

City Draft “City Council - Workshop”

**PLANNED DEVELOPMENT DISTRICT No. 15
New Growth – Roger Hanks Parkway**

Planned Development District Ordinance

Approved by the Planning & Zoning Commission on:

_____, 2022.

Approved by the City Council on:

_____, 2022

THIS PLANNED DEVELOPMENT DISTRICT ORDINANCE (“Ordinance”) is enacted pursuant to City of Dripping Springs Code of Ordinances, Article 30.3.

WHEREAS, the Owner is the owner of certain real property consisting of substantially all of the lots in Roger Hanks Park, a subdivision in Hays County, Texas located within the City Limits of the City of Dripping Springs (“City”), in Hays County, Texas, and as more particularly identified and described in *Exhibit “A”* (the “Property”) to *Attachment “A”*; and

WHEREAS, the Property is currently platted and it will be re-platted and developed by Owner, its affiliates or their successors and assigns, for construction and use in general accordance with the PD Master Plan shown as *Exhibit “B”* to *Attachment “A”*; and

WHEREAS, the Owner, its affiliates or their successors and assigns intends to develop a master-planned residential rental community that will include a mix of land uses, together with parkland and roadway connections described herein;

WHEREAS, the Property was zoned C-4 in 2004, which zoning classification was renamed to CS in 2006. Owner has submitted an application to the City to create a Planned Development District (“PDD”) covering the Property, designating it “PDD – 15; and

WHEREAS, after public notice, the Planning and Zoning Commission conducted a public hearing and recommended approval on _____, 2022; and

WHEREAS, pursuant to the City’s Planned Development Districts Ordinance, Article 30.03 of the City’s Code of Ordinances (the “PD Ordinance”), the Owner has submitted a PD Master Plan that conceptually describes the Project, which is attached to this Ordinance as *Exhibit “B”* to *Attachment “A”*; and

WHEREAS, this Ordinance, PD Master Plan, and the Code of Ordinances shall be read in harmony, will be applicable to the Property, and will guide development of the Property; and

WHEREAS, the City Council has reviewed this proposed Ordinance, the PD Master Plan, for Roger Hanks Park and has determined that it promotes the health, safety, and general welfare of the citizens of Dripping Springs; complies with the intent of the City of Dripping Springs Comprehensive Plan; and is necessary in light of changes in the neighborhood; and

WHEREAS, the City Council finds that this proposed Ordinance ensures the compatibility of land uses, and to allow for the adjustment of changing demands to meet the current needs of the community by meeting one or more of the following purposes under Code § 30.03.004: provides for a superior design of lots or buildings; provides for increased recreation and/or open space opportunities for public use; provides

amenities or features that would be of special benefit to the property users or community; protects or preserves natural amenities and environmental assets such as trees, creeks, ponds, floodplains, slopes, hills, views, and wildlife habitats; provides an appropriate balance between the intensity of development and the ability to provide adequate supporting public facilities and services; and meets or exceeds the present standards of this article;

WHEREAS, the City Council is authorized to adopt this Ordinance in accordance with Texas Local Government Code Chapters 51 and 211; and

WHEREAS, the Ordinance has been subject to public notices and public hearings and has been reviewed and approved by the City's Planning and Zoning Commission.

NOW, THEREFORE, BE IT ORDAINED by the City Council of Dripping Springs:

1. FINDINGS OF FACT

The City Council finds that the facts and matters in the foregoing recitals are true and correct; and, are hereby incorporated into this Ordinance by reference as findings of fact as if expressly set forth herein.

