

Footnotes:

--- (1) ---

State Law reference— *Municipal regulation of housing and other structures, V.T.C.A., Local Government Code § 214.001 et seq. .; substandard buildings, V.T.C.A., Local Government Code § 214.001 et seq.; energy conservation, V.T.C.A., Local Government Code § 214.901; designation of fire limits, removal or destruction of structures, V.T.C.A., Local Government Code § 342.012.*

ARTICLE I. - IN GENERAL

Sec. 12-1. - Plan review.

At the sole discretion of the building official, the building official may require building plans to be reviewed at the cost of the owner. If required, the following provisions apply:

- (1) Plan review fees are required to be paid in full after commencement of any plan review.
- (2) Plan review fees are as scheduled in Appendix A - Fees, Rates, and Charges.
- (3) Plan review fees for all fire protective systems are as scheduled in Appendix A - Fees, Rates, and Charges.

(Ord. No. G-1-16, § 1, 4-11-2016; Ord. No. G-9-19, § 1, 8-12-2019; Ord. No. G-1-22, 3-14-2022)

Secs. 12-2—12-18. - Reserved.

ARTICLE II. - BUILDING TRADE CODES

Sec. 12-19. - Purpose.

The purpose of this article is the practical safeguarding of persons and property. The requirements of this article and of the codes adopted in this article are to be considered the minimum requirements for all types of construction and maintenance in the city and outside the city where property is or may be connected to the city water and sewer system. The chief building official is assigned the responsibility for the licensing, permitting, interpretation and enforcement required by the codes.

(Ord. No. G-7-06, § 1, 9-11-2006)

Sec. 12-20. - Building trade codes—Adopted.

In order to establish uniform rules, regulations and provisions for the placement, construction, enlargement, alteration, repair, moving, removal, conversion, demolition, occupancy, equipment, use, height, area and maintenance of buildings, signs and structures, there is hereby adopted by the city the following building trade codes:

- (1) 2021 International Building Code, as amended with appendixes.
- (2) 2021 International Residential Code, as amended with appendixes.
- (3) 2021 International Mechanical Code, as amended with appendixes.
- (4) 2021 International Plumbing Code, as amended with appendixes.
- (5) 2021 International Fuel Gas Code, as amended with appendixes.
- (6) 2021 International Energy Conservation Code, as amended with appendixes.
- (7) 2021 International Fire Code, as amended with appendixes.
- (8) 2021 International Code Council Performance Code, as amended with appendixes.
- (9) 2021 International Property Maintenance Code, as amended with appendixes.
- (10) 2020 National Electrical Code, as amended.

(Ord. No. G-7-06, § 2, 9-11-2006; Ord. No. G-4-13, § 1, 9-9-2013; Ord. No. G-2-16, § 1, 4-11-2016; Ord. No. G-8-16, § 1, 9-12-2016; Ord. No. G-2-21, § 1, 4-12-2021; Ord. No. G-6-23, § 1(Exh. A), 8-14-2023)

Sec. 12-21. - Same—Additions, deletions and changes.

The following additions, deletions, and changes are adopted to the codes listed in section 12-20:

- (1) Appendix B, Section B101.3 to the International Building Code is deleted in its entirety and the following is substituted:
"The Board shall consist of five members possessing the qualifications approved by the City Council."

Appendix P. Add new appendix to the International Building Code.

"Appendix P—Moving buildings."

General. A building or part of any building shall not be moved through or across any sidewalk, street, alley or highway within the governmental limits without first obtaining a permit from the building official.

Written application. Any person desiring to move a building shall first file with the building official a written application setting forth the following information:

Type and kind of building to be moved;

The original cost of such building;

The extreme dimensions of the length, height and width of the building;

Its present location and proposed new location by lot, block, subdivision and street address; and

The approximate time such building will be upon the streets, and contemplated route that will be taken from present to new location.

Permit refusal. If in the opinion of the building official, the moving of any building will cause serious injury to persons or property or serious injury to the streets or other public improvements, or the building to be moved has deteriorated more than 50 percent of its current value by fire or other element, or the moving of the building will violate any of the requirements of this code, the zoning regulations or deed restrictions, the permit shall not be issued and the building shall not be moved over the streets. Any building being moved for which a permit was granted shall not be allowed to remain in or on the streets for more than 48 hours.

Bond required. The building official, as a condition precedent to the issuance of such permit, shall require a bond to be executed by the person desiring such removal permit, with corporate surety licensed to do business in the state. Such bond shall be made payable to the city and for such amount as is set by the building official. It shall indemnify the city against any damage caused by the moving of such building to streets, curbs, sidewalks, shade trees, highways and any other property that may be affected by the moving of a building. Such bond shall also be conditioned upon the liable of strict compliance with the terms of said permit, as to route to be taken and limit of time in which to effect such removal and to repair or compensate for the repair and to pay the City of Port Lavaca as liquidated damages an amount as established in appendix A to this Code for each and every day's delay in completing such removal or in repairing any damages to property or public improvement or in clearing all public streets, alleys or highways of all debris occasioned thereby.

Notice of permit. Upon the issuance of said moving permit, the holder of such permit shall cause notice to be given to the chief of the fire department, chief of the police department, superintendent of streets, director of emergency medical service and utility companies that will be affected by the move.

Public safety requirements. Every building which occupies any portion of public property after sundown shall have sufficient lights continuously burning between sunset and sunrise for the protection of the public.

There shall be sufficient numbers of light placed on each street side of the building to indicate extreme width, height, and length. Lights shall be standard barricade type lights.

In addition to the lights on the building, barricade lights shall be placed in accordance with the state traffic manual.

Improvement by owner. The owner of any house, building, or other structure proposed to be moved shall make all necessary improvements required in order for the house, building, or structure to comply with the requirements of this Code within 90 days from the date of the issuance of the moving permit. Extensions of such time, as deemed reasonable, may be granted by the building official upon a showing of delay caused by matters beyond the control of the owner or house mover. The application for the moving permit shall be accompanied by an application for a building permit and a complete plan and specifications showing the changes or conditions of the house, building or structure as the same is proposed to be when moving, and all contemplated improvements, signed by the owner or the owner's agent.

- (2) Section 111 (Means of Appeal) of the International Property Maintenance Code is deleted.
- (3) Appendix B, as amended, of the International Building Code is inserted in its place.
- (4) Section R112 (Board of Appeals) of the International Residential Code is deleted.
- (5) Appendix B, as amended, of the International Building Code is inserted in its place.
- (6) Section 109 (Means of Appeal) of the International Plumbing Code is deleted.
- (7) Appendix B, as amended, of the International Building Code is inserted in its place.
- (8) The following is added to the International Plumbing Code as appendix H:

Appendix H-Plumbing reroute.

Definitions. The term "rerouting of plumbing" means the repair or replacement of piping under the floor of buildings or structures.

Permit required.

Materials and installation shall be approved by the plumbing inspector.

Access to work area:

A horizontal crawlspace shall be provided under the foundation or floor to allow access for working and inspections.

Crawlspace shall have a minimum vertical clearance of three feet under all obstructions and a clear width of three feet.

Crawlspace shall extend outside of the foundation horizontally at full depth and width for a distance of four feet.

The surface and walls of the crawlspace shall be dry, graded and free of clods, metal or other objects.

Lighting equipment shall be designed and approved for damp locations.

Inspections.

Crawlspace and access surface shall be dry and lined with plastic.

Plumber shall be available to accompany inspector in the crawlspace during inspection.

At least one additional person shall be stationed at the entrance to the crawl space during the inspection to maintain communications with the plumbing inspector.

When required by the plumbing inspector the crawlspace shall be ventilated to his approval.

Crawlspace must meet the specifications listed in subsection 10e. of this section before plumbing inspection will be made.

- (9) Section 109 (IFGC) (Means of Appeal) of the International Fuel Gas Code is deleted.
- (10) Appendix B, as amended, of the International Building Code is inserted in its place.
- (11) Section 109 (Means of Appeal) of the International Mechanical Code is deleted.
- (12) Appendix B, as amended, of the International Building Code is inserted in its place.
- (13) Section 109 (Board of Appeals) of the International Energy Conservation Code is deleted.
- (14) Appendix B, as amended, of the International Building Code is inserted in its place.
- (15) Chapter 11 (Means of Appeal) of the International Electrical Code Administrative Provisions is deleted.
- (16) Appendix B, as amended, of the International Building Code is inserted in its place.
- (17) Chapter 502 of the 2021 International Building Code is amended to read as follows:

502.1. Address identification. New and existing buildings shall be provided with approved address identification. The address identification shall be legible and placed in a position that is visible from the street or road fronting the property. Address identification characters shall contrast with their background. Address numbers shall be Arabic numbers or alphabetical letters. Numbers shall not be spelled out. For multi-family buildings, each character shall be a minimum of 12-24 inches (102 mm) high with a minimum stroke width of $\frac{1}{2}$ inch (12.7 mm). Each multi-family unit and other nonresidential buildings shall have each character a minimum of 6 inches (102 mm) high with a minimum stroke width of $\frac{1}{2}$ inch (12.7 mm). Where required by the fire code official, address identification shall be provided in additional approved

locations to facilitate emergency response. Where access is by means of a private road and the building address cannot be viewed from the public way, a monument, pole or other approved sign or means shall be used to identify the structure. Address identification shall be maintained.

(18) Section 505.1 of the International Fire Code is deleted.

(19) Section 502.1 of the International Building Code is inserted in its place.

(20) Chapter 16 of the 2021 International Building Code is amended to read as follows:

1609.3. Basic wind speed. The basic wind speed, in mph, for the determination of wind loads in building design shall be such wind speed as required by the Texas Windstorm Insurance Association, the Texas Department of Insurance or any of their successor agencies to comply with insurance requirements for windstorm insurance.

