaries, easements, land use, streets, utilities, drainage, and other information required to evaluate proposed subdivisions of land. A preliminary plat shall be required for any subdivision of land, except as otherwise provided for in this chapter.
- (b) *Format.* One Mylar copy of the preliminary plat shall be provided and drawn on 18-inch by 24-inch sheet(s) at a scale of one-inch equals 100 feet with all dimensions labeled accurately to the nearest foot. When more than one sheet is necessary to accommodate the entire area, an index sheet showing the entire subdivision at a scale of one-inch equals 400 feet shall be attached to the plat.
- (c) *Representation of plat.* The developer and/or his agent is encouraged to attend the public hearings during which the subdivision application is to be considered. The planning and zoning commission may deny the request if the application is not represented by the developer and/or his agent and city staff does not have the information required to satisfy questions raised by commission members.
- (d) *Content.* The preliminary plat shall include all of the land intended to be developed and any off-site improvements required to accommodate the project. If the subdivision is to be developed in phases, each phase shall be identified on the preliminary plat. The preliminary plat application shall contain ~~or have attached thereto~~ the following:
 - (1) *General information.*
 - a. Name, address and phone numbers of the developer, record owner, and authorized agents (engineer, land planner, etc.).
 - b. The proposed name of the subdivision, which shall not have the same spelling or be pronounced similarly to the name of any other subdivision located within the city or within the extraterritorial jurisdiction of the city, provided however that use of the same base names for different sections or phases is required when the units are contiguous with their namesakes and individually identified by a section or phase number.
 - c. The date, scale, and north indicator.
 - d. A location map showing the relation of the subdivision to streets and other prominent features in all directions of one-mile using a scale of one-inch equals 2,000 feet or as approved by city staff. The latest edition of the USGS 7. map is recommended.
 - e. The owner's name, deed or plat reference and property lines of property within 300 feet of the subdivision boundaries as determined by the most recent tax rolls.
 - f. Certification and signature blocks as required by the city and the county. The city planning director will sign the preliminary plat showing that the plat is the document approved by the city council.
 - g. The total acreage of the property to be subdivided and the subtotals by land use.
 - h. A closure run sheet demonstrating an adjusted mathematical closure is in compliance with "The Texas Board of Professional Land Surveying General Rules of Practice."
 - i. Developers that elect to phase in sections of a subdivision project shall provide a phasing plan for the entire land area encompassed within the subdivision for review and approval in conjunction with the plat. Subsequent changes to the phasing may be approved by the director

of planning and development, after review by the city engineer, without being considered by the planning and zoning commission or city council.

(2) Existing conditions.

- a. The existing property lines, including bearings and distances, of the land being subdivided.
Property lines shall be drawn sufficiently wide to provide easy identification.
- b. The location of existing water courses, dry creek beds, wells, sinkholes and other similar topographic features.
- c. A tree survey shall be prepared showing the location, caliper, critical root zone, drip line, and species of all Significant-protected trees, within the boundaries of the subdivision ~~and of that are eight-twelve inches in caliper and or larger.~~ Protected trees shall be shown accurately to the nearest one-foot. ~~Critical root zones of these trees shall also be shown. Trees may be shown utilizing a separate aerial view of the proposed area to be subdivided.~~
- d. Centerline of water courses, creeks, existing drainage structures and other pertinent data shall be shown.
- e. Areas subject to flooding shall be shown, delineating the regulatory 100-year floodplain, annotating the base flood elevation (BFE), and any other floodplains identified in the FIRM maps as developed by FEMA. If neither encroaches upon the subject property, a note to that effect must be placed upon the drawing.
- f. Topographic data indicating two-foot contour intervals for slopes less than ten percent and five-foot contour intervals for slopes exceeding ten percent. The contoured area shall extend outward from the property boundary for a distance equal to 25 percent of the distance across the tract, but not fewer than 50 feet nor more than 200 feet.
- g. The locations, sizes and descriptions of all existing utilities, including but not limited to wastewater lines, lift stations, wastewater and storm sewer manholes, water lines, water storage tanks, and wells within the subdivision, and/or adjacent thereto.
- h. The location, dimensions, names and descriptions of all existing or recorded streets, alleys, reservations, railroads, easements or other public rights-of-way within the subdivision, intersecting or contiguous with its boundaries or forming such boundaries, as determined from existing deed and plat records.

The existing right-of-way width of any boundary street to the proposed subdivision shall also be shown.

- i. The location of city limit lines and/or outer border of the city's extra-territorial jurisdiction, as depicted on the city's most recent base map, if either traverses the subdivision or is contiguous to the subdivision boundary.

(3) Improvements.

- a. The location, size and description of any proposed drainage appurtenances, including storm sewers, detention ponds and other drainage structures proposed to be constructed on and off the site, and designed in accordance with the requirements of this and other applicable ordinance/law.
- b. The developer shall include a copy of the complete application for flood plain map amendment

or revision, as required by the federal emergency management agency (FEMA), if applicable.

- c. The location, dimensions, names and descriptions of all proposed streets, alleys, parks, open spaces, blocks,

lots, reservations, easements and rights-of-way; and areas within the subdivision indicating the connection to or continuation of other improvements in adjacent subdivisions.

- d. If applicable, the location of building setback lines indicated by dashed lines on the plat.
- e. Numbers to identify each lot and each block.
- f. The lengths of each proposed property line of all lots. The area of each lot shall be provided.
- g. ~~A tree removal and mitigation plan shall be prepared showing the caliper, species, critical root zone, and dripline of all Significant-protected trees to remain, and those to be removed during construction, showing the critical root zones as solid circles, and significant trees designated to be removed showing the critical root zones as dashed circles utilizing a separate aerial view of the area to be subdivided. If mitigation will be provided on-site, the tree removal and mitigation plan shall, on a separate sheet, also indicate where and how the mitigation requirements will be met.~~
- h. The developer shall be responsible for providing replacement trees as specified in Article IX of this chapter. ~~shown in the application submittal documents based on a replacement ratio (inches removed to inches planted) of:~~
 - ~~1. One to two for significant trees 18 inches in caliper and larger, and~~
 - ~~2. One to one for significant trees between eight and 18 [inches] in caliper.~~
 - ~~3. Replacement trees shall not be required for the removal of trees smaller than eight inches in caliper. The removal of significant trees larger than 18 inches in caliper shall require commission approval.~~
- i. The developer shall be responsible for providing replacement trees as shown in the application submittal documents based on a replacement ratio (inches removed to inches planted) of:
 - 1. One to two for significant trees 18 inches in caliper and larger, and
 - 2. One to one for significant trees between eight and 18 [inches] in caliper.
 - 3. Replacement trees shall not be required for the removal of trees smaller than eight inches in caliper. The removal of significant trees larger than 18 inches in caliper shall require commission approval.
- j. Developer shall contact the postmaster for the U.S. Postal Service in the city to discuss requirements for the delivery of mail to residents of the subdivision and any other requirements they may have.

(4) Support documents.