2. ENACTMENT

- A. Zoning District Created.** PDD – is hereby established consistent with *Attachment "A,"* which is attached hereto and incorporated into this Ordinance for all intents and purposes. Code of Ordinances Chapter 30, Exhibit A [Zoning Ordinance], § 3.1 [Zoning Districts] is hereby amended to add the zoning district identified as PDD – 15.
- B. Zoning Map Amended.** The official zoning map of the City is hereby amended to demarcate the boundaries of PDD – 15 consistently with the boundaries of the Property delineated in the Property Legal Description, *Exhibit "A"* to *Attachment "A"*.
- C. PD Master Plan Approved.** The PD Master Plan attached as *Exhibit "B"* to *Attachment "A"* is hereby approved. The PD Master Plan, together with *Attachment "A"*, constitutes the zoning regulations for the Project. All construction, land use and development of the Property must substantially conform to the terms and conditions set forth in the PD Master Plan, this Ordinance, *Attachment "A"* and the exhibits. The PD Master Plan is intended to serve as a guide to illustrate the general vision and design concepts. The PD Master Plan is to serve as the conceptual basis for the site plan(s) subsequently submitted to the City seeking site development permit approval. If this Ordinance and the PD Master Plan conflict, this Ordinance controls. This approval shall not be interpreted as approval of a variance, utility sources, or other site plan or plat requirements without specific reference in the ordinance or variance chart, or in future approvals.

- D. Administrative Approval of Minor Modifications.** In order to provide flexibility with respect to certain details of the development of the Project, the City Administrator is authorized to approve minor modifications. Minor modifications do not require consent or action of the Planning & Zoning Commission or City Council. Examples of minor modifications include the slight adjustments to the internal street and drive alignments in accordance in Section 2.5.2 Roadway Alignments; orientation of buildings within the residential sections of the development; and adjustments that do not result in overall increases to traffic, density, or impervious cover or a decrease in parkland, trails, or open space in excess of two acres, and that otherwise comply with the Applicable Rules. The City Administrator may approve minor modifications in writing following consultation with the Development Review Committee. City Administrator may refer a dispute concerning a Minor Change to the Planning and Zoning Commission for recommendation and the City Council for final approval including the question of whether a change is a minor modification.
- E. Code of Ordinances.** The Code of Ordinances shall be applicable to the Project, except as specifically provided for by this Ordinance, *Attachment “A”*, or the PD Master Plan.
- F. Resolution of Conflicts.** The documents governing the PDD should be read in harmony to the extent possible. If a conflict arises between the charts included in the exhibits and the illustrations contained in the exhibits, the charts shall control. If a conflict arises between the terms of this Ordinance and the exhibits, the terms of this Ordinance shall control.
- G. Attachments and Exhibits Listed.** The following attachment and exhibits thereto are incorporated into this Ordinance in their entirety, as though set forth fully in the text of this Ordinance:

Attachment “A” – Planned Development District No. 15 and Zoning Map

Exhibit A	Property Legal Description
Exhibit B	PD Master Plan
Exhibit C	Parks, Trails and Open Space Plan
Exhibit D	PD Code Modifications Chart
Exhibit E	PD Street Standards
Exhibit F	Water Quality Buffer Zones
Exhibit G	PD Uses Chart
Exhibit H	Transportation Plan
Exhibit I	CSP Grading

3. REPEALER

All ordinances, or parts thereof, that are in conflict or inconsistent with any provision of this Ordinance are hereby repealed to the extent of such conflict, and the provisions of this Ordinance shall be and remain controlling as to the matters regulated herein.

4. SEVERABILITY

Should any of the clauses, sentences, paragraphs, sections, or parts of this Ordinance be deemed invalid, unconstitutional, or unenforceable by a court of law or administrative agency with jurisdiction over the matter, such action shall not be construed to affect any other valid portion of this Ordinance.

5. PENALTY

Any person, firm, association or persons, company, corporations or their agents or employees violating or failing to comply with any of the provisions of this Ordinance may be subject to a fine pursuant to Section 54.001 of the Texas Local Government Code, upon conviction of not more than Two Thousand Dollars (\$2,000.00). The foregoing fine may be cumulative of other remedies provided by State law, and the power on injunction as provided by Texas Local Government Code 54.012 and as may be amended, may be exercised in enforcing this Ordinance whether or not there has been a complaint filed.