1609.4.3. Exposure categories. Exposure factor C shall be used in the calculation of all wind loads.

Section 1609.7 is hereby created to read as follows:

A contractor or property owner who constructs any structure within the city limits shall provide the following documentation, materials, and methods of construction for windstorm and hurricane protection.

1609.7.1. Permit requirements. The building inspector shall be provided design documentation from a state licensed professional engineer for construction, renovation, or modifications of all structures over 200 square feet, prior to release of permit. This requirement includes all accessory structures including carports, storage sheds, garages, gazebos, boat storage sheds and similar structures. The person, firm, or corporation responsible for permitting shall provide, prior to final inspection approval, a copy of a Texas Department of Insurance (TDI) report certifying compliance with the current building specifications of the Texas Windstorm Insurance Association (TWIA) Plan of Operation.

1609.7.2. Masonry wall ties. Masonry wall tie devices will be of galvanized or electroplated materials and installed on 16-inch centers, vertically and horizontally.

1609.7.3. Asphalt shingles. All asphalt shingles used in the city shall comply with ASTM D 3161 Class F, or ASTM D 6381/UL 2390 Class G or H, or ASTM D 7158 Class G or H. Conformance with more than one standard is not required.

1609.7.4. Securing outdoor mechanical equipment. All outdoor mechanical equipment and building components shall be anchored against overturning, uplift, and sliding in a design wind event.

1609.7.5. Signs. All signs of any type exceeding 32 square feet in surface area are to meet the permitting requirements of this chapter.

(21) The National Electrical Code, 2014 Edition is amended as follows:

Section 408.36, Exception 1 is deleted.

Section 250-62(b) is amended to read as follows:

Section 250-62 (b) Where exposed, a grounding electrode conductor or its enclosure shall be securely fastened to the surface on which it is carried. Grounding electrode conductors shall be permitted to be installed on or through framing members. A 4 AWG or larger copper or aluminum grounding electrode conductor shall be protected if exposed to physical damage. A 6 AWG grounding electrode conductor that is free from exposure to physical damage shall be permitted to be run along the surface of the building construction without metal covering or protection if it is securely fastened to the construction without metal covering or protections if it is securely fastened to the construction; otherwise, it shall be protected by rigid polyvinyl chloride (PVC) conduit. Where the grounding electrode conductor is exposed to severe physical damage, it shall be protected by rigid metal conduit (RGC) or intermediate metal conduit (IMC) only where the conduit is bonded to the ground rod by approved connectors in compliance with 250-64 (e) (1). Electrical metallic tubing (EMT) is not allowed for protection of grounding electrode conductors.

For the purpose of expediting the extinguishing of fires in all buildings, both public and private, the main service disconnect switch shall be placed adjacent to the power company meter on the exterior of all buildings, residential and commercial. The maximum distance between meter service and disconnection means shall be six feet.

No wire smaller than number 12 shall be used, other than motor control wiring. All metal and non-metallic conduits shall have an equipment grounding conductor sized in accordance with 250-122.

(22) Definitions:

Prefabricated living units (PLU) - Any residential structure up to 500 square feet built off site and transported to site for installation and not regulated by the state of Texas installed on a permanent foundation.

The owner of any PLU proposed to be installed within the city limits must have plans and specifications of the building and proposed improvements signed and sealed by a Texas licensed engineer showing the following prior to applying for a building permit: ;l3; 1.\Building to be on permanent foundation and design to comply with most current applicable building codes and all permit drawing requirements. ;l3; 2.\Compliance with all the requirements of City Ordinance Chapter 12.

Permanent foundation - A permanent foundation is a foundation system with the following characteristics:

- It has reinforced concrete components piers/slab/beam.
- The structure is attached to the foundation without the chassis.
- No ground anchors are used in install.

(23) Temporary housing permit. In addition to a construction building permit, a temporary housing permit may be authorized for the use, on premises, of a recreational vehicle or manufactured home as a residential unit, provided such use of temporary housing, in residential zoned districts, shall be limited to single family housing for the real property owners only, be located on the permitted property, or on property owned or leased by the permittee adjacent to the permitted property, and be valid for the term of the construction building permit period not to exceed six months, and may be renewed once for a second six-month period. Such temporary housing use shall completely cease upon completion of construction or on the expiration of the time limit stated in the permit, whichever occurs first.

(Ord. No. G-7-06, § 3, 9-11-2006; Ord. No. G-4-15, § 1, 4-13-2015; Ord. No. G-2-16, § 2, 4-11-2016; Ord. No. G-11-19, § 1, 8-12-2019; Ord. No. G-9-22, § 1, 12-12-2022; Ord. No. G-6-23, § 1(Exh. A), 8-14-2023; Ord. No. G-13-25, § 1 (Exh. A), 10-13-2025)

Sec. 12-22. - Licensing and registration of contractors.

(a) *Building contractors and builders.* It shall be the duty of every contractor or builder, who shall make contracts for the erection, repair or demolition of buildings or structures for which a permit is required within the city or outside of the city where the property and building or structure is or may be connected to the city water and sewer system and every contractor or builder making such contracts and subletting the same or any part thereof, to pay a license fee to the city according to the following:

- (1) A homeowner who constructs or repairs his own residence or other property owned and operated by such owner is exempt from the licensing provision of this article; however, any subcontractors must be licensed.
- (2) Each applicant for a contractor or builder license shall provide such identification and information as required by the building official to establish identities of owners, location and scope of business operations.
- (3) Upon the showing of incompetence or continued violations of this article the city council may revoke a license issued by the city.

(b) *Electricians.*

- (1) *Registration required.* It shall be unlawful for any person to perform electrical work within the city or outside the city where the property is or may be connected to the city water and sewer system without first registering with the city.
- (2) *Personal residence exemption.* A homeowner who performs electrical work within his personal residence is exempt from the licensing provision of this article; however, any subcontractor must be licensed.

- (3) *State and city license required.* It shall be unlawful for any person to engage in the business of installing, maintaining, altering or repairing any wiring, fixtures or equipment used for the conduct of electricity for which an electrical permit is required by the city, or for any person in any manner to undertake such work unless such person is the holder of the appropriate electrician license as required by the state and registered with the city.
- (4) *Current registration and place of business required.* Every electrical contractor must be currently registered with the city as a master electrician. Every master electrician must have and maintain an established place of business and shall have a listed telephone.
- (5) *Signs.* It shall be unlawful for any person to falsely represent himself as a licensed electrician of any class set forth in this article or to use the terms "electrical contractor," "master electrician," or words of similar meaning on signs, cards, stationary or by any other manner whatsoever, unless said person is properly licensed within the meaning of the terms used as provided in this article.
- (6) *Classification of electrical licenses.* There shall be seven classes of licenses that shall be known as follows:
- a. Master electrician;
 - b. Limited master electrician—Signs;
 - c. Limited master electrician—Elevator;
 - d. Limited electrician—Governmental;
 - e. Maintenance electrician;
 - f. Journeyman electrician; and
 - g. Apprentice electrician.
- (7) *Registration.* To register with the city present a current copy of his state electricians license, if the registrant is an electrical contractor said person must also show proof of insurance. All classifications of electricians must be registered with the city.
- (8) *Revocation.* Upon the showing of false information on the application, incompetence in performing electrical work or continued violation of this article, such license may be revoked by the city council.
- (9) *Licensed electrician to be on job site.* During the actual work of installing, maintaining, altering or repairing any electrical conductors or equipment for which a permit is required by ordinance, there shall be present and in direct supervision a qualified electrician of the proper classification. It shall be required that an electrician of the license classification of the first four grades listed in this article shall be liable and responsible for layout and technical supervision of any work which requires the securing of a permit, and a journeyman or higher classification grade electrician shall be in direct on the job supervision of work carried on as specified herein; except in work falling under the

classification of sign or elevator, which work shall be directly supervised by the person holding such license or a master electrician. A master electrician must be in direct on the job supervision of the installation of electrical services for all new or add on installations of signs or elevators.

(10) *Display of license.* Every holder of an electrician license shall carry his license card on his person at all times while doing electrical work and shall produce and exhibit it when requested by a building official, inspector, fire marshal, police officer or other official of the city.

(11) *Exemption from license requirements.* The following classes of work may be carried out by persons who are not licensed electricians after a permit has been obtained:

- a. Persons doing electrical work in and on property owned by them and used as their personal residence. This does not include rental or lease property.
- b. The replacement of lamps and fuses, and the connection of portable devices to suitable receptacles when receptacles have been permanently installed.
- c. The installation, alteration or repair of electrical wiring, devices, appliances and equipment installed by or for an electric public service company operating under a franchise from the city.

(c) *Plumbers.*

- (1) It shall be unlawful for any person to engage in the business of installing, maintaining, altering or repairing any plumbing fixture, pipe or apparatus for which a plumbing permit is required by the city unless such person is the holder of the appropriate plumbing license as required by the state board of plumbing examiners.
- (2) All plumbers who perform such work in the city or outside the city on property that is or may be connected to the city water and sewer system shall register their license with the building official before performing any work or obtaining a plumbing permit.

(d) *Irrigators.*

- (1) It shall be unlawful for any person to engage in the business of installing, maintaining, altering or repairing any irrigation system within the city or outside the city on property that is or may be connected to the city water and sewer system unless such person is the holder of the appropriate plumbing license issued by the state board of plumbing examiners or the appropriate irrigator license issued by the state natural resource conservation commission.
- (2) All persons who perform such work in the city or outside the city on property that is or may be connected to the city water and sewer system shall register their license with the building official before performing such work or obtaining a permit.

(e) *Mechanical contractors.*

- (1)

It shall be unlawful for any person to engage in the business of installing, maintaining, altering or repairing any mechanical system, fixture, piping, or apparatus for which a mechanical permit is required within the city or outside the city in or on property that is connected or may be connected to the city water and sewer systems unless such person is the holder of the appropriate air conditioning and refrigeration contractors license as issued by the state department of licensing and regulation.