- a. A drainage study, consisting of a drainage area map with contours, location and capacities of existing and proposed drainage features, and calculations in accordance with this chapter and good engineering practices, shall be provided to ensure the property will be developed in accordance with city drainage policies and

L.C.R.A. regulatory requirements.

- b. Utility demand data, consistent with the proposed uses indicated on the preliminary plat, to determine the adequacy and the consistency of proposed utility improvements.
 - c. If a subdivision is located in an area served by any utility other than the city, the developer shall furnish a letter from such utility certifying their approval of the location of the utility easements shown on the plat and indicating the utility's intent to serve the property.
- (5) *Accuracy of data.* The applicant shall be responsible for verifying the accuracy of all data submitted, including that which might be obtained from the city, excepting that data which can only be obtained from the city.
- (e) *Procedure.* A preliminary plat for any proposed subdivision of land shall be submitted to the city planning department for commission review and subsequent city council approval.
 - (1) Legible prints, as indicated on the application form, shall be submitted at least 30 days prior to the regular meeting of the commission at which the preliminary plat is to be heard, along with the following:
 - a. Completed application forms and the payment of all applicable fees.
 - b. A summary letter stating briefly the type of street surfacing, drainage, electrical, water and wastewater facilities proposed.
 - c. A petition requesting annexation, if applicable.
 - d. A letter requesting any variances from the provisions of this chapter with the payment of any administrative fees.
 - e. Any attendant documents needed to supplement the information provided on the preliminary plat.
 - (2) City staff shall review all preliminary plat submittals for administrative completeness at the time of application. If, in the judgment of city staff, the preliminary plat submittal substantially fails to meet the minimal informational requirements as outlined above, it will not be accepted for review and the preliminary plat shall be deemed rejected. The developer shall have up to 60 days from the date the preliminary plat is deemed denied to remedy all deficiencies or the preliminary plat shall be rejected for filing and new filing fees will be required for subsequent submittals.
 - (3) Prior to the commission meeting at which the preliminary plat is presented, city staff shall review the plat for consisted ordinances, codes, policies and plans.
 - (4) After the preliminary plat is determined to be administratively complete, city staff shall prepare a report analyzing the preliminary plat submittal, and recommending either the approval, disapproval or conditional approval of the preliminary plat. This report shall be available at least five working days prior to the commission meeting.
 - (5) If the developer chooses to withdraw the preliminary plat, in writing, by noon of the third working day preceding the meeting, the submittal may appear on the next commission or council agenda, as applicable, after repayment of the applicable fees if notices of public hearing are required or more than 60 days elapse between the voluntary withdrawal of the preliminary plat and the commission or council agenda for which the preliminary plat was ready for consideration.
- (f) *Notification.*
 - (1) The developer may post signs along contiguous rights-of-way at each corner of he development and at intervals that do not exceed 300 feet between said corners, giving notice of the public hearings for the project.

- (2) The city shall publish a public notice at least once in a newspaper of general circulation in the city not fewer than 15 or more than 30 days prior to said public hearing.
- (3) The city shall mail public notification forms, postmarked no fewer than ten days prior to the appropriate commission hearing, to the owners of all property, any part of which is located within 300 feet of the perimeter of the property included within the preliminary plat.
- (g) *Approval.* The commission, after holding public hearings in accordance with city ordinances and codes, shall make a recommendation to the city council on the request for preliminary plat approval. The plat will be considered at the next regularly scheduled public hearing of the city council, but not earlier than five working days after the commission's hearing.
 - (1) The planning and zoning commission shall act within 30 days of the preliminary plat filing date to either recommend approval, denial or modification to the application. Failure of the commission to act within the 30 days shall be deemed an approval of the plat, except as otherwise agreed to by the developer. Plans that are disapproved as submitted may be resubmitted without charge within 60 days of disapproval with additional fees being assessed. The city council shall act within 30 days of the approval or inaction of the application by the commission. A plat is considered approved by the city council unless it is disapproved within that period.
 - (2) Zoning of the tract, if applicable, that shall permit the uses proposed by the preliminary plat, or any zoning amendment necessary to permit the proposed uses shall have been adopted prior to or concurrently with the approval of the preliminary plat by the council.
 - (3) Approval of the preliminary plat shall not constitute approval of the final plat, but shall constitute a vesting of the right to develop under city ordinances, codes and policies in effect on the date the requested permit is filed, provided that neither the preliminary plat nor any subsequent plat or permit has been, or is, allowed to expire.
 - (4) The developer may elect to phase the subdivision project.
 - (5) The developer should be aware that specific approvals from other agencies may be required.
 - (6) Upon approval of the preliminary plat and all signatures having been executed, the developer shall furnish one Mylar reproducible copy of the approved plat to be kept on file at the city as public record.
- (h) *Expiration.*
 - (1) The approval of the preliminary plat or any subsequent plan or plat shall expire no earlier than the 5th anniversary of the date the first permit application was filed for if no progress has been made towards completion of the project or;
 - a. An extension is granted by the commission in accordance with this chapter.
 - (2) If a preliminary plat expires, it may be reinstated only upon resubmittal of the unaltered, approved plat to the commission and council and the approval by both bodies. All fees shall be repaid as if the plat were initially being submitted.
- (i) *Extension.* The developer may apply for an extension, in writing, prior to the 5th anniversary of the first permit application by stating reasons for needing the extension and demonstrating pursuit of approvals for construction plans and/or final plat in accordance with this chapter. Upon receipt of this written request, the

commission may, at its discretion, grant up to a two- extension so long as the preliminary plat remains consistent with the master plan and/or ordinances of the city.

- (j) *Revision.* If a revision to a previously approved preliminary plat is required, then no application for final plat shall be accepted until the revised preliminary plat has been submitted and approved by the commission. This signed, approved document shall be kept on file as public record in the offices of the city.
- (k) *Responsibility.* Notwithstanding the approval of any preliminary plat by the council commission or the city engineer, the developer and the engineer that prepares and submits such plats shall be and remain responsible for the adequacy of the design and nothing in this chapter shall be deemed or construed to relieve or waive the responsibility of the developer or his/her engineer for or with respect to any plat submitted.
- (l) *Unlawful to record.* It shall be unlawful to cause to be recorded, any preliminary plat of land within the city limits or extraterritorial jurisdiction of the city, with the county clerk and recorder's office.

Sec. 98-23. - Construction plans.