6. CODIFICATION

The City Secretary is hereby directed to record and publish the attached rules, regulations and policies in the City's Code of Ordinances as authorized by Section 52.001 of the Texas Local Government Code.

7. PROPER NOTICE & MEETING

It is hereby officially found and determined that the meeting at which this Ordinance was passed was open to the public, and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act, Texas Government Code, Chapter 551. Notice was also provided as required by Chapters 52 and 211 of the Texas Local Government Code.

8. EFFECTIVE DATE

This Ordinance shall be effective immediately upon approval by the City Council and publication as required by law.

PASSED & APPROVED this, the _____ day of _____, 2022 by a vote of ____ (ayes) to (nays) to ____ (abstentions) of the City Council of Dripping Springs.

CITY OF DRIPPING SPRINGS:

by: _____
Bill Foulds, Mayor

ATTEST:

Andrea Cunningham, City Secretary

City of Dripping Springs

CODE OF ORDINANCES

ARTICLE 30.03: PLANNED DEVELOPMENT DISTRICTS

PLANNED DEVELOPMENT DISTRICT NO. 15:

ARTICLE I. GENERAL PROVISIONS

- 1.1. Popular Name.** This Chapter shall be commonly cited as the "PDD –15 Ordinance", also referred to as "this Ordinance" herein.
- 1.2. Scope.** This Ordinance applies to the Property.
- 1.3. PD Master Plan.** The PD Master Plan has been approved by the City and shall guide permitting, development, and use of the Property, as more particularly described in Exhibit "A".
- 1.4. Definitions.** Words and terms used herein shall have their usual meaning except as they may be specifically defined herein, or, if capitalized and not defined herein, as defined in the Code (hereinafter defined):

City: The City of Dripping Springs, an incorporated Type A, general-law municipality located in Hays County, Texas.

City Administrator or Administrator: The chief administrative officer of the City of Dripping Springs, Texas. The term also includes the Deputy City Administrator and City Administrator's designee.

City Architect: The licensed professional Architect, or firm of licensed professional consulting Architects, that have been specifically employed by the City to assist in architectural and exterior design-related matters. This term shall also apply if the City retains a person to perform the functions of City Architect as an official City employee.

City Council: The governing body of the City of Dripping Springs, Texas.

City Engineer: The person or firm designated by the City Council as the engineer for the City of Dripping Springs, Texas.

Code, City's Code of Ordinances or City of Dripping Springs Code of Ordinances: The entirety of the City's ordinances, regulations and official policies in effect at the time of the Effective Date except as modified by the Project Approvals and variances granted under this Ordinance. This term does not include Building Codes, Sign Ordinance, the

Water Quality Protection Ordinance, Lighting Ordinance, Base Zoning District and Zoning Regulations, Subdivision Ordinance, Site Development Ordinance, or regulations mandated by state law, or that are necessary to prevent imminent harm to human safety or property, which may be modified and made applicable to the Project even after the Effective Date.

Commercial Area: The area of approximately 5.80 acres adjacent to U.S. Highway 290 marked as Commercial/Retail Parcel in **Exhibit “B”**.

Exterior Design and Architectural Standards Ordinance: Article 24.03, Exterior Design and Architectural Standards, of Chapter 24, Subdivisions and Site Development of the City of Dripping Springs Code of Ordinances.

Dripping Springs Technical Criteria: The criteria adopted in Article 28.07 of the City of Dripping Springs Code of Ordinances that includes technical criteria standard specifications and adopted in Ordinance 2019-39 and as modified.

Dwellings and Dwelling Site: The Project will be composed of up to 240 single family rental Dwellings. Some Dwellings will be detached, some will be attached. Each Dwelling Site shall be composed of either (i) a single Dwelling in the case of a detached Dwelling or (ii) multiple Dwellings in the case of attached Dwellings. A Dwelling Site shall have no more than 6 attached Dwellings.

Effective Date: The Effective Date of this Ordinance shall be the date of approval by the City Council and publication as required by law.