- (2) All persons who perform such work in the city or outside the city on property that is or may be connected to the city water and sewer system shall register their license with the building official before performing such work or obtaining a permit.

(Ord. No. G-7-06, § 4, 9-11-2006)

Sec. 12-23. - Working without a permit.

Any person caught working without a permit shall pay twice the original permit price for the permit required in addition to any other fines allowed by this article.

(Ord. No. G-7-06, § 5, 9-11-2006)

Sec. 12-24. - Building setbacks.

- (a) *Definitions.* For the purpose of this article, the term "building setback lines" means to the distance that buildings or structures must be from the property line.
- (b) *Issuance of permit; exceptions.* A building permit will not be issued which does not conform to the designated setback lines with the following exceptions: Existing buildings that encroach on the setback lines may be remodeled or enlarged providing no additional encroachment on the setback lines occur. Overhangs and eaves not in excess of 21 inches shall not constitute a building in this application.
- (c) *Compliance of townsite or existing subdivisions.* The original townsite or existing subdivisions that are not listed below must comply with the minimum setback lines as defined in this article.
- (d) *Minimum setback requirements.*
 - (1) *Front setback lines.* Minimum front setback lines shall be 15 feet. Corner lots shall have a minimum ten-foot setback on the side street.
 - (2) *Rear setback lines.* Minimum rear setback lines shall be five feet from the edge of a utility easement or no less than five feet in case where no utility easement exists.
 - (3) *Side setback line.* Minimum side setback line shall be five feet from the edge of a utility easement or no less than five feet in cases where no utility easement exists, except on corner lots which require a ten-foot setback on the side street.

- (4) *Double frontage.* Where lots are double fronted on a front and back street, the subdivision plat shall designate the front lot line and all buildings shall face that street.
- (5) *Commercial lots.* Property platted as a commercial subdivision may request a variance from these setback requirements. All such requests must be made in writing and approved by the planning commission and the city council prior to a building permit being issued. It shall be understood that any construction on property where a variance is granted shall conform to the building code and not be built within five feet of the edge of a utility easement.
- (6) *Building lines of existing subdivisions.* Building lines for existing subdivisions, as determined by the deed restrictions and the subdivision plat, shall be listed in subsection (d)(10) of this section. Where the deed and this article conflict the more stringent shall apply.
- (7) *Setback lines for new subdivisions.* Setback lines for new subdivisions must comply with this article, (chapter 42, subdivisions and plats) or with the deed restrictions, or whichever is more restrictive.
- (8) *Variance request.* Property owners in an area where there are no subdivision restrictions may request a variance to these setback requirements. A request for a variance shall be made in writing to the planning commission. The planning commission will make a recommendation to the city council for approval or disapproval. The city council will be the final authority for granting or rejecting all requests for variances.
- (9) *Installation of concrete flat work.* Concrete flat work used for driveways or sidewalks may not be installed closer than 12 inches from the neighboring property line. In locations where there is a utility easement the setback shall be ten feet from the edge of the easement. Flat concrete work may be installed over the easement provided an expansion joint is provided at the required setback line. Any concrete removed during a utility repair, within the easement and the setback, will be replaced by the property owner at his expense.
- (10) *Subdivision building lines.*

Subdivision	Front Building Setback Line	Front Maximum Setback Line (behind building line)	Interior Lot Boundary Line	Rear Lot Boundary Line	Corner Lot Line	Accessory Building (behind front setback line)
Alamo Heights #1	20 feet	-	-	-	-	-

Alamo Heights #2	26 feet	25 feet	5 feet	5 feet	-	40 feet
<i>Alamo Heights #2 (continued):</i> No structure closed in with walls on four sides (i.e., a closed in garage, storage facility, or living quarters) shall be placed, or permitted, within 26 feet of the front boundary line of any lot in said subdivision, except for an open porch or carport. There shall be a minimum of 15 feet to 20 feet clearance from said structure to the curb at the front. Said structure must have proper roofing of asphalt or fiberglass singles, or corrugated aluminum, (Alu-Port or equivalent), meeting International Code Council specifications. Plastic or tin sheets will be permitted. No structure or any part thereof shall be erected, placed, altered, or permitted within five feet of both side boundary lines of any lot in said subdivision, except for an open porch or carport as described in the above paragraph. Construction of foregoing described open porch or carport shall only be erected on garage side of residence. Instances in which garage side of residence is adjacent to another garage side of residence, a minimum of ten feet of clearance between carport, excluding eaves, will be maintained. A carport can be built to the side property line providing there is still a minimum clearance of ten feet between the carport and the adjacent dwelling, excluding eaves.						
Brookhollow #1	25 feet	25 feet (Blk. 1, Lots 10—24); 10 feet (all other lots)	5 feet	5 feet; 25 feet (dwelling interior lots)	-	40 feet
Brookhollow #2	25 feet	10 feet	5 feet	25 feet (dwelling); 5 feet (all other buildings)	-	40 feet
Brookhollow #3	25 feet	25 feet (Blk. 1, Lots 25—32); 10 feet (all other lots)	5 feet	15 feet	10 feet	40 feet
Brookhollow #4	25 feet	25 feet (Blk. 1, Lots 33—38); 10 feet (all other lots)	5 feet	15 feet	10 feet	40 feet
Brookhollow #5	40 feet	35 feet	10 feet	5 feet	-	40 feet
Brookhollow #6	25 feet	20 feet (Blk. 17, Lots 1—14); 10 feet (all other lots)	5 feet	15 feet	5 feet	40 feet (From front bldg. line)
Brookhollow Estates (townhouses and condominiums exempt)	25 feet	40 feet	5 feet	5 feet	15 feet	-

Bonaire Terrace	30 feet min. 40 feet max.	-	6 feet	25 feet (interior lots)	10 feet	-
Burkeshire	25 feet min. 40 feet max.	-	6 feet	25 feet	7½ feet	3 feet from interior lot line
Chatterton	25 feet	-	5 feet	-	-	-
DeShazor Park	25 feet min.	-	5 feet	7½ feet	10 feet	3 feet from interior lot line
	35 feet max.	-	-	40 feet (dwellings)	-	6 feet from rear lot line

Ezzell revised addition: Front building setback lines for open carports constructed at front of buildings shall be a minimum of five feet from the front property line. Open carports constructed under this provision shall be restricted to nonenclosed structures, with no outside walls.

Geryk	25 feet	-	10 feet	-	-	-
Hillside Terrace	30 feet min. 40 feet max.	5 feet	25 feet (interior lots)	15 feet (except 45 feet lots abutting Alcoa Dr. 40 feet)		

Hillside Terrace (continued): Rear building setback line shall be reduced to ten feet from rear property line of Lots 1—9 in the 2100 block of Leon and Lots 1—17 in the 2200 block of Leon

Jackson Heights	25 feet min. 35 feet max.	-	7 feet	-	15 feet	50 feet
Lancashire	40 feet	-	15 feet	15 feet	-	-
Lou Davis	25 feet	-	5 feet	-	-	-
Lynnhaven	25 feet 10 feet on streets bordering Calhoun and San Bernadin Streets	35 feet from front property line	5 feet	-	10 feet	50 feet from front lot line 3 feet from side lot line

Lynnhaven (continued) includes Block 2, Lots 1 thru 22; Block 6, Lots 1 thru 17¹; Block 12, Lots 1—20³; Block 3, Lots 1 thru 23; Block 7, Lots 1 thru 31; Block 13, Lots 1—20⁴; Block 4, Lots 2 thru 26; Block 8, Lots 1 thru 21; Block 14, Lots 1—18⁵; Block 5, Lots 2 thru 21; Block 11, Lots 1 thru 18²; Block 15, Lots 1—26⁶

~~5-7-8. ¹Block 6, Lots 1—17: Front building setback lines for open carports constructed at the front of buildings shall be a minimum of five feet from the front property line. Open carports constructed under this provision shall be restricted to nonenclosed structures, with no outside walls.~~

Mariemont #1	25 feet	25 feet	5 feet	5 feet from easement	15 feet	40 feet
--------------	---------	---------	--------	----------------------	---------	---------

Mariemont #2	25 feet	25 feet	5 feet	5 feet from easement	15 feet	40 feet
Seagull	22 feet	-	5 feet	-	10 feet	-
Shofner (Lots 1—8, Block A; Lots 1—9, Block B facing on North Street)	12 feet	-	-	-	-	-
Shofner Park	25 feet	25 feet	5 feet	5 feet from easement	15 feet	40 feet
Sunset Heights	25 feet	-	10 feet	-	-	-
Western Heights	25 feet	-	5 feet	-	-	-

Western Heights (continued): Front building setback lines for open carports constructed at the front of buildings shall be a minimum of five feet from the front property line. Open carports constructed under this provision shall be restricted to nonenclosed structures, with no outside walls.

(Ord. No. G-7-06, § 6, 9-11-2006)

Sec. 12-25. - Fences.

Any person may install a fence on his property in accordance with the following:

- (1) Privacy fences shall only be allowed from the front building setback line around the rear of the property. At the front building setback line, the fence shall be no taller than three feet. On corner lots, the fence closest to the street shall not interfere with driver's vision of oncoming traffic in either direction; therefore, it shall be erected in accordance with AASHTO Policy on Geometric Design of Highways and Streets.
- (2) Hurricane/chainlink fences shall be allowed around the entire property; however, fences in the front yard shall not have trees, bushes, shrubs, or flowers that might obstruct the view of persons leaving their driveway or obstruct the view of oncoming traffic on corner lots. These types of obstructions will be treated the same as a privacy fence.
- (3) Fences of any type shall not be built on or across any easement right-of-way or alley.
- (4) A permit is required.