- (a) *Purpose.* Construction plans, based upon the approved preliminary plat, and consisting of detailed specifications and diagrams illustrating the location, design, and composition of all improvements identified in the preliminary plat phase and required by this chapter and other applicable city ordinances, codes and policies, shall be submitted to the city for approval. In addition, any project that necessitates the construction, reconstruction or modification of existing city infrastructure shall also be submitted to the city for approval. The plans shall be kept by the city as a permanent record of required improvements in order to:
- (1) Provide better records that facilitate the operation and maintenance of, and any future modifications to existing city infrastructure.
 - (2) Provide data for evaluation of materials, methods of construction and design.
 - (3) Upon completion of field construction, the developer/owner shall furnish the city planning department one complete set of construction plans in an electronic format acceptable to the city that show all subdivision infrastructure "as built". A paper copy of the "as built" may be submitted if prior approval of the city has been obtained. All infrastructure shall be located in the state plain grid coordinates with surface elevations.
 - (4) No final plat shall be certified by the city, and no construction activities shall commence, until such time as construction plans completely describing the on-site and off-site improvements required by this chapter and other applicable city ordinances and codes, have been approved by the city engineer.
- (b) *Format.* Drawings shall be on 24-inch by 36-inch sheets at generally accepted horizontal and vertical engineering scales.
- (c) *Content.* Construction plans shall include all on and off-site improvements required to serve the proposed development as indicated on the approved preliminary plat and in compliance with applicable ordinances, codes, standards and policies of the city, and other applicable governmental entities. All construction plans shall be signed and scaled by a registered professional engineer, licensed to practice in the state, and shall contain or have attached thereto:
- (1) *Cover sheet.*
 - a. The appropriate project name, date, and the name, addresses and phone numbers of the developer, engineer and surveyor, etc.
 - b. A location map showing the relation of the subdivision to streets and other prominent features in all directions for a radius of at least one-mile using a scale of one-inch equals 2,000 feet. The latest edition of the USGS 7.5 minute quadrangle map is recommended.
 - (2) *Street and roadway systems.*
 - a. The horizontal layouts and alignments showing geometric data and other pertinent design details. The horizontal layout shall also show the direction of storm water flow and the location of manholes, inlets and special structures;
 - b. Vertical layouts and alignments showing existing and proposed center line, right and left right-of-way line elevations along each proposed roadway.

- c. Typical right-of-way cross sections showing pertinent design details and elevations as prescribed in the city TCSS;
- d. Typical paving sections showing right-of-way width, lane widths, median widths, shoulder widths, and pavement recommendations;
- e. Attendant documents containing any additional information required to evaluate the proposed roadway improvements, including geotechnical information; and

(3) Drainage improvements.

- a. Detailed design of all drainage facilities as indicated in the preliminary plat phase, including typical channel or paving section, storm sewers and other storm water control facilities in compliance with the regulatory requirements of the city drainage criteria manual.
- b. Typical channel cross-sections, plan and profile drawings of every conduit/channel shall be shown.
- c. Existing and proposed topographic conditions indicating two-foot contour intervals for slopes less than ten percent, five-foot contour intervals for slopes exceeding ten percent and referenced to a United States geological survey or coastal and geodetic survey bench mark or monument.
- d. Attendant documents containing design computations in accordance with this chapter, and any additional information required to evaluate the proposed drainage improvements.
- e. A copy of the complete application for flood plain map amendment or revision, as required by the federal emergency management agency (FEMA), if applicable.

(4) Erosion and sedimentation controls.

- a. Proposed fill or other structure elevating techniques, levees, channel modifications and detention facilities.
- b. Existing and proposed topographic conditions with vertical intervals not greater than one-foot referenced to a United States geological survey or coastal and geodetic survey bench mark or monument.
- c. The location, size, and character of all temporary and permanent erosion and sediment control facilities with specifications detailing all on-site erosion control measures which will be established and maintained during all periods of development and construction.
- d. Contractor staging areas, vehicle access areas, temporary and permanent spoils storage areas.
- e. A plan for restoration or the mitigation of erosion in all areas disturbed during construction.

(5) Water distribution systems.

- a. The layout, size and specific location of the existing and proposed water mains, pump stations, storage tanks and other related structures sufficient to serve the proposed land uses and development as identified in the preliminary plat phase and in accordance with the city technical construction standards and specifications.
- b. The existing and proposed location of fire hydrants, valves, motors and other fittings.
- c. Design details showing the connection with the existing city water system.
- d. The specific location and size of all water service connections for each individual lot.
- e. Attendant documents containing any additional information required to evaluate the proposed water distribution system.

(6) Wastewater collection systems.

- a. The layout, size and specific location of the existing and proposed wastewater lines, manholes, lift stations, and other related structures sufficient to serve the land uses and development as identified in the preliminary plat phase, in accordance with all current city technical construction standards and specifications, and criteria for construction of wastewater systems.
 - b. Plan and profile drawings for each line in public right-of-ways or public utility easements, showing existing ground center line of pipe, pipe size and flow line elevation at all bends, drops, turns, and station numbers at 50-foot intervals.
 - c. Design details for manholes and special structures. Flow line elevations shall be shown at every point where the line enters or leaves the manholes.
 - d. Detailed design for lift stations, package plants or other special wastewater structures.
 - e. Attendant documents containing any additional information required to evaluate the proposed wastewater system, and complete an application for Texas Commission on Environment Quality (TCEQ) approval.
- (7) *Street lighting.* The location, size, type and description of street lights according to the requirements of the city TCSS.
- (8) *Street signs.* The location, size, type and description of street signs according to the requirements of the city TCSS.
- (9) *Sidewalks.* The location, size and type of sidewalks and pedestrian ramps according to the requirements of the city TCSS.
- (10) *Improvements for parks and other public and common areas.* As identified and/or approved on the preliminary plat.
- (11) ~~*[Location, size and description.] Tree removal and mitigation plan. The location, size and description of all significant trees (to remain and to be removed), and replacement trees to meet the requirements of this chapter may be shown utilizing a separate aerial view of the area to be subdivided. A tree removal and mitigation plan shall be prepared in accordance with the requirements outlined in Sec. 98-22.*~~
- (12) *Protective fencing.* During construction, protective fencing must be erected around all protected trees that will remain. Such fencing shall be located outside of the critical root zone, and at least 10 ft. from the trunk or one-half of the drip line, whichever is more. Parking, storage, or movement of equipment, vehicles, material, debris or fill inside the critical root zone is prohibited.
- (13) *Landscaping and screening.* The location, size and description of all landscaping and screening materials to be used in common areas as required by this chapter.
- (14) *Design criteria.* Final design criteria, reports, calculations, and all other related computations, if not previously submitted with the preliminary plat.
- (15) *Cost estimates.* A cost estimate of each required improvement, prepared, signed and sealed by a professional engineer licensed to practice in the state.
- (d) *Procedure.* After all necessary approvals of the preliminary plat have been granted, construction plans, together with a completed application form, administrative fees, and any other federal, state or local permits required prior to construction (L.C.R.A. NPS permit, SWPPP, etc.) Shall be submitted to the city engineer for approval.
 - (1) Construction plans may be submitted for review and approval simultaneously with a final plat,

provided however that the final plat shall not be approved until the construction plans have been approved. If the construction plans and the final plat are to be reviewed simultaneously, a complete application for construction plans and a complete application for final plat must be submitted to the city simultaneously.