Impervious Cover: Buildings, parking areas, roads, and other impermeable man-made improvements covering the natural land surface that prevent infiltration as determined by City Engineer. For purposes of compliance with this document, the term expressly excludes storage tanks for rainwater collection systems.

Impervious Cover Percentage: The percentage calculated by dividing the total acres of impervious cover on the Property by the total number of acres included in the Property.

Landscaping Ordinance: Landscaping and Tree Preservation ordinance provisions in the Subdivisions and Site Development Codes of the City of Dripping Springs Code of Ordinances at the time of the Effective Date.

Outdoor Lighting Ordinance: Article 24.06, Outdoor Lighting, of Chapter 24 of the City of Dripping Springs Code of Ordinances at the time of applicable permit application submitted.

Owner: **DS Propco Owner LP, a Delaware Limited Partnership**, and its successors and assigns as subsequent owners of any portion of the Property.

Parks, Trails and Open Space Plan: As incorporated herein as **Exhibit C**.

Project: A land use and development endeavor proposed to be performed on the Property, as provided by this Ordinance and generally depicted on the PD Master Plan on ***Exhibit B***.

Project Approvals: The approvals, waivers, and exceptions to the Applicable Rules approved by the City with respect to the development of the Property, as set forth on ***Exhibit D***".

Property: The land as more particularly described in ***Exhibit "A"***.

Residential Area: The area of approximately 25.38 acres marked as Residential Area in ***Exhibit "B"***.

TCEQ: The Texas Commission on Environmental Quality, or its successor agency.

TIA: Traffic Impact Analysis, as specified in Chapter 28, Article 28.02: Exhibit A-Subdivision Ordinance, Section 11.11 of the Dripping Springs Code of Ordinances.

TxDOT: The Texas Department of Transportation or its successor agency.

Water Quality Protection Ordinance: Article 22.05 of Chapter 22, General Regulations of the Code.

ARTICLE II. DEVELOPMENT STANDARDS

2.1. General Regulations. Except as otherwise provided in this Ordinance and the PD Master Plan, the Property shall be governed by the site regulations and development standards contained in the Code of Ordinances.

2.2. Permitted Uses.

2.2.1 Base Zoning: The base zoning district for the Property shall be CS that was in effect in 2006, which shall be the basis for all zoning specifications not addressed in this Ordinance or the PD Master Plan. The base zoning district uses have been modified by this PDD.

2.2.2 Allowed Uses: Those uses listed in the PD Uses Chart attached as ***Exhibit G*** are hereby permitted by right within the Project.

2.3. Design Specifications:

2.3.1 Minimum Lot Area: 1,815 square feet per dwelling unit, not to exceed 24 dwelling units per acre, calculated on gross residential acreage/Commercial portion shall comply with CS zoning.

2.3.2 Building Height. Buildings shall not exceed 2 ½ stories or 40 feet, whichever is less, measured from the average elevation of the existing grade of the building to the highest point of a flat or multi-level or as defined in Section 28.05.004 of the 2017 City of

Dripping Springs Code of Ordinances.

2.3.3 Minimum Dwelling Site Width:

- a. Detached Dwelling Site:** 20 feet measured across the front building facade.
- b. Attached Dwelling Site:** 20 feet measured across the front building façade and multiplied by the number of dwellings within the attached Dwelling Site.

2.3.4 Residential Setbacks. Building setbacks shall be as follows:

- a. Minimum Front Yard:** Building setbacks shall be fifteen (15) feet from the street right of way.
- b. Minimum Side Yard:** Building setbacks shall be fifteen (15) feet from perimeter lot lines.
- c. Minimum Rear Yard:** Building setbacks shall be ten (10) feet from perimeter lot lines.
- d. Maximum Height of Fence within front Street Yard:** Four (4) feet along Roger Hanks Parkway, Lake Lucy Loop, and Hamilton Crossing consisting of decorative metal or comparable material with transparency.
- f. Maximum Height of Fence Outside Street Yard:** Six (6) feet; provided, however, Dwelling Sites that are contiguous to the boundaries of the Property may have an six (6) foot maximum height of fence outside street yard. In addition, fences are permitted within side and rear yards.