(Ord. No. G-7-06, § 7, 9-11-2006)

Secs. 12-26—12-54. - Reserved.

ARTICLE III. - FLOOD DAMAGE PREVENTION

Footnotes:

--- (2) ---

Editor's note— Ord. No. G-6-14, arts. 1—5, adopted Aug. 11, 2014, amended art. III in its entirety to read as herein set out. Former art. III, §§ 12-55—12-65, 12-85—12-89, 12-209—12-214, pertained to similar subject matter, and derived from Ord. No. G-9-87, arts. 1—5, adopted June 8, 1987.

State Law reference— City-county water control, V.T.C.A., Local Government Code §§ 411.002, 411.003; Flood Control and Insurance Act, V.T.C.A., Water Code § 16.311 et seq.; local rules, V.T.C.A., Water Code § 16.318.

DIVISION 1. - STATUTORY AUTHORIZATION, FINDINGS OF FACT, PURPOSE AND METHODS

Sec. 12-55. - Statutory authorization.

The Legislature of the State of Texas has in the Flood Control Insurance Act, V.T.C.A., Water Code § 16.315 delegated the responsibility of local governmental units to adopt regulations designed to minimize flood losses.

(Ord. No. G-6-14, art. 1, § A, 8-11-2014)

Sec. 12-56. - Findings of fact.

- (a) The flood hazard areas of Port Lavaca are subject to periodic inundation, which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, and extraordinary public expenditures for flood protection and relief, all of which adversely affect the public health, safety and general welfare.
- (b) These flood losses are created by the cumulative effect of obstructions in floodplains which cause an increase in flood heights and velocities, and by the occupancy of flood hazard areas by uses vulnerable to floods and hazardous to other lands because they are inadequately elevated, floodproofed or otherwise protected from flood damage.

(Ord. No. G-6-14, art. 1, § B, 8-11-2014)

Sec. 12-57. - Statement of purpose.

It is the purpose of this article to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

- (1) Protect human life and health;
- (2) Minimize expenditure of public money for costly flood control projects;
- (3) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (4) Minimize prolonged business interruptions;
- (5) Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in floodplains;
- (6) Help maintain a stable tax base by providing for the sound use and development of flood-prone areas in such a manner as to minimize future flood blight areas; and
- (7) Insure that potential buyers are notified that property is in a flood area.

(Ord. No. G-6-14, art. 1, § C, 8-11-2014)

Sec. 12-58. - Methods of reducing flood losses.

In order to accomplish its purposes, this article uses the following methods:

- (1) Restrict or prohibit uses that are dangerous to health, safety or property in times of flood, or cause excessive increases in flood heights or velocities;
- (2) Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- (3) Control the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of floodwaters;
- (4) Control filling, grading, dredging and other development which may increase flood damage;
- (5) Prevent or regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other lands.

(Ord. No. G-6-14, art. 1, § D, 8-11-2014)

Secs. 12-59—12-64. - Reserved.

DIVISION 2. - DEFINITIONS

Sec. 12-65. - [Definitions generally.]

Unless specifically defined below, words or phrases used in this article shall be interpreted to give them the meaning they have in common usage and to give this article its most reasonable application.

Alluvial fan flooding means flooding occurring on the surface of an alluvial fan or similar landform which originates at the apex and is characterized by high-velocity flows; active processes of erosion, sediment transport, and deposition; and unpredictable flow paths.

Apex means a point on an alluvial fan or similar landform below which the flow path of the major stream that formed the fan becomes unpredictable and alluvial fan flooding can occur.

Appurtenant structure means a structure which is on the same parcel of property as the principal structure to be insured and the use of which is incidental to the use of the principal structure.

Area of future conditions flood hazard means the land area that would be inundated by the one-percent-annual chance (100-year) flood based on future conditions hydrology.

Area of shallow flooding means a designated AO, AH, AR/AO, AR/AH, or VO zone on a community's flood insurance rate map (FIRM) with a one-percent or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

Area of special flood hazard is the land in the floodplain within a community subject to a one-percent or greater chance of flooding in any given year. The area may be designated as zone A on the flood hazard boundary map (FHBM). After detailed rate making has been completed in preparation for publication of the FIRM, zone A usually is refined into zones A, AO, AH, A1-30, AE, A99, AR, AR/A1-30, AR/AE, AR/AO, AR/AH, AR/A, VO, V1-30, VE or V.

Base flood means the flood having a one-percent chance of being equaled or exceeded in any given year.

Base flood elevation (BFE). The elevation shown on the flood insurance rate map (FIRM) and found in the accompanying flood insurance study (FIS) for zones A, AE, AH, A1-A30, AR, V1-V30, or VE that indicates the water surface elevation resulting from the flood that has a one-percent chance of equaling or exceeding that level in any given year—Also called the base flood.

Basement means any area of the building having its floor subgrade (below ground level) on all sides.

Breakaway wall means a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces, without causing damage to the elevated portion of the building or supporting foundation system.

Critical feature means an integral and readily identifiable part of a flood protection system, without which the flood protection provided by the entire system would be compromised.

Development means any manmade change to improved and unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

Elevated building means, for insurance purposes, a non-basement building, which has its lowest elevated floor, raised above ground level by foundation walls, shear walls, posts, piers, pilings, or columns.

Existing construction means for the purposes of determining rates, structures for which the "start of construction" commenced before the effective date of the FIRM or before January 1, 1975, for FIRMs effective before that date. "Existing construction" may also be referred to as "existing structures."

Existing manufactured home park or subdivision means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community.

Expansion to an existing manufactured home park or subdivision means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

Flood or *flooding* means a general and temporary condition of partial or complete inundation of normally dry land areas from:

- (1) The overflow of inland or tidal waters.
- (2) The unusual and rapid accumulation or runoff of surface waters from any source.

Flood elevation study means an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudslide (i.e., mudflow) and/or flood-related erosion hazards.

Flood insurance rate map (FIRM) means an official map of a community, on which the Federal Emergency Management Agency has delineated both the special flood hazard areas and the risk premium zones applicable to the community.

Flood insurance study (FIS). See "Flood elevation study."

Floodplain or *floodprone area* means any land area susceptible to being inundated by water from any source (see definition of flooding).

Floodplain management means the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works and floodplain management regulations.

Floodplain management regulations means zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a floodplain ordinance, grading ordinance and erosion control ordinance) and other applications of police power. The term describes such state or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

Flood protection system means those physical structural works for which funds have been authorized, appropriated, and expended and which have been constructed specifically to modify flooding in order to reduce the extent of the area within a community subject to a "special flood hazard" and the extent of the depths of associated flooding. Such a system typically includes hurricane tidal barriers, dams, reservoirs, levees or dikes. These specialized flood modifying works are those constructed in conformance with sound engineering standards.

Floodproofing means any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

Floodway. See "Regulatory floodway."

Functionally dependent use means a use, which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

Highest adjacent grade means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

Historic structure means any structure that is:

- (1) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- (2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- (3) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
- (4) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 - a. By an approved state program as determined by the Secretary of the Interior; or
 - b. Directly by the Secretary of the Interior in states without approved programs.

Levee means a manmade structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control, or divert the flow of water so as to provide protection from temporary flooding.

Levee system means a flood protection system which consists of a levee, or levees, and associated structures, such as closure and drainage devices, which are constructed and operated in accordance with sound engineering practices.

Lowest floor means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking or vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirement of Section 60.3 of the National Flood Insurance Program regulations.

Manufactured home means a structure transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. The term "manufactured home" does not include a "recreational vehicle".

Manufactured home park or subdivision means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

Mean sea level means, for purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community's flood insurance rate map are referenced.

New construction means, for the purpose of determining insurance rates, structures for which the "start of construction" commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, "new construction" means structures for which the "start of construction" commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.

New manufactured home park or subdivision means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by a community.

Primary frontal dune means a continuous or nearly continuous mound or ridge of sand with relatively steep seaward and landward slopes immediately landward and adjacent to the beach and subject to erosion and overtopping from high tides and waves during major coastal storms. The inland limit of the primary frontal dune occurs at the point where there is a distinct change from a relatively steep slope to a relatively mild slope.

Recreational vehicle means a vehicle which is (i) built on a single chassis; (ii) 400 square feet or less when measured at the largest horizontal projections; (iii) designed to be self-propelled or permanently towable by a light duty truck; and (iv) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

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

Riverine means relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

Sand dunes means naturally occurring accumulations of sand in ridges or mounds landward of the beach.

Special flood hazard area. See "Area of special flood hazard."

Start of construction (for other than new construction or substantial improvements under the Coastal Barrier Resources Act (Pub. L. 97-348)), includes substantial improvement and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure.

For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

Structure means, for floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.

Substantial damage means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

Substantial improvement means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before "start of construction" of the improvement. This term includes structures which have incurred "substantial damage", regardless of the actual repair work performed. The term does not, however, include either:

Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or

- (2) Any alteration of a "historic structure", provided that the alteration will not preclude the structure's continued designation as a "historic structure."

Variance means a grant of relief by a community from the terms of a floodplain management regulation. (For full requirements see section 60.6 of the National Flood Insurance Program regulations.)

Violation means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in section 60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4), or (e)(5) [of the National Flood Insurance Program] is presumed to be in violation until such time as that documentation is provided.

Water surface elevation means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929 (or other datum, where specified), of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

(Ord. No. G-6-14, art. 2, 8-11-2014)

Secs. 12-66—12-70. - Reserved.

DIVISION 3. - GENERAL PROVISIONS

Sec. 12-71. - Lands to which this article applies.

The article shall apply to all areas of special flood hazard with the jurisdiction of the City of Port Lavaca.

(Ord. No. G-6-14, art. 3, § A, 8-11-2014)

Sec. 12-72. - Basis for establishing the areas of special flood hazard.