- (2) City staff shall review all construction plan submittals for administrative completeness at the time of application. If in the judgment of the city, the construction plan submittal substantially fails to meet the minimal informational requirements as outlined above, it will not be accepted for review and the construction plan shall be deemed rejected. The developer shall have up to 60 days from the date the construction plan is deemed denied to remedy all deficiencies or the construction plan shall be rejected for filing and new filing fees will be required for subsequent submittals.
 - (3) The city engineer shall review the construction plans to insure compliance with this chapter, and other applicable city ordinances, codes, standards and specifications, and good engineering practices.
- (e) *Approval.* Within 30 days of the date on which all required information has been accepted for review, the city engineer shall either approve or disapprove the construction plans.
- (1) If the construction plans are disapproved, the city engineer shall notify the applicant, in writing, of disapproval and indicate the requirements for bringing the construction plans into compliance.
 - (2) If construction plans are approved, then the city engineer shall sign and seal the cover sheet of the construction plans, and return the signed copy to the planning department for city records.
 - (3) The developer should be aware that specific approvals from other agencies may be required.
 - (4) All improvements shown in the approved construction plans shall be constructed pursuant to and in compliance with plans, except as otherwise specifically approved.
- (f) *Revision.* Where it becomes necessary, due to conflicts, omissions or other unforeseen circumstances, for corrections to be made to construction plans for which approval has already been obtained, the city engineer shall have the authority to approve such corrections when, in his/her opinion, such changes are warranted and also in conformance with city requirements. Approval of such changes agreed to between the developer and city engineer shall be noted by initialing and dating by both parties on the two original signed copies of the construction plans. Significant changes, as determined by the city engineer, shall require the submittal of a change sheet that depicts the changes to be submitted to the city engineer for review and approval.
- (g) *Responsibility.* Notwithstanding the approval of any construction plans by the council, commission or the city engineer, the developer and the engineer that prepares and submits such plans and specifications shall be and remain responsible for the adequacy of the design of all such improvements; and nothing in this chapter shall be deemed or construed to relieve or waive the responsibility of the developer or his/her engineer for or with respect to any design, plans and specifications submitted.

Exhibit “C”
Amendments Adopting
Chapter 98, Article IX

Chapter 98 – SUBDIVISIONS

ARTICLE IX. – TREE PRESERVATION,

MITIGATION, AND REMOVAL

- a) If there are protected trees on the site, a tree protection plan, and/or tree removal and mitigation plan shall be submitted for all residential and non-residential site development or redevelopment.
- b) A tree removal permit shall be required for the removal of any protected tree. Such permit shall be applicable to the site, and shall not be required for individual trees. The fee for a tree removal permit shall be twenty-five dollars (\$25.00).
- c) The developer shall be responsible for providing replacement trees as shown in the application submittal documents based on a replacement ratio (inches removed to inches planted) of:
 - 1) One to one (1:1) for protected trees 12 inches in caliper and larger, but less than 24 inches in caliper, and
 - 2) One to two (1:2) for heritage trees 24 inches in caliper and larger, but less than 36 inches in caliper.
 - 3) One to four (1:4) for monarch trees 36 inches in caliper and larger.
 - 4) Replacement trees shall not be required for the removal of trees smaller than 12 inches in caliper. The removal of heritage trees or monarch trees shall require Planning and Zoning Commission approval.
 - 5) Replacement trees shall be selected from the list of native canopy tree species found in Article IX of this Chapter, and shall be at least 2 inches in caliper at the time of planting.
 - 6) Replacement trees shall not be required for the removal of nuisance trees, as defined herein.
- d) Exceptions.
 - 1) Hazardous Trees. If a protected tree is determined to pose an imminent or immediate threat to persons or property, the requirements of this section may be waived as deemed necessary by the City Manager or his or her designee.
 - 2) Airport Hazard. Protected trees which constitute an Airport Hazard, as defined in Chapter 18, are exempt from the requirements of this section.
 - 3) Sight Triangles. If a protected tree is interfering with the safe visibility at a sight triangle of an existing public street, as determined by the City Manager or his or her designee, the tree may be removed without fulfilling the mitigation requirements of this chapter.
 - 4) Dead or Diseased Trees. If a protected tree is already dead, dying or fatally diseased prior to starting a project, the provisions of the mitigation requirements will not apply. A certified letter from a licensed arborist shall be required prior to removal of a dead or diseased tree.
 - 5) Installation and maintenance of public utilities and infrastructure. If the location of a protected tree interferes with the City's ability to install, maintain, or remove underground or overhead utilities or infrastructure, the City shall not be subject to the requirements of this Article. Nothing in this chapter shall prohibit the trimming, topping, or removal of trees as deemed necessary by the City. Notwithstanding the foregoing, the City shall make all reasonable efforts to preserve heritage and monarch trees.
- e) On-site mitigation. Removal of protected trees shall be mitigated on-site whenever feasible.
- f) Fee-in- lieu of mitigation. In cases where on-site mitigation is deemed infeasible, e.g., planting capacity has been reached on site and no off-site location is available, a payment in lieu of providing replacement trees may be approved by the City Manager or his or her designee. Such fee shall be used by the city to purchase and plant replacement trees in public parks or on other city-owned property. Payment in lieu of replacement trees shall be calculated as follows:

- 1) One hundred dollars (\$100.00) per caliper inch of protected tree to be removed.
 - 2) Two hundred dollars (\$200.00) per caliper inch of heritage tree to be removed.
 - 3) Four hundred dollars (\$400.00) per caliper inch of monarch tree to be removed.
- g) Prohibited activities.
- 1) It shall be unlawful for any person to remove any protected tree without first securing a tree removal permit.
 - 2) It shall be unlawful for any person to damage a protected tree, such as through tree topping, over pruning or chemical poisoning.
 - 3) It shall be unlawful for a person to continue work or removal of trees after a stop work order has been issued.
 - 4) It shall be unlawful for a person to engage in any hazardous activities which causes damage to the crown or trunk or disturbs the critical root zone of a protected tree without the written approval of the City Manager or his or her designee.
- h) Unauthorized removal. Any person who intentionally, knowingly, accidentally, or negligently removes a protected tree in violation of this section shall be required to:
- 1) Replant replacement trees at a caliper ratio of two to one (2:1) for protected trees, four to one (4:1) for heritage trees, and eight to one (8:1) for monarch trees; or
 - 2) In convicted of violating this section, a fine not to exceed two hundred dollars (\$200.00) per caliper inch of protected tree removed, four hundred dollars (\$400.00) per caliper inch of heritage tree removed, and eight hundred dollars (\$800.00) per caliper inch of monarch tree removed shall be imposed by the municipal Court.