2.3.5 Building Separation. Minimum building separations front to rear and rear to rear shall be fifteen (15) feet within which residential patios, flatwork, and fences may be placed. Minimum building separations side to side shall be ten (10) feet within which residential patios, flatwork, and fences may be placed. Roof eaves may extend into minimum building separations two (2) feet.

2.3.6 Cut & Fill. Cut and fill in excess of six (6) feet and up to twelve (12) shall be permitted in general conformance with the conceptual grading plan attached as Exhibit I. Cut and fill for building foundations and SWM / WQ ponds may exceed twelve (12) where required. To be allowable, the City Engineer must first review and approve the structural stability, the aesthetics, and the erosion prevention techniques to be utilized for all cuts and fills exceeding six feet (6') of depth.

2.3.7 Parking.

- a. **Residential Parking.** Development of the Property shall include parking at a minimum of –

One bedroom - one and a half (1.5) spaces.

Two bedrooms - two (2) spaces.

Two + bedrooms - two and a half (2.5) spaces.

Plus an added five percent (5%) of the total number of required spaces for the development.

A minimum of 50% of residential units shall include an attached garage stall. Tandem spaces shall count toward required parking.

- b. **Commercial.** If it is determined by City staff that the development of the private amenity center requires parking to be provided, the quantity of spaces shall be determined under section 5.6.2 (12) Commercial amusement (outdoor) of the City's Zoning Ordinance. On-street parallel parking spaces shall be permitted to count toward the determined required parking spaces to service the amenity center.

2.3.8 Exterior Design & Architectural Standards: Design of all buildings shall follow the design review and approval process as outlined in the City Exterior Design and Architectural Standards Ordinance Sec. 24.03 of the City Code of Ordinances. Residential buildings and elevations internal to the development are not subject to Division 2 Standards from Sec. 24.03, except as specifically provided in the subsections below. Design review and approval process shall be as defined in Sec. 24.03.012.

- a. **Design of Residences:** The following requirements shall apply to Primary Elevations. These elevations are those facing public streets. For this development, facades facing Roger Hanks Parkway, Lake Lucy Loop, and Hamilton Crossing are considered Primary Elevations.

- i. **Building forms and materials.** Primary building forms and massing shall be consistent with the Hill Country Farmhouse Style with clean simple forms. Primary Elevations shall consist of 50% stone masonry and glazing with the remainder to be cementitious siding, wood or stucco. The 50% stone masonry and glass requirement shall be calculated across the length of a block or building. All other facades not determined to be Primary Elevations shall consist of stone, stucco, wood or cementitious siding.
- ii. **Articulation.** All Primary Elevations that exceed 55' in length shall contain wall plane articulation with a minimum offset of 18".
- iii. **Roof forms.** All primary roofs shall be sloped with a pitch of no less than 4:12. The sloped roof shall cover the entirety of the building footprint. Roof

designs shall be a mixture of simple gable and shed forms, with shed roofs primarily covering porch spaces.

iv. **Colors.** Building color schemes shall be predominately of neutral hues and subdued tones, consistent with the Hill Country Farmhouse Style. Elevations may contain an off-white color.

v. **Porches.** Porch elements shall be provided on every dwelling's Primary Elevation. These elements shall be a minimum of 72 square feet and shall include a minimum usable depth of 6'. To accommodate residential porches, eaves and roof extensions or a porch with associated posts or columns may project into the required front yard setback or public utility easement for a distance not to exceed four feet.

b. **Commercial, Leasing & Amenity Center Buildings:** Design of all buildings for commercial uses, including the Leasing and Amenity Center Buildings, shall meet the requirements of the City Exterior Design and Architectural Standards Ordinance Sec. 24.03 of the City Code of Ordinances.

i. Alternative Design Standards for any building type may be developed in order to create unique or enhanced design standards with equivalent or increased aesthetic effect. The considerations and findings for approval and the approval and appeal process for an Alternative Design Standard shall be as provided in Sec. 24.03.007. Such Alternative Design Standards shall incorporate the building material preferences and incentives as defined in Sec. 24.03.053(c)

ii. Additional requirements for Leasing Building facing Lake Lucy Loop. In addition to the items noted above, the Leasing Building Primary Elevation facing Lake Lucy Loop shall consist of 80% stone masonry and glazing with the remainder accent materials to be cementitious siding, wood or stucco.