The areas of special flood hazard identified by the Federal Emergency Management Agency in the current scientific and engineering report entitled, "The Flood Insurance Study (FIS) for Calhoun County and incorporated areas, Texas," dated October 16, 2014, with accompanying flood insurance rate maps (FIRM) dated October 16, 2014 and any revisions thereto are hereby adopted by reference and declared to be a part of this article.

(Ord. No. G-6-14, art. 3, § B, 8-11-2014)

Sec. 12-73. - Establishment of development permit.

A floodplain development permit shall be required to ensure conformance with the provisions of this article.

(Ord. No. G-6-14, art. 3, § C, 8-11-2014)

Sec. 12-74. - Compliance.

No structure or land shall hereafter be located, altered, or have its use changed without full compliance with the terms of this article and other applicable regulations.

(Ord. No. G-6-14, art. 3, § D, 8-11-2014)

Sec. 12-75. - Abrogation and greater restrictions.

This article is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this article and another ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

(Ord. No. G-6-14, art. 3, § E, 8-11-2014)

Sec. 12-76. - Interpretation.

In the interpretation and application of this article, all provisions shall be:

- (1) Considered as minimum requirements;
- (2) Liberally construed in favor of the governing body; and
- (3) Deemed neither to limit nor repeal any other powers granted under state statutes.

(Ord. No. G-6-14, art. 3, § F, 8-11-2014)

Sec. 12-77. - Warning and disclaimer or liability.

The degree of flood protection required by this article is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. On rare occasions greater floods can and will occur and flood heights may be increased by manmade or natural causes. This article does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This article shall not create liability on the part of the community or any official or employee thereof for any flood damages that result from reliance on this article or any administrative decision lawfully made hereunder.

(Ord. No. G-6-14, art. 3, § G, 8-11-2014)

Secs. 12-78—12-84. - Reserved.

DIVISION 4. - ADMINISTRATION

Sec. 12-85. - Designation of the floodplain administrator.

The director of public works is hereby appointed the floodplain administrator to administer and implement the provisions of this article and other appropriate sections of 44 CFR (Emergency Management and Assistance - National Flood Insurance Program Regulations) pertaining to floodplain management.

(Ord. No. G-6-14, art. 4, § A, 8-11-2014)

Sec. 12-86. - Duties and responsibilities of the floodplain administrator.

Duties and responsibilities of the floodplain administrator shall include, but not be limited to, the following:

- (1) Maintain and hold open for public inspection all records pertaining to the provisions of this article.
- (2) Review permit application to determine whether to ensure that the proposed building site project, including the placement of manufactured homes, will be reasonably safe from flooding.
- (3) Review, approve or deny all applications for development permits required by adoption of this article.
- (4)

Review permits for proposed development to assure that all necessary permits have been obtained from those federal, state or local governmental agencies (including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334) from which prior approval is required.

- (5) Where interpretation is needed as to the exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions) the floodplain administrator shall make the necessary interpretation.
- (6) Notify, in riverine situations, adjacent communities and the State Coordinating Agency which is the Texas Water Development Board (TWDB) and also the Texas Commission on Environmental Quality (TCEQ), prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency.
- (7) Assure that the flood carrying capacity within the altered or relocated portion of any watercourse is maintained.
- (8) When base flood elevation data has not been provided in accordance with section 12-72, the floodplain administrator shall obtain, review and reasonably utilize any base flood elevation data and floodway data available from a federal, state or other source, in order to administer the provisions of division 5.
- (9) When a regulatory floodway has not been designated, the floodplain administrator must require that no new construction, substantial improvements, or other development (including fill) shall be permitted within zones A1-30 and AE on the community's FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.
- (10) Under the provisions of 44 CFR chapter 1, section 65.12, of the National Flood Insurance Program regulations, a community may approve certain development in zones A1-30, AE, AH, on the community's FIRM which increases the water surface elevation of the base flood by more than one foot, provided that the community first completes all of the provisions required by section 65.12.

(Ord. No. G-6-14, art. 4, § B, 8-11-2014)

Sec. 12-87. - Permit procedures.

- (a) Application for a floodplain development permit shall be presented to the floodplain administrator on forms furnished by him/her and may include, but not be limited to, plans in duplicate drawn to scale showing the location, dimensions, and elevation of proposed landscape alterations, existing and proposed structures, including the placement of manufactured homes, and the location of the foregoing in relation to areas of special flood hazard. Additionally, the following information is required:
 - (1) Elevation (in relation to mean sea level), of the lowest floor (including basement) of all new and substantially improved structures;
 - (2) Elevation in relation to mean sea level to which any nonresidential structure shall be floodproofed;

- (3) A certificate from a registered professional engineer or architect that the nonresidential floodproofed structure shall meet the floodproofing criteria of subsection 12-96(2);
- (4) Description of the extent to which any watercourse or natural drainage will be altered or relocated as a result of proposed development;
- (5) Maintain a record of all such information in accordance with subsection 12-86(1);
- (b) Approval or denial of a floodplain development permit by the floodplain administrator shall be based on all of the provisions of this article and the following relevant factors:
 - (1) The danger to life and property due to flooding or erosion damage;
 - (2) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
 - (3) The danger that materials may be swept onto other lands to the injury of others;
 - (4) The compatibility of the proposed use with existing and anticipated development;
 - (5) The safety of access to the property in times of flood for ordinary and emergency vehicles;
 - (6) The costs of providing governmental services during and after flood conditions including maintenance and repair of streets and bridges, and public utilities and facilities such as sewer, gas, electrical and water systems;
 - (7) The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site;
 - (8) The necessity to the facility of a waterfront location, where applicable;
 - (9) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use.

(Ord. No. G-6-14, art. 4, § C, 8-11-2014)

Sec. 12-88. - Variance procedures.

- (a) The appeal board, as established by the community, shall hear and render judgment on requests for variances from the requirements of this article.
- (b) The appeal board shall hear and render judgment on an appeal only when it is alleged there is an error in any requirement, decision, or determination made by the floodplain administrator in the enforcement or administration of this article.
- (c) Any person or persons aggrieved by the decision of the appeal board may appeal such decision in the courts of competent jurisdiction.
- (d) The floodplain administrator shall maintain a record of all actions involving an appeal and shall report variances to the Federal Emergency Management Agency upon request.

- (e) Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in the remainder of this article.
- (f) Variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing the relevant factors in subsection 12-87(b) of this article have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.
- (g) Upon consideration of the factors noted above and the intent of this article, the appeal board may attach such conditions to the granting of variances as it deems necessary to further the purpose and objectives of this article (section 12-57).
- (h) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
- (i) Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
- (j) Prerequisites for granting variances:
 - (1) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
 - (2) Variances shall only be issued upon: (i) showing a good and sufficient cause; (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and (iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
 - (3) Any application to which a variance is granted shall be given written notice that the structure will be permitted to be built with the lowest floor elevation below the base flood elevation, and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.
- (k) Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that (i) the criteria outlined in subsections 12-88(a) through (i) are met, and (ii) the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

(Ord. No. G-6-14, art. 4, § D, 8-11-2014)

DIVISION 5. - PROVISIONS FOR FLOOD HAZARD REDUCTION

Sec. 12-95. - General standards.

In all areas of special flood hazards the following provisions are required for all new construction and substantial improvements:

- (1) All new construction or substantial improvements shall be designed (or modified) and adequately anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
- (2) All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damage;
- (3) All new construction or substantial improvements shall be constructed with materials resistant to flood damage;
- (4) All new construction or substantial improvements shall be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;
- (5) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system;
- (6) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the system and discharge from the systems into floodwaters; and,
- (7) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

(Ord. No. G-6-14, art. 5, § A, 8-11-2014)

Sec. 12-96. - Specific standards.

In all areas of special flood hazards where base flood elevation data has been provided as set forth in (i) section 12-72, (ii) subsection 12-86(8), or (iii) subsection 12-97(c), the following provisions are required:

- (1) *Residential construction.* New construction and substantial improvement of any residential structure shall have the lowest floor (including basement), elevated to or above the base flood elevation. A registered professional engineer, architect, or land surveyor shall submit a certification to the floodplain administrator that the standard of this subsection as proposed in subsection 12-86(a)(1), is satisfied.
- (2) *Non-residential construction.* New construction and substantial improvements of any commercial, industrial or other nonresidential structure shall either have the lowest floor (including basement) elevated to or above the base flood level or together with attendant utility and sanitary facilities, be designed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of

water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered professional engineer or architect shall develop and/or review structural design, specifications, and plans for the construction, and shall certify that the design and methods of construction are in accordance with accepted standards of practice as outlined in this subsection. A record of such certification which includes the specific elevation (in relation to mean sea level) to which such structures are floodproofed shall be maintained by the floodplain administrator.

- (3) *Enclosures.* New construction and substantial improvements, with fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria:
- a. A minimum of two openings on separate walls having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.
 - b. The bottom of all openings shall be no higher than one foot above grade.
 - c. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.
- (4) *Manufactured homes.*
- a. Require that all manufactured homes to be placed within zone A on a community's FHBM or FIRM shall be installed using methods and practices which minimize flood damage. For the purposes of this requirement, manufactured homes must be elevated and anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces.
 - b. Require that manufactured homes that are placed or substantially improved within zones A1-30, AH, and AE on the community's FIRM on sites (i) outside of a manufactured home park or subdivision, (ii) in a new manufactured home park or subdivision, (iii) in an expansion to an existing manufactured home park or subdivision, or (iv) in an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as a result of a flood, be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated to or above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.
 - c. Require that manufactured homes be placed or substantially improved on sites in an existing manufactured home park or subdivision with zones A1-30, AH and AE on the community's FIRM that are not subject to the provisions of subsection (4) of this section be elevated so that either:

1. The bottom of the I-beam of the manufactured home is at or above the base flood elevation, or
2. The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

(5) *Recreational vehicles.* Require that recreational vehicles placed on sites within zones A1-30, AH, and AE on the community's FIRM either (i) be on the site for fewer than 180 consecutive days, or (ii) be fully licensed and ready for highway use, or (iii) meet the permit requirements of subsection 12-87(a), and the elevation and anchoring requirements for "manufactured homes" in subsection (4) of this section. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions.