Chart 1—NATIVE PLANT SPECIES

<u>CANOPY TREES</u>		
<u>Pecan</u>	<u><i>Carya illinoensis</i></u>	<u>Deep tap root</u>
<u>Bur Oak and other White</u>	<u><i>Quercus macrocarpa, etc.</i></u>	<u>Nice branch character</u>
<u>Cedar Elm</u>	<u><i>Ulmus crassifolia</i></u>	<u>Disease resistant</u>
<u>Shumard Red Oak and other Red Oaks</u>	<u><i>Quercus Shumardi, etc.</i></u>	<u>Red fall color</u>
<u>Live Oak</u>	<u><i>Quercus virginiana</i></u>	<u>Very hardy evergreen</u>
<u>Post Oak</u>	<u><i>Quercus stellata</i></u>	<u>Disease and drought resistant</u>
<u>Lacey Oak</u>	<u><i>Quercus glaucoides</i></u>	<u>Small to medium tree that is drought tolerant, pest resistant</u>
<u>Big Tooth Maple</u>	<u><i>Acer grandidentatum</i></u>	<u>Fall color</u>

<u>Texas Ash, Mountain Ash</u>	<u>Fraxinus texensis</u>	<u>Long lived, fast growing</u>
<u>Chinese Pistachio(e)</u>	<u>Pistacia chenenesis</u>	<u>Fall color</u>
<u>Ginkgo</u>	<u>Gingo bilboa</u>	<u>Yellow fall color</u>
<u>Catalpa</u>	<u>Catalpa sp.</u>	<u>Flowers, slightly messy</u>
<u>Western Soapberry</u>	<u>Sapindus drummondii</u>	<u>Showy winter fruit, yellow fall color</u>
<u>American Sycamore</u>	<u>Plantanus occidentalis</u>	<u>Stout trunk and large limbs</u>
<u>Mexican Sycamore</u>	<u>Platanus mexicana</u>	<u>Insect and disease resistant</u>
<u>Bald Cypress</u>	<u>Taxodium species distichum</u>	<u>Fernlike leaves, fall color</u>
<u>Montezuma Cypress</u>	<u>Taxodium species</u>	<u>Fernlike leaves, fall color</u>
<u>Texas Pistachio</u>	<u>Pistacia texensis</u>	<u>Evergreen in this area, new growth red</u>
<u>Escarpment Black Cherry</u>	<u>Prunus serotina var. eximia</u>	<u>Spring blooms and summer fruits, vivid yellow fall foliage</u>
<u>ORNAMENTAL TREES</u>		
<u>Texas persimmon</u>	<u>Diospyros texana</u>	<u>Smooth gray bark</u>
<u>Sweetgum</u>	<u>Liquidambar styraciflua</u>	<u>Tall tree, red bark</u>
<u>Possumhaw Holly</u>	<u>Ilex deciduas</u>	<u>Deciduous, red fruit in winter</u>
<u>Texas Redbud</u>	<u>Cercis Canadensis texana</u>	<u>Long flowering in spring</u>
<u>Desert Willow</u>	<u>Chilopsis linearis</u>	<u>Drought tolerant, summer blooms</u>
<u>Yaupon</u>	<u>Ilex vomitoris</u>	<u>Very hardy, red berries</u>
<u>Vitex</u>	<u>Vitex Aqnus-castus</u>	<u>Native, purple or white flower</u>
<u>Crape Myrtle</u>	<u>Lagerstroemia indica</u>	<u>Some die back, flowers</u>

<u>Eve's Necklace</u>	<u><i>Sophora affinis</i></u>	<u>Fernlike foliage, winter fruit color</u>
<u>Japanese Black Pine</u>	<u><i>Pinus thunbergi</i></u>	<u>Great color, best of pines</u>
<u>Loquat</u>	<u><i>Eriobotrya japonica</i></u>	<u>Evergreen, fall fruit</u>
<u>Texas Mountain Laurel</u>	<u><i>Sophora secundiflora</i></u>	<u>Fragrant purple flower</u>
<u>Mexican Plum</u>	<u><i>Prunus Mexicana</i></u>	<u>White flowers</u>
<u>Mexican Buckeye</u>	<u><i>Ungnadia speciosa</i></u>	<u>Brilliant pink flowers in spring</u>
<u>Elderica Pine (Afgan)</u>	<u><i>Pinus cliderica</i></u>	<u>30 — 80', suited to alkaline soils</u>
<u>SHRUBS</u>		
<u>Hollies (most varieties)</u>	<u><i>Hex sp.</i></u>	<u>Durable, some have berries</u>
<u>Eleagnus</u>	<u><i>Eleagnus pungens</i></u>	<u>Large, gray, tolerates heat, drought</u>
<u>Dwarf Wax Myrtle</u>	<u><i>Myrica pulilla</i></u>	<u>Mass plantings, hedges</u>
<u>Evergreen Sumax</u>	<u><i>Rhus virens</i></u>	<u>Evergreen red fruit</u>
<u>Flame leaf Sumac</u>	<u><i>Rhus lanceolata</i></u>	<u>Brilliant red foliage</u>
<u>Florida Jasmine</u>	<u><i>Jasminum floridum</i></u>	<u>Spring yellow blooms</u>
<u>Indian Hawthorn (all</u>	<u><i>Raphiolepis indica</i></u>	<u>Spring flower</u>
<u>Red Yucca</u>	<u><i>Hesperaloe parviflora</i></u>	<u>Coral flower spikes</u>
<u>Viburnum (all varieties)</u>	<u><i>Viburnum sp.</i></u>	<u>Dark green, spring flowers</u>
<u>Nandina Domestica</u>	<u><i>Nandina domestica</i></u>	<u>Winter color, red berries</u>
<u>Moonbay Nandina</u>	<u><i>Nandina moonbay</i></u>	<u>Compact, winter color</u>
<u>Gulf stream Nandina</u>	<u><i>Nandina gulfstream</i></u>	<u>Winter color, fuller at base</u>
<u>Italian Jasmine</u>	<u><i>Jasminum humile</i></u>	<u>Flower small, bright yellow</u>

<u>Mexican Buckeye</u>	<u>Unquadio speciosa</u>	<u>Hardy, spring pink flowers</u>
<u>Agarita</u>	<u>Berberis trifoliata</u>	<u>Holly-like foliage, flowers, berries</u>
<u>Muhly Grass</u>	<u>Muhlenbergia lindheimeri</u>	<u>Looks like small pampas grass</u>
<u>Pampas Grass</u>	<u>Cordateria Selloana</u>	<u>Fall flower</u>
<u>GROUND COVERS</u>		
<u>Holly Fern</u>	<u>Cyrtomium falcatum</u>	<u>Coarse texture, dark green</u>
<u>Rosemary</u>	<u>Rosmarinus officinalis</u>	<u>Coarse texture, dark green</u>
<u>Santolina (green and</u>	<u>Santolina spp.</u>	<u>Will take extreme heat</u>
<u>Cherry Sage</u>	<u>Salvia Greggii</u>	<u>Nearly evergreen, long bloom season</u>
<u>Liriope</u>	<u>Liriope muscari</u>	<u>Hardy, blue flower</u>
<u>Mondo (monkey) Grass</u>	<u>Ophiopogon japonicas</u>	<u>Thin, dark leaves, hardy</u>
<u>Asian Jasmine</u>	<u>Trachelopermun asiaticum</u>	<u>Some die back</u>
<u>Trailing Vinca</u>	<u>Vinca Major</u>	<u>Shade, flower</u>
<u>Ajuga (carpet bugle)</u>	<u>Ajuga reptans</u>	<u>Shade, part shade, purple flower</u>
<u>Star Jasmine</u>	<u>Trachaelospermum jasminoides</u>	<u>Sun, white flower, can be vine</u>
<u>VINES</u>		
<u>Cross Vines</u>	<u>Bigonia capreolata</u>	<u>Bi-color flower</u>
<u>Carolina Jessamine</u>	<u>Gelsemium sempervirens</u>	<u>Yellow flower</u>
<u>Coral Honeysuckle</u>	<u>Lonicera sempervirens</u>	<u>Red flower</u>
<u>Pyracantha</u>	<u>Pyracantha sp.</u>	<u>Thorns, flowers, berries</u>
<u>Lady Banksia Rose</u>	<u>Rose Banksiae</u>	<u>Yellow flower, needs support</u>