2.3.9 Density of Development: With respect to the density of the Project, Owner will have the right to develop the Land at a density not to exceed 240 Dwellings.

2.3.10 Parkland: The Project will include approximately 10.43 acres that will be dedicated for Public and Private Parkland, the area being shown more fully on *Exhibit "C"* attached hereto and incorporated herein for all purposes (the "Parkland"). Owner has prepared a Parks, Trails and Open Space Plan which has been approved by City.

2.3.11 Landscape and Site Design.

a. **Pedestrian Amenities.** Pedestrian amenities will be incorporated into the community to serve residents on-site. Amenities will include a central linear park for passive recreation connected to club amenity, barbecue grills, pocket parks, walking paths, bike racks, trash receptables, benches and seating.

- b. **Signage.** Any architectural signage elements or treatments, whether integral to the building or freestanding, shall be designed to be consistent with the building architecture and the Hill Country environment, and shall be communicative, appropriately scaled, and not garish. All signage shall comply with the City Code of Ordinances unless otherwise approved through variance approvals or a Master Sign Plan.
- c. **Parking Lot & Street Trees.** The number of required residential street trees shall be one (1) 2 and ½ inch caliper size tree per dwelling unit. Parking lot trees may count toward the number of required trees per residential unit on-site.
- d. **Landscape Buffer.** The project's landscape buffer shall be located on both sides of Roger Hanks Parkway only. The landscape buffer width shall be twenty-five (25) feet and measured from the edge of pavement. All other landscape buffers shall be constructed and maintained as provided by city code.
- e. **Building Equipment.** Ground floor HVAC equipment shall be reasonably screened from public ROW using privacy fences or vegetative living screens as effective methods.

2.3.12 Impervious Cover.

- a. **Residential Area.** The Residential Area shall have an impervious cover that does not exceed sixty percent (60%) over the entire Residential Area. An impervious cover and LUE tracking chart shall be submitted as an exhibit with each plat filed indicating the amount of impervious cover proposed for the Residential Area, the amount associated with prior platted areas, and the amount associated with the area subject to such plat.
- b. **Commercial Area.** The Commercial Area shall have an impervious cover that does not exceed seventy percent (70%) over the Commercial Area. An impervious cover and LUE tracking chart shall be submitted as an exhibit with each plat filed indicating the amount of impervious cover proposed for the Residential Area, the amount associated with prior platted areas, and the amount associated with the area subject to such plat.

2.4 Parks, Trails and Open Space. Parkland and open space and associated improvements shall be in accordance the standards shown on ***Exhibit "C"*** attached hereto. A Master Parks and Trails Plan shall be submitted to the City for approval prior to approval of the re-plat for the Project. The Master Parks and Trails Plan shall address all issues regarding public dedication, public access, and maintenance.

2.5 Access.

2.5.1 Traffic Impact Analysis. Owner has provided to the City, and the City has approved a Traffic Impact Analysis.

2.5.2 Roadway Alignments: The roadway alignments shown on the PD Master Plan are approved by the City. All roadways and driveways not shown on the PD Master Plan shall be subject to the approval of the City Administrator, which approval shall not be unreasonably withheld.

2.5.3 Street Standards: The standards for the various street widths and related landscaping and walkways are depicted on **Exhibit E**.

2.6 Utilities. All proposed utilities within the Property will be located underground (other than above-ground appurtenances to such underground utilities) . All other issues related to utilities shall be finalized by separate agreement.