(Ord. No. G-6-14, art. 5, § B, 8-11-2014)

Sec. 12-97. - Standards for subdivision proposals.

- (a) All subdivision proposals including the placement of manufactured home parks and subdivisions shall be consistent with sections 12-56, 12-57, 12-58 of this article.
- (b) All proposals for the development of subdivisions including the placement of manufactured home parks and subdivisions shall meet floodplain development permit requirements of section 12-73; section 12-87; and the provisions of division 5 of this article.
- (c) Base flood elevation data shall be generated for subdivision proposals and other proposed development including the placement of manufactured home parks and subdivisions which is greater than 50 lots or five acres, whichever is lesser, if not otherwise provided pursuant to section 12-72 or subsection 12-86(8) of this article.
- (d) All subdivision proposals including the placement of manufactured home parks and subdivisions shall have adequate drainage provided to reduce exposure to flood hazards.
- (e) All subdivision proposals including the placement of manufactured home parks and subdivisions shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize or eliminate flood damage.

(Ord. No. G-6-14, art. 5, § C, 8-11-2014)

Sec. 12-98. - Standards for areas of shallow flooding (AO/AH zones).

Located within the areas of special flood hazard established in section 12-72, are areas designated as shallow flooding. These areas have special flood hazards associated with flood depths of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow; therefore, the following provisions apply:

- (1) All new construction and substantial improvements of residential structures have the lowest floor (including basement) elevated to or above the base flood elevation or 36 inches above the highest adjacent.
- (2) All new construction and substantial improvements of non-residential structures:
 - a. Have the lowest floor (including basement) elevated to or above the base flood elevation or the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM (at least two feet if no depth number is specified), or
 - b. Together with attendant utility and sanitary facilities be designed so that below the base specified flood depth in an AO zone, or below the base flood elevation in an AH zone, level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads of effects of buoyancy.
- (3) A registered professional engineer or architect shall submit a certification to the floodplain administrator that the standards of this section, as proposed in section 12-87 are satisfied.
- (4) Require within zones AH or AO adequate drainage paths around structures on slopes, to guide floodwaters around and away from proposed structures.

(Ord. No. G-6-14, art. 5, § D, 8-11-2014)

Sec. 12-99. - Coastal high hazard areas.

Located within the areas of special flood hazard established in section 12-72, are areas designated as coastal high hazard areas (zones V1-30, VE, and/or V). These areas have special flood hazards associated with high velocity waters from tidal surges and hurricane wave wash; therefore, in addition to meeting all provisions outlined in this article, the following provisions must also apply:

- (1) Obtain the elevation (in relation to mean sea level) of the bottom of the lowest structural member of the lowest floor (excluding pilings and columns) of all new and substantially improved structures, and whether or not such structures contain a basement. The floodplain administrator shall maintain a record of all such information.
- (2) All new construction shall be located landward of the reach of mean high tide.
- (3) All new construction and substantial improvements shall be elevated on pilings and columns so that:

- a. The bottom of the lowest horizontal structural member of the lowest floor (excluding the pilings or columns) is elevated to or above the base flood level;
 - b. The pile or column foundation and structure attached thereto is anchored to resist flotation, collapse and lateral movement due to the effects of wind and water loads acting simultaneously on all building components. Water loading values used shall be those associated with the base flood. Wind loading values used shall be those required by applicable state or local building standards. A registered professional engineer or architect shall develop or review the structural design, specifications and plans for the construction, and shall certify that the design and methods of construction to be used are in accordance with accepted standards of practice for meeting the provisions of [subsections] (3)a. and (3)b. of this section.
- (4) Provide that all new construction and substantial improvements have the space below the lowest floor either free of obstruction or constructed with non-supporting breakaway walls, open wood lattice-work, or insect screening intended to collapse under wind and water loads without causing collapse, displacement, or other structural damage to the elevated portion of the building or supporting foundation system.

For the purpose of this section, a breakaway wall shall have a design safe loading resistance of not less than ten and no more than 20 pounds per square foot. Use of breakaway walls which exceed a design safe loading resistance of 20 pounds per square foot (either by design or when so required by local or state codes) may be permitted only if a registered professional engineer or architect certifies that the designs proposed meet the following conditions:

- a. Breakaway wall collapse shall result from a water load less than that which would occur during the base flood; and
 - b. The elevated portion of the building and supporting foundation system shall not be subject to collapse, displacement, or other structural damage due to the effects of wind and water loads acting simultaneously on all building components (structural and nonstructural). Water loading values used shall be those associated with the base flood. Wind loading values used shall be those required by applicable state or local building standards. Such enclosed space shall be useable solely for parking of vehicles, building access, or storage. Such space shall not be used for human habitation.
- (5) Prohibit the use of fill for structural support of buildings.
- (6) Prohibit manmade alteration of sand dunes and mangrove stands that increase potential flood damage.
- (7) Manufactured homes. Require that manufactured homes placed or substantially improved within zone V1-30, V, and VE on the community's FIRM on sites (i) outside of a manufactured home park or subdivision, (ii) in a new manufactured home park or subdivision, (iii) in an expansion to an existing manufactured home park or subdivision, or (iv) in an existing manufactured home park or subdivision on which a

manufactured home has incurred "substantial damage" as the result of a flood, meet the standards of subsections (1) through (6) of this section and that manufactured homes placed or substantially improved on other sites in an existing manufactured home park or subdivision within zones V1-30, V, and VE on the community's FIRM meet the requirements of subsection 12-96(4) of this article.

- (8) Recreational vehicles. Require that recreational vehicles placed on sites within zones V1-30, V, and VE on the community's FIRM either (i) be on the site for fewer than 180 consecutive days, or (ii) be fully licensed and ready for highway use, or (iii) meet the requirements in section 12-73 of this article and subsections (1) through (6) of this section. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions.

(Ord. No. G-6-14, art. 5, § E, 8-11-2014)

Secs. 12-100—12-286. - Reserved.

ARTICLE IV. - SUBSTANDARD BUILDINGS

Footnotes:

--- (3) ---

State Law reference— Authority to condemn dangerous buildings, V.T.C.A., Local Government Code § 342.012(b).

Sec. 12-287. - Definition; unfit condition declared; minimum standards for use and occupancy.

- (a) The term "substandard building" means any building which does not meet the established minimum standards for continued use and occupancy, as set forth in this article regardless of the date of its construction.
- (b) For purposes of this article, a building shall be deemed to be substandard if it is:
- (1) Dilapidated, substandard, or unfit for human habitation; or
 - (2) A hazard to the public health, safety and welfare.
- (c) The minimum standards for the continued use and occupancy of all buildings within the city shall be as follows:
- (1) All buildings or structures which do not have the number of water closets, urinals and lavatories required by the city plumbing ordinance, or which have pit privies where the same are not permitted by law, or which are not connected to the city sewer when required by law.
 - (2) All buildings or structures not wired in conformity with the city electrical code, as the same now exists or as hereafter amended and which are dangerous or hazardous.

(3) All buildings or structures not constructed in conformity with the city building code, as the same now exists or as hereafter amended and which are dangerous and hazardous.

(d) (1) Inadequate sanitation.

- a. Lack of a bathroom or the existence of an improper bathroom.
- b. Lack of or an improper kitchen.
- c. Lack of hot and cold running water to plumbing fixtures.
- d. Lack of or improper required heating, mechanical ventilation or electric facilities.
- e. Lack of required amounts of natural light and ventilation.
- f. Lack of or improper space or floor area.
- g. Lack of required electrical lighting.
- h. Dampness of habitable space.
- i. Infestation of insects, vermin or rodents.
- j. The existence of dead trees, tree limbs, holes, excavations or other conditions reasonably capable of causing injury to a person.
- k. Lack of or improper connection to required sewage disposal.
- l. Lack of or improper garbage and rubbish storage and removal facilities.
- m. Lack of or improper drainage so as to prevent standing or stagnant water on the premises.

(2) Structural hazards.

- a. Improper foundations.
- b. Improper flooring or floor supports.
- c. Flooring or floor supports of insufficient size to carry imposed loads safely.
- d. Members of walls, partitions or other vertical supports that split, lean, list, or buckle due to defective material, deterioration, or improper construction.
- e. Members of walls, partitions or other vertical supports that are insufficient size to carry imposed loads safely.
- f. Members of ceilings, roofs, ceiling and roof supports or other horizontal members which sag, split or buckle due to defective material, deterioration, or improper construction.
- g.

Members of ceilings, roofs, ceiling and roof supports or other horizontal members that are of insufficient size to carry imposed loads with safety.

- h. Fireplaces or chimneys which list, bulge or settle due to defective material, deterioration, or improper construction.
 - i. Fireplaces or chimneys which are of insufficient size or strength to carry imposed loads safely.
 - j. Lack of or improper required railings, stairs, steps and balconies.
- (3) Improperly maintained roofs. Roofs shall be maintained in good condition to prevent buckling, rotting, curling or other defects. In the event that an improperly maintained roof is found to be failing, the city may require the repair or replacement of the roof to prevent consequential damage to the structure. Roof replacement materials, if not replaced on the entirety of the surface, shall be of similar material and color as the existing roof. Roof defects, when accompanied by other minimum housing violations, shall establish grounds for an interior inspection of the dwelling to determine failure of the roof and the existence of other deficiencies related thereto.
- (4) Hazardous wiring. Any wiring except that which conformed with all applicable laws in effect at the time of installation and which has been maintained in operating condition.
- (5) Hazardous plumbing. Any plumbing except that which conformed with all applicable laws in effect at the time of installation, which has been maintained in operating condition and which is free of cross-connections or siphonage between fixtures.
- (6) Hazardous mechanical equipment. Any mechanical equipment, including vents, except that which conformed with all applicable laws in effect at the time of installation and which has been maintained in operating condition.
- (7) Faulty weather protection.
 - a. Improper, crumbling or loose plaster or wall coverings.
 - b. Lack of or improper waterproofing of exterior walls, roof, foundations or floors, including broken windows and doors.
 - c. Lack of or improper weather protection for exterior wall coverings including lack of paint, or weathering due to lack of paint or other approved protective covering.
 - d. Lack of or improper exterior wall coverings or roof coverings.
- (8) Inadequate exits. Any building, or portion thereof, not provided with adequate exit facilities as required by this article, except, those buildings or portions thereof whose exit facilities conformed with all applicable laws at the time of construction. When an unsafe condition exists due to improper location of exits, additional exits may be required to be installed.
- (9) Improper occupancy. Any building, or portion thereof, occupied for living, sleeping, cooking or dining purposes which was not designed or intended to be used for such occupancies.
- (10)

Unsecured buildings. Any building that is vacant and open. A building is open if any door, window or other opening is not securely closed to prevent unauthorized entry.

- (11) The International Property Maintenance Code as referenced and adopted by reference in section 12-20(2) shall apply to all existing structures and constitute minimum requirements and standards for premises, structures, equipment and facilities for light, ventilation, space, heating, sanitation, protection from the elements, life safety, safety from fire and other hazards, and for safe and sanitary maintenance; the responsibility of owners, operators, and occupants; the occupancy of existing structures and premises, and for administration, enforcement and penalties.

(Ord. No. G-5-91, § 2, 4-8-1991; Ord. No. G-3-16, § 1, 4-11-2016; Ord. No. G-6-24, § 1(Exh. A), 8-12-2024)

Sec. 12-288. - Penalty.

Any person, owner, occupant, executor, administrator or trustee who has possession and control of any premises upon which a nuisance exists and the same has been determined to be a nuisance under the terms of this article, and has not removed the same, shall be guilty of a Class C misdemeanor.

(Ord. No. G-5-91, § 10, 4-8-1991)

Sec. 12-289. - Hazardous to health, safety and welfare.

All substandard buildings or structures within the terms of this article that shall constitute a menace to the health, safety or general welfare of its occupants or of the public are declared to be public nuisances and shall be ordered to be either vacated, repaired or demolished as provided by this article.

(Ord. No. G-5-91, § 3, 4-8-1991)

Sec. 12-290. - Building official created; duty to inspect.

There is hereby created a building standard official hereinafter called the building official. As near as practical, he shall be qualified in one or more of the fields of fire prevention, building construction, sanitation, health and public safety. It shall be the duty of the building official, or authorized representative, to inspect all buildings or structures reported to be or believed to be substandard and to reduce to writing such inspection.

(Ord. No. G-5-91, § 4, 4-8-1991)

Sec. 12-291. - Notice.

- (a) The building official shall, upon his determination that a building is a substandard building within the meaning of this article, notify by certified mail, return receipt requested, the owner of the building. Such notice shall provide for a public hearing to determine whether the building complies with the standards as set forth in this article. Such notice shall also provide the property owner with the date, time and place of the public hearing to determine whether the building is in compliance with this article; however, in no event shall the public hearing be more than 21 days after the receiving of the notice by the owner of the building.
- (b) The public hearing shall be conducted by the city council.

(Ord. No. G-5-91, § 5, 4-8-1991)

Sec. 12-292. - Corrective action; notice.

- (a) After the public hearing, if a building is found to be in violation of the standards set forth in this article, the city council may order that the building be vacated, secured, repaired, removed, or demolished by the owner within a reasonable time but in no event less than 60 days.
- (b) The city council may also order that the occupants be relocated within a reasonable time, but in no event less than 15 days.
- (c) When the owner does not take the ordered action within the allotted time, the city council shall make a diligent effort to discover each mortgagee and lienholder having an interest in the building or in the property on which the building is located. With regard to this, the city shall send to each identified mortgagee and lienholder a notice containing:
 - (1) An identification of the building and the property on which it is located;
 - (2) A description of the violation of the city ordinance that is present at the building; and
 - (3) A statement that the city will vacate, secure, remove, demolish the building or relocate the occupants of the building if the ordered action is not taken within a reasonable time.

(Ord. No. G-5-91, § 6, 4-8-1991)

Sec. 12-293. - Alternative notice.

- (a) As an alternative to the procedure prescribed by section 12-292, the city may make a diligent effort to discover each mortgagee and lienholder before conducting the public hearing and may give them a notice of an opportunity to comment at the hearing. If the city elects this option, the order issued by the city must specify a reasonable time for the building to be vacated, secured, repaired, removed, or demolished by the owner or for the occupants to be relocated by the owner and an additional reasonable time for the ordered action to be taken by any of the mortgagees or lienholders in the event the owner fails to comply with the order within the time provided for action by the owner.

- (b) This section shall not require the city to furnish any notice to a mortgagee or lienholder other than a copy of the order in the event the owner fails to timely take the ordered action.

(Ord. No. G-5-91, § 7, 4-8-1991)

Sec. 12-294. - Abatement.

- (a) If the building is not vacated, secured, repaired, removed, or demolished, or the occupants are not relocated within the allotted time, the city may vacate, secure, remove, or demolish the building or relocate the occupants at its own expense.
- (b) The city may repair a building under this section only to the extent necessary to bring the building into compliance with the minimum standards and only if the building is a residential building with ten or fewer dwelling units. The repairs may not improve the building to the extent that the building exceeds minimum housing standards.

(Ord. No. G-5-91, § 8, 4-8-1991)

Sec. 12-295. - Lien.

- (a) *Authority.* When the city incurs expenses under section 12-294, the city may assess the expenses on, and the city shall have a lien against, unless it is a homestead as protected by the state constitution, the property on which the building was located. The lien is extinguished if the property owner or another person having an interest in the legal title to the property reimburses the city for the expenses. In the event the lien is filed, the city may charge a 20-percent administrative fee of the statement of expenses which represents the administrative cost of the process to obtain the lien.
- (b) *Notice; contents.* The notice of lien filed by the city must contain the name and address of the owner if that information can be determined with a reasonable effort, a legal description of the real property on which the building was located, the amount of the expenses incurred by the city, and the balance due.
- (c) *Preference.* Except as provided by subsection (a) of this section, the city's lien to secure the payment of a civil penalty or the costs of repairs, removal, or demolition is inferior to any previously recorded bona fide mortgage lien attached to the real property to which the city's lien attached if the mortgage lien was filed for record in the county clerk's office of the county in which the real property is located before the date the civil penalty is assessed or the repair, removal, or demolition is begun by the city. The city's lien is superior to all other previously recorded judgment liens.

(Ord. No. G-5-91, § 9, 4-8-1991; Ord. No. G-3-16, § 1, 4-11-2016)

Sec. 12-296. - Interest.

Civil penalties or other assessments imposed under this article accrue interest at the rate of ten percent a year from the date of the assessment until paid in full.

(Ord. No. G-5-91, § 12, 4-8-1991)

Sec. 12-297. - Nontransferable.

The city may not transfer its right to the assessment of the lien to a third party.

(Ord. No. G-5-91, § 13, 4-8-1991)

Secs. 12-198—12-319. - Reserved.

ARTICLE V. - BUILDING AND STANDARDS COMMISSION

Sec. 12-320. - Authority shared with city council.

The city council may act as the building and standards commission and exercise all authority granted to the building and standards commission under this division including, without limitation, holding public hearings regarding alleged violations of the city's building and technical codes.

(Ord. No. G-5-25, § 1 (Exh. A), 7-14-2025)

Sec. 12-321. - Membership; vacancies; rules; meetings.

- (a) *Regular member panels.* The building and standards commission shall consist of one or more five-member panels to be appointed for terms of two years. As near as practical, members shall be qualified in one or more of the fields of fire prevention, building construction, sanitation, health, and public safety.
- (b) *Alternate members.* The city council may appoint eight or more alternate members to serve in the absence of one or more regular members when requested to do so by the city manager. The alternate members serve for the same term and are subject to removal in the same manner as regular members. A vacancy is filled in the manner as a vacancy is filled among the regular members.

- (c) *Removal; filling vacancies.* The city council may remove a commission member for cause on a written charge. Before a decision regarding removal is made, the city council must hold a public hearing on the matter if requested by the commission member subject to the removal action. A vacancy shall be filled for the unexpired term.
- (d) *Rules of order; appointment of officers.* A majority of the entire commission shall establish rules of order and the appointment of at least a chairperson, vice-chairperson, and secretary and duties thereof. The rules of order shall be in compliance with the provisions of this division.
- (e) *Meetings; oaths; authority to compel attendance of witnesses.* Meetings of the commission shall be held at the call of the chairperson and at other times as determined by the commission. All meetings held by the commission shall be open to the public. Each chairperson of a panel, or in his absence, the acting chairperson, may administer oaths and compel the attendance of witnesses.
- (f) *Minutes and other records.* The commission shall keep minutes of its proceedings showing the vote of each member on each question or the fact that a member is absent or fails to vote. The commission shall keep records of its examinations and other official actions. The minutes and records shall be filed immediately in the office of the commission as public records.

(Ord. No. G-5-25, § 1 (Exh. A), 7-14-2025)

Sec. 12-322. - Powers and duties generally.

The commission is authorized to hold public hearings to determine compliance with, or alleged violations of, city building and technical codes, including minimum property maintenance requirements. The commission shall also hear appeals from persons aggrieved by orders or decisions of city officials made in enforcement of this chapter. The commission may further make recommendations to the city council as to any needed modifications, amendments, and changes in this chapter, and shall carry out such other duties as may be required from time to time by the city council or state law.

(Ord. No. G-5-25, § 1 (Exh. A), 7-14-2025)

Sec. 12-323. - Hearing authority and procedure.

- (a) *Minimum number of members in review panel.* All cases heard by the commission may be heard by any panel, but at least four members of any panel must hear a case.
- (b) *Concurring vote of four members required.* The concurring vote of four members of the commission is necessary to take any action under this article and any other ordinance under its jurisdiction adopted by the city.
- (c) *Code enforcement official must appear at hearing.* The code enforcement official shall present all cases initiated by the city to be heard by the commission.
- (d)

Evidence, testimony and defense. There shall be provided ample opportunity at the public hearing for the presentation of evidence or testimony by respondents, persons opposing charges, and the code enforcement official relating to alleged violations of this chapter.

(e) *Time and method of giving notice of hearing.* Notice of all proceedings before the commission must be given:

- (1) By certified mail, return receipt requested, to the record owners of the property affected, and each holder of a recorded lien against the affected property, as shown by the records in the office of the county clerk of the county in which the affected property is located if the address of the lienholder can be ascertained from any applicable instruments on file in the office of the county clerk;
- (2) To all unknown owners, by posting a copy of the notice on the front door of each improvement situated on the affected property, or as close to the front door as practical; and
- (3) By publication in a newspaper of general circulation within the city on one occasion. The notice shall be mailed, published, and posted on or before the tenth day before the date of the hearing before the commission and must state the date, time, and place of the hearing.

(f) *Filing copy of notice in official real property records.* The commission may file notice of a proceeding before a commission panel in the official public records of real property in the county in which the affected property is located. The notice must contain the name and address of the owner of the affected property if that information can be determined from a reasonable search of the instruments on file at the office of the county clerk, a legal description of the affected property, and a description of the proceeding. The filing of the notice is binding on subsequent grantees, lienholders, or other transferees of an interest in property who acquire such interest after the filing of the notice and constitutes notice of the proceeding on any subsequent recipient of any interest who acquires such interest after the filing of the notice.

(g) *Final determination by commission.* The commission may:

- (1) Declare a structure or premises substandard, dangerous, or otherwise in violation of this chapter.
- (2) Order an unsafe condition be abated, vacated, secured, repaired, removed or demolished within a fixed period.
- (3) Order, in appropriate cases, the immediate abatement, vacation, securing, repairing, removal, or demolition of the unsafe condition, the entry onto private property to secure such abatement if it is determined that conditions exist on the property that constitutes a violation of this article or any other ordinance within its jurisdiction, and order action to be taken as necessary to remedy, alleviate, or remove any unsafe structure found to exist.
- (4) Issue orders or directives to any peace officer of the state, including a sheriff or constable or the chief of police of the city, to enforce and carry out the lawful orders or directives of the panel.
- (5) Determine the amount and duration of the civil penalty the city may recover as provided in this article.

(h) *Notice of final determination.* The commission shall:

- (1)

Promptly send by first class mail, certified return receipt requested, a copy of any final decision and order to all persons to whom notice is required to be sent under this section; and

- (2) Publish an abbreviated copy of the order one time in a newspaper of general circulation in the city, within ten calendar days after the date of the mailing of the copy as required in this section, including street address or the legal description of the property, the date of hearing, a brief statement indicating the results of the order, and instructions stating where a complete copy of the order may be obtained. A copy shall be filed in the office of the city secretary.
- (i) *Effect of final determination; civil penalties.* A determination made under this article is binding and constitutes prima facie evidence of the penalty in any court of competent jurisdiction in a civil suit brought by the city for final judgment in accordance with the established penalty. To enforce any civil penalty under this article, the city secretary must file with the district clerk of the county in which the city is located a certified copy of the order of the commission panel establishing the amount and duration of the penalty. No other proof is required for a district court to enter final judgment on the penalty. If no appeals are taken from the decision of the commission panel within the required period, the decision of the commission panel is, in all things, final and binding.
- (j) *Rehearing and reconsideration; stay of proceedings.* Any owner, lienholder, or mortgagee of record jointly or severally aggrieved by any decision or order of a commission panel may request a single rehearing of the case by a second, existing, duly appointed commission panel, or if no such panel exists, the same may request reconsideration from the first panel. The request must be in writing, addressed to the commission, specifying the grounds for the request, and received by the commission or postmarked on or before the tenth day after the mailing of the notice required under this article. The rehearing or reconsideration panel shall consider the grounds for the request for rehearing or reconsideration and may approve or deny the request. Only the approval of the request for rehearing or reconsideration stays all other proceedings.
- (k) *Appeal.* After a final decision of the commission under this article, any owner, lienholder, or mortgagee of record remaining jointly or severally aggrieved by the final decision of the commission may appeal the decision to a court of competent jurisdiction in accordance with state law.

(Ord. No. G-5-25, § 1 (Exh. A), 7-14-2025)

Sec. 12-324. - Parties against whom judgment is issued; standing to challenge judgment.

An abstract of judgment shall be issued against all parties found to be owners of the subject property or in possession of that property. A lienholder does not have standing to bring a proceeding under this article on the ground that the lienholder was not notified of the proceedings before the commission panel or was unaware of the condition of the property, unless the lienholder had first appeared before the commission panel and entered an appearance in opposition to the proceedings.

(Ord. No. G-5-25, § 1 (Exh. A), 7-14-2025)

Sec. 12-325. - Alternative authority for city to proceed in municipal court.

This article does not affect the ability of the city to proceed under the jurisdiction of the municipal court.

An owner, lienholder, or mortgagee of record may appeal the decision to district court.

Petition must be received within 30 calendar days after final notice is mailed.

No further action is required by the commission unless ordered by district court.

(Ord. No. G-5-25, § 1 (Exh. A), 7-14-2025)

ARTICLE VI. - REQUIREMENTS FOR OWNERS OF RESIDENTIAL PROPERTIES USED AS SHORT-TERM RENTALS

Sec. 12-350. - Purpose.

This article is adopted to promote the public health, safety, and general welfare within the city by providing neighborhood sustainability and preserving property values. Having current and reliable information about the owners of short-term rentals will allow the city to provide those owners with timely information on the condition of their properties and emergency contact information, to ensure collection of hotel occupancy taxes, to protect the health and safety of guests of short-term rentals and to aid in enforcement of applicable ordinances and laws. By requiring the registration of short-term rental properties, the city council seeks to protect property values and to prevent property damage within the city limits.

(Ord. No. G-11-25, § 1(Exh. A.), 9-8-2025)

Sec. 12-351. - Definitions.

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

City. The City of Port Lavaca, Texas.

Director or designee. The department(s) or division(s) of the city designated by the city manager to administer and/or enforce the provisions of this ordinance and any person or persons designated by such a department or division to represent the department or division for said purpose.

Guest. A person contracting with a short-term rental for use of a residential dwelling or premises as a short-term rental and the person's invitees at the short-term rental.

Hotel occupancy tax. Hotel occupancy tax as provided for in chapter 44, article III of the City Code of Ordinances and Chapter 351 of the Texas Tax Code, as they exist or may be amended and any successor ordinances or laws.

Local contact person. The owner, operator, or person designated by the owner or the operator who shall be available for the purpose of responding to concerns or requests for assistance related to the owner's short-term rental.

Occupant(s) shall mean the person or persons who have rented the short-term rental for a specified period and the overnight occupants.

Operator. The owner or the owner's authorized representative who is responsible for compliance with this article while advertising and/or operating a short-term rental.

Owner. The person or entity that holds legal or equitable title to the short-term rental property.

Short-term rental (STR). A privately owned dwelling, including but not limited to, a single- family dwelling, condominium, duplex, townhouse, mobile home, recreational vehicle (RV), or any portion of such dwellings, rented by the public for consideration, and used for dwelling, lodging or sleeping purposes for any period less than 30 consecutive days. The term applies regardless of whether the dwelling was originally constructed or zoned as a residential dwelling. The term short-term rental does not include:

- (1) Multi-family dwelling(s): apartment complex, hotel, motel, dormitory, public or private club, recreational vehicle park, hospital and medical clinic, nursing home or convalescent home, foster home, transitional housing facility, any housing operated or used exclusively for religious, charitable or educational purposes, and any housing owned by a governmental agency and used to house its employees or for governmental purposes.
- (2) Rental of a property pending closing of a real estate purchase contract.

Short-term rental permit. A permit issued by the city authorizing the use of a privately owned dwelling as a short-term rental.

Short-term rental listing service. A person that participates in the short-term rental business by facilitating booking services through which an owner may offer short-term rentals to potential guests. Short-term rental listing services usually, though not necessarily, provide booking services through an online platform that allows an owner to advertise the premises through a website provided by the short-term rental listing service and the short-term rental listing service conducts a transaction by which potential guests arrange their use and their payment, whether the potential guest pays rent directly to the owner or to the short-term rental listing service.

Short-term rental unit. One or more habitable rooms forming a single habitable division within a short-term rental, or an entire undivided short-term rental, which is advertised to be occupied, is occupied or is intended to be occupied by a single party of guests under a single reservation and/or single rental payment.

(Ord. No. G-11-25, § 1(Exh. A.), 9-8-2025)

Sec. 12-352. - Applicability

- (a) The property owner shall designate themselves or an agent to comply with the requirements of this article on behalf of the owner. The owner or designated agent is sometimes referred to as "operator" herein.
- (b) The owner shall not be relieved from any personal responsibility or personal liability for noncompliance with any applicable law, rule or regulation pertaining to the use and occupancy of the residential dwelling unit as a short-term rental unit, regardless of whether such noncompliance was committed by the owner, operator, authorized agent or representative or the occupants or guests of the occupants.