<u>Boston Ivy</u>	<u>Parthenocissus tricuspidate</u>	<u>Climbing, bright red in fall</u>
<u>English Ivy</u>	<u>Hedera helix</u>	<u>Shade, self-climbing, also</u>

Chart 2—NUISANCE PLANT SPECIES

<u>NUISANCE TREES</u>	
<u>Juniper (males)</u>	<u>Juniperus</u>
<u>Chinese Tallow</u>	<u>Sapium sebiferum</u>
<u>Hackberry</u>	<u>Celtis laevigata</u>
<u>Chinaberry</u>	<u>Melia azedarach</u>
<u>Bradford Pear</u>	<u>Pyrus calleryana</u>
<u>Silver Maple</u>	<u>Acer saccharinum</u>
<u>Sycamore</u>	<u>Platanus occidentalis</u>
<u>Honey Mesquite</u>	<u>Prosopis glandulosa</u>

Exhibit “D”

Amendments to

Secs. 118-61 and 118-62

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ARTICLE III. - SITE DEVELOPMENT PLAN REQUIREMENTS AND SPECIAL PROVISIONS

Sec. 118-61. - Construction plans.

- (a) *Purpose and applicability.* Construction plans provide detailed graphic information and associated text indicating property boundaries, easements, land use, street access, utilities, drainage, off-street parking, lighting, signage, landscaping, vehicle and pedestrian circulation, open spaces and general conformance with the master plan and ordinances of the city when necessary in accordance with the city building codes. When required, construction plan approval by the city engineer shall be required for any development or improvement of land subject to this chapter, and not otherwise required by the city's subdivision ordinance. Construction plans will not be required for development of existing lots or short form subdivisions which have adequate utilities and public access as determined by the city engineer.
- (b) *Format.* Construction plans shall be drawn on 24" × 36" sheets at a generally accepted engineering scale, and sufficient to thoroughly meet the informational requirements herein.
- (c) *Content.* Construction plans shall include all of the land proposed to be developed or improved, and any offsite improvements required to accommodate the project. Construction plans shall contain, or have attached thereto:
 - (1) A cover sheet, showing:
 - a. Names, addresses and phone numbers as applicable of the record owner and developer, if any, and all authorized agents including the architect, engineer, landscape architect and surveyor.

- b. The proposed name of the project.
- c. A location map showing the relation of the project to streets and other prominent features in all directions for a radius of at least one mile using a scale of 1" = 2,000'. The latest edition of the USGS 7.5-minute quadrangle map is recommended.
- d. Certification, revision and signature blocks as required by the city.
- e. The total acreage of the property to be developed.
- f. Current zoning district as defined by this chapter.
- g. An existing conditions plan, showing as follows:
 - 1. Boundary of existing zoning districts, if applicable.
 - 2. The existing property lines, including bearings and distances, of the land being developed or improved. Property lines shall be drawn sufficiently wide to provide easy identification.
 - 3. The location of existing structures and improvements, if applicable.
 - 4. The accurate location, caliper and critical root zone of ~~significant trees 8-inch caliper and larger,~~ all protected trees in relation to the property boundary and, if applicable, within the limits of the proposed off-site improvements.
 - 5. Centerline of water courses, creeks, existing drainage structures and other pertinent data shall be shown.
 - 6. Lines delineating the regulatory 100-year floodplain, if applicable.
 - 7. Topographic data indicating two-foot contour intervals. The contoured area shall extend outward from the property boundary for a distance equal to 25 percent of the distance across the tract, but not fewer than 50 feet nor more than 200 feet.
 - 8. The locations, sizes and descriptions of all existing utilities, including but not limited to sewer lines, lift stations, sewer and storm sewer manholes, water lines, water storage tanks, and wells within the property, and/or adjacent thereto. Existing overhead and underground electric utilities shall also be shown.
 - 9. The location, dimensions, names and descriptions of all existing or recorded streets, alleys, reservations, railroads, easements, building setbacks or other public rights-of-way within the property, intersecting or contiguous with its boundaries or forming such boundaries, as determined from existing deed and plat records. The existing right-of-way width of any boundary street to the property shall also be shown.
 - 10. Location of city limit lines and/or outer border of the city's extraterritorial jurisdiction, as depicted on the city's most recent base map, if either traverses or is contiguous to the property boundary.
- h. An erosion and sedimentation control plan, showing as follows:
 - 1. Proposed fill or other structure elevating techniques, levees, channel modifications and detention facilities.
 - 2. Existing and proposed topographic conditions with vertical intervals not greater than two feet referenced to a United States Geological Survey or Coastal and Geodetic Survey bench mark or monument.
 - 3. The location, size, and character of all temporary and permanent erosion and sediment

controls with specifications detailing all onsite erosion control measures which will be established and maintained during all periods of development and construction.

4. Contractor staging areas, vehicles access areas, temporary and permanent spoils storage areas.
 5. A plan for restoration and for the mitigation of erosion in all areas disturbed during construction.
- i. A site plan, showing all visible improvements to the land, including the following:
 1. The location, dimensions, square footage, height and intended use of existing and proposed buildings on the site.
 2. Location, number and dimensions of existing and proposed parking spaces, distinguishing between standard, handicap and van handicap spaces and calculation of applicable minimum requirements in accordance with this chapter.
 3. The location, type and dimensions of proposed driveways, signs and traffic control devices.
 4. Compliance with the city's transportation policies provided in the city's subdivision ordinance.
 - j. A grading and drainage plan, showing as follows:
 - k. A drainage area map delineating areas to be served by proposed drainage improvements.
- 1) Detailed design of all drainage facilities, including typical channel or paving section, storm sewers, detention ponds and other stormwater control facilities.
 - 2) Proposed in a public utility easement and/or public right-of-way.
 - 3) Existing and proposed topographic conditions with vertical intervals not greater than two feet referenced to a United States Geological Survey or Coastal and Geodetic Survey bench mark or monument.
 - 4) Attendant documents containing design computations and any additional information required to evaluate the proposed drainage improvements.
 - 5) Compliance with the city's drainage policies provided in the city's subdivision ordinance.

- I. A utility plan, showing as follows:
 1. The layout, size and specific location of proposed water mains and other related structures and in accordance with all current city standards, specifications and criteria for construction of water mains.
 2. The location of proposed fire hydrants, valves, meters, pipe fittings and other appurtenances.
 3. Design details showing the connection with the existing city water system.
 4. The layout, size and specific location of the proposed wastewater lines, lift stations and other related structures, and in accordance with all current city standards, specifications and criteria for construction of wastewater systems.
 5. Plan and profile drawings for each line in public right-of-way or public utility easements, showing existing ground level elevation at center line of pipe, pipe size and flow line elevation at all bends, drops, turns, station numbers at 50-foot intervals.
 6. Detailed design for lift stations, special wastewater appurtenances, if applicable.
 7. Utility demand data, and other attendant documents, to evaluate the adequacy of proposed utility improvements, and the demand on existing city utilities.
 8. Compliance with the city's utility policies provided in the city's subdivision ordinance.
 - m. A building plan, including floor, building, foundation, roof plans and elevations.
 - n. A landscape plan, showing as follows:
 1. Dimensions, types of materials, size and spacing of proposed vegetative materials, planting details and irrigation appurtenances in relation to proposed structures or other significant improvements.
 2. The following maintenance note: The developer and subsequent owners of the landscaped property, or the manager or agent of the owner, shall be responsible for the maintenance of all landscape areas. Said areas shall be maintained so as to present a healthy, neat and orderly appearance at all times and shall be kept free of refuse and debris. All planted areas shall be provided with a readily available water supply and watered as necessary to ensure continuous healthy growth and development. Maintenance shall include the replacement of all dead plant material if that material was used to meet the requirements of the subdivision regulations.
 3. Compliance with the city's landscaping and screening requirements of this chapter. ~~See Sec. 118-61 of this chapter.~~
 4. Compliance with all protected tree preservation and mitigation requirements, as outlined in Chapter 98 of this code, Article IX.
 - o. Construction details, showing (when applicable) as follows:
 1. Structural retaining walls and/or detention outlet structures.
 2. Storm sewer manhole and covers, typical channel sections, inlets, safety end treatments and headwalls.
 3. Wastewater manholes and covers, cleanouts, grease traps, pipe bedding and backfill.
 4. Water valves, water meters, fire hydrants, thrust blocks, backflow prevention and concrete encasement.
 5. Driveways, curb and gutter, sidewalks, curb ramps, pavement sections and pavement repair.
 6. Silt fence, rock berms, stabilized construction entrance, and inlet protection.
 7. Traffic controls when working in public right-of-way.
 8. Applicable city standard details and specifications.
- (d) *Procedure.* Construction plans for the development or improvement of land in the city limits, not otherwise governed by the city's subdivision ordinance, shall be submitted to the city for approval prior to the issuance of a building permit.
- (1) Two complete sets of construction plans shall be submitted to city staff for review by the building official or the city engineer at any time prior to the issuance of a building permit, along with the following:
 - a. Completed application forms and the payment of all applicable fees.
 - b. A letter requesting any variances from the provisions of this chapter.
 - c. Any attendant documents needed to supplement the information provided on the construction plans.
 - (2) City staff shall review all construction plan submittals for completeness at the time of application. If, in the judgment of city staff, the construction plan submittal substantially fails to meet the minimal informational requirements as outlined above, it will not be accepted for review.
 - (3) The building official or city engineer shall review the construction plans to insure compliance with this chapter, and other applicable

city ordinances, codes, standards and specifications, and good engineering practices.

- (4) Construction plans may be rejected at any time subsequent to submittal and prior to final approval for failure to meet the minimum informational requirements of this chapter.
- (5) Applicable fees pursuant to city ordinance shall be paid, including, but not limited to, all professional fees, engineer and attorney fees incurred by the city for or with respect to the review, processing and approval of the application for the approval of the building permit.
- (e) *Approval.* Within 30 days of the date on which all required information has been accepted for review, the building official or the city engineer shall either approve or disapprove the construction plans. If the construction plans are disapproved, the building official or the city engineer shall notify the applicant, in writing, of disapproval and indicate the requirements for bringing the construction plans into compliance. If construction plans are approved, then the building official or the city engineer shall sign the cover sheet of the construction plans, returning one signed copy to the applicant and retaining the other signed copy for city records.
 - (1) Specific approvals required from other agencies shall be obtained by the owner.
 - (2) All improvements shown in the approved construction plans shall be constructed pursuant to and in compliance with the approved plans, except as otherwise specifically approved.
 - (3) It shall be the right of the applicant seeking construction plan approval, to appeal a decision of the building official or the city engineer to the commission and have a final decision rendered by the commission.
- (f) *Revision.* Where necessary, due to unforeseen circumstances, for corrections to be made to construction plans for which approval has already been obtained, the building official or the city engineer shall have the authority to approve such corrections when, in his/her opinion, such changes are warranted and also in conformance with city requirements.

Approval of such changes agreed to between the developer and building official or city engineer

- (g) shall be noted by initialing and dating by both parties on the two original signed copies of the construction plans.

- Responsibility.* Notwithstanding the approval of any construction plans the building official or the city engineer or the commission, the developer and the engineer that prepares and submits such plans and specifications shall be and remain responsible for the adequacy of the design of all such
- (h) improvements; and nothing in this chapter shall be deemed or construed to relieve or waive the responsibility of the developer and his/her engineer for or with respect to any design, plans and
 - (i) specifications submitted.

Expiration. Unless a longer time shall be specifically established as a condition of approval, construction plan approval shall expire 12 months following the date on which such approval became effective, unless prior to the expiration, a building permit is issued and construction is commenced and diligently pursued toward completion.

Extension. Construction plan approval may be extended if the developer submits a written request for extension and continuance of the plan as approved by the city prior to expiration. Approval of any such extension request shall be automatic one time only for a period of 12 months.

Sec. 118-62. - Landscaping and screening requirements.

- (a) *Purpose.* The purpose of this section is, in conjunction with the other requirements of this chapter, to promote and support the orderly, safe, attractive and healthful development of land located within the community, and to promote the general welfare of the community by preserving and enhancing ecological, environmental and aesthetic qualities, through established requirements for the installation and maintenance of landscaping elements and other means of site improvements in developed properties. Landscape plans will not be required for existing lots or short form subdivisions that have adequate utilities and public access as determined by the city engineer. The following are additional factors considered in establishing the requirements of this section:
- (1) Paved surfaces, automobiles, buildings and other improvements produce increases in air temperatures, a problem especially noticeable in this southern region, whereas plants have the opposite effect through transpiration and the creation of shade. Likewise, impervious surfaces created by development generate greater water runoff causing problems from contamination, erosion and flooding. Preserving and improving the natural environment and maintaining a working ecological balance are of increasing concern. The fact that the use of landscape elements can contribute to the processes of air purification, oxygen regeneration, water absorption, water purification, and noise, glare and heat abatement as well as the preservation of the community's aesthetic qualities indicates that the use of landscape elements is of benefit to the health, welfare and general wellbeing of the community and, therefore, it is proper that the use of such elements be required.
 - (2) The city experiences frequent droughts and periodic shortages of adequate water supply; therefore, it is the purpose of this section to encourage the use of drought resistant vegetation that does not consume large quantities of water.
- (b) *Installation and plan.* All landscape materials shall be installed according to American Association of Nurserymen (AAN) standards. An approved landscape plan shall be required for all new development in any zoning district, save and except for A, OS, R-1 and R-1E districts.
- (c) *Maintenance.* The owner of the landscaped property shall be responsible for the maintenance of all landscape areas. Said areas shall be maintained so as to present a healthy, neat and orderly appearance at all times and shall be kept free of refuse and debris. All planted areas shall be provided with a readily available water supply and watered as necessary to ensure continuous healthy growth and development. Maintenance shall include the replacement of all dead plant material if that material was used to meet the requirements of this section.
- (d) *Planting criteria.*
- (1) *Trees.* Trees shall be a minimum of two inches in caliper measured three feet above finished grade immediately after planting. A list of ~~recommended, preferred~~ landscape trees ~~may be obtained from the city can be found in Chapter 98 of this code. If the developer chooses to substitute trees not included on the recommended list, those trees shall have an average mature crown greater than 15 feet in diameter to meet the requirements of this section. Trees having an average mature crown less than 15 feet in diameter may be substituted by grouping trees so as to create at maturity the equivalent of a 15-foot diameter crown if the drip line area is maintained. A minimum area three feet in radius is required around the trunks of all existing and proposed trees.~~ The planting of trees will not be required prior to final approval or acceptance of the final subdivision plat.
 - (2) *Shrubs and ground cover.* Shrubs, vines and ground cover planted pursuant to this section shall be good, healthy nursery stock. Shrubs must be, at a minimum, a one-gallon container size.
 - (3) *Lawn grass.* It is recommended that grass areas be planted with drought resistant species normally grown as permanent lawns, such as Bermuda, Zoysia, or Buffalo. Grass areas may be sodded, plugged, sprigged or seeded except that solid sod shall be used in areas subject to erosion. With the exception of lawns being sodded, each lawn area shall have sediment fencing installed on the down slope side to prevent erosion. Where seed is utilized, it shall be raked in and watered at sufficient intervals to ensure that it takes root and begins growing. Thinned areas shall be reseeded to ensure complete coverage of the lawn.
 - (4) *Synthetic plants.* Synthetic or artificial lawns or plants shall not be used in lieu of plant requirements in this section.
 - (5) *Architectural planters.* The use of architectural planters may be permitted in fulfillment of landscape requirements.
 - (6) *Other.* Any approved decorative aggregate or pervious brick pavers shall qualify for landscaping credit if contained in but no credit shall be given for concrete or other impervious surfaces. Alternative types of landscaping, such as xerosc types of landscaping designed to conserve water shall be reviewed by the planning and development service staff for compatibility with the area immediately surrounding the subject property.
- (e) *Landscaping requirements.* A minimum percentage of the total lot area shall be devoted to landscape development in accordance with

the following schedule.

Zoning or Use	Percentage
(1) Multifamily, Open Space	20%
(2) Residential	*Note
(3) Commercial uses	15%
(4) Industrial—Light and Heavy	10%
(5) Agricultural	None

*Note. Minimum landscape requirements for each lot on which a single-family, dwelling, or a manufactured home, is constructed or installed after the date of this chapter shall be a minimum of two, two-inch trees and lawn grass from the front property line to the front two corners of the structure. Residential structures on reverse frontage lots shall also be required to screen the rear of the structure from the abutting highway, access road, or other public right-of-ways.

(f) *Exceptions.* Exceptions to these provisions may be granted by the commission and/or council to require a lesser amount of landscaping if

- (1) The aesthetic, buffering and environmental intent of this chapter is met, and the reduction of the landscape area results in the preservation of natural features having comparable value to the reduced landscape requirements, or
 - (2) The density of the ground proves to be substantially difficult as to create an undue hardship not found in the majority of the city.
- (g) *Placement.* Landscaping shall be placed upon that portion of a tract or lot that is being developed. Fifty percent of the required landscaped area and required plantings shall be installed between the front property lines and the building being constructed. Undeveloped portions of a tract or lot shall not be considered landscaped, except as specifically approved by the commission. Landscaping placed within public right-of-ways shall not be credited to the minimum landscape requirements by this section.
- (h) *Credit.* The ~~building official and/or city engineer~~ City Manager or his or her designee shall, with respect to the issuance of a building permit or approval of a construction or site development plan, give a credit against the requirements of this section for trees preserved on the site. In addition, any required landscaping trees shall count toward the mitigation requirement, as outlined in Chapter 98. Provided that, in order to reward the preservation of ~~significant-protected~~ trees, a credit may be given for such preservation only if no more than 50 percent of the critical root zone is disturbed or distressed with impervious cover; and provided further that the remaining critical root zone must consist of at least 100 square feet.
- (i) *Additional required plantings.* For every 600 square feet of landscape area required by this section, two trees and four shrubs shall be planted. To reduce the thermal impact of unshaded parking lots, additional trees shall be planted, if necessary, so that no parking space is more than 50 feet away from the trunk of a tree, unless otherwise approved by the commission. This subsection (1) shall not apply to any property included in any of the following zoning categories: A, and R-1.
- (j) *Replacement of required trees.* Upon the death or removal of a tree planted pursuant to the terms of this section, a replacement tree of equal size and type shall be required to be planted. A smaller tree that will have a mature crown similar to the tree removed may be substituted if the planting area or pervious cover provided for the larger tree in this section is retained.
- (k) *Screening.* The following requirements shall be in addition to the foregoing landscaping and planting requirements.
- (1) All off-street parking, loading spaces and docks, outside storage areas, satellite dishes larger than 18 inches in diameter, antennas, mechanical equipment, and the rear of structures on reverse frontage lots, must be screened from view from the street or public right-of-ways.
 - (2) Approved screening techniques include privacy fences, evergreen vegetative screens, landscape berms, existing vegetation or any combination thereof.
 - (3) Privacy fences.
 - a. All fences required by this subsection and along a common property boundary shall be six feet in height.
 - b. Fences over six feet in height shall be allowed for impeding access to hazardous facilities, including, but not limited to, electrical substations, swimming pools and chemical or equipment storage yards, where the slope of a line drawn perpendicular to the fence line averages 20 percent or more on either side of the fence over a distance no less than 15 feet, or where the fence forms a continuous perimeter around a subdivision and the design of said perimeter fence is approved by the commission.
 - c. Fences less than or equal to three feet in height shall be allowed in front yards.

- d. No fence or other structure more than 30 percent solid or more than three feet high shall be located within 25 feet of the intersection of any rights-of-way.
 - e. All fences shall be constructed to maintain structural integrity against natural forces such as wind, rain and temperature variations. The fence shall be constructed of stone, masonry or wood products or an approved alternate material (such as composite decking material). Fence materials shall be approved by the planning and development services staff.
 - f. The finished side of all fences built to comply with these regulations shall face away from the screened object.
- 4) *Evergreen vegetative screens.* Evergreen plant materials shall be shrubs, at least 30 inches in height and at a minimum spacing of 48 inches at the time of installation. Shrubs may be used in combination with landscape trees to fulfill the requirements of this section.
 - 5) *Landscape berms.* Landscape berms may be used in combination with shrubs and trees to fulfill the screening requirements of this section if the berm is at least three feet in height and has a maximum side slope of four feet of horizontal run for every one foot in vertical rise.
 - 6) *Native vegetation.* Existing vegetation, demonstrating significant visual screening capabilities and as approved by the commission may fulfill the requirements of this section. The landscape requirements must be met prior to new development receiving a certificate of occupancy.