2.7 Lighting and Signage. All illumination for street lighting, signage, security, exterior, landscaping, and decorative facilities for the Project shall comply with Article 24.06 of the City's Code of Ordinances ("Outdoor Lighting Ordinance"), as may be amended, from time to time. To the extent any portion of this Ordinance conflicts or is inconsistent with the Outdoor Lighting Ordinance, the Outdoor Lighting Ordinance shall control without variance approval. Owner, homeowners, end users and/or a Property Owner Association will be required to operate and maintain the lighting within the Project according to the Applicable Rules. A Master Sign Plan or variance application shall be submitted for City approval prior to the placement of any signs that are not in compliance with either (i) the City's Sign Ordinance or (ii) the variances described in the PD Modifications Chart attached hereto as **Exhibit D**.

2.8 Tree Preservation: Landscaping Ordinance: Article 28.06, Landscaping and Tree Preservation, of Chapter 28, Subdivisions and Site Development of the City of Dripping Springs City Code shall apply to the project except as modified by this Agreement. Full tree survey to be submitted with each plat application.

2.8.1 Tree Replacement Plan: The Tree Replacement Plan shall be in accordance to the City of Dripping Springs Code of Ordinances – Chapter 28, Article 28.06 Landscaping and Tree Preservation.

2.9 Water Quality: Owner agrees to implement and comply with the City's Water Quality Protection Ordinance in place on the Effective Date except as modified by this Agreement in Exhibit D and elsewhere.

2.10 Tree Planting

- (a) Landscaping for the Project should be installed at an appropriate time of year, to maximize the survivability of the material being planted. If the infrastructure construction activities are completed, save for the installation of trees, shrubs, ornamental ground covers, perennials, and annuals, from March 1 thru September 1, the City Administrator, or designee, at the option of Owner, may accept a fiscal deposit of the amount equal to the cost of purchasing and installing these materials in lieu of the installation of trees and other landscaping required for the issuance of a certificate of occupancy or certificate of completion, as appropriate; or, the City Administrator may accept an escrow equal to the cost of purchasing and installing

the trees and other required landscaping. The City shall only accept the fiscal deposit or escrow if an erosion control plan consistent with section 28.04.016 of the Code has been reviewed and accepted by the City Administrator. Failure to maintain and adhere to an approved erosion control plan during the period March 1 – Sept. 1 shall be deemed a violation and the fines and penalties under section 28.06.009 of the Code shall apply.

- (b) Upon the request that the City accept a fiscal deposit in lieu shall provide the City Administrator with written documentation from an entity that sells trees and landscaping the cost of purchasing and installing the trees and other landscaping required by the Code.
- (c) If no cost for the installation of trees and landscaping required by the Code is provided to the City, the City shall require a fiscal deposit equal to 66% of the cost of the trees and landscaping to be delivered to the City as the installation cost in addition to the cost to purchase the trees and landscaping.
- (d) Any fiscal deposits for trees and landscaping paid to the City pursuant to this section shall be held in escrow. The escrow may be drawn upon by the City to implement tree and landscaping requirements for the depositing property owner, or the funds shall be released by the City to the depositing property owner or his/her/its designee to implement tree and landscaping requirements within 30 days of drawing upon the escrow. Failure to implement the tree and landscaping requirements within 30 days of release of the fiscal deposit to the depositing property owner shall be deemed a violation and the fines and penalties under section 28.06.009 of the Code shall apply.
- (e) Whenever necessary to enforce any provision of this section or implement tree and landscaping requirements on the depositing property owner's property, City staff, or the City's contractor, may enter upon depositing property owner's property at any reasonable time to inspect or perform any duty imposed by this section until such time the complete landscape package has been installed and accepted by the City. If entry is refused, the City shall have recourse to every remedy provided by law and equity to gain entry.
- (f) The City is the custodian of any cash funds or bonds on deposit in the property owner's escrow account. The City has a fiduciary duty to the depositing property owner and may dispose of the escrowed funds only in accordance with this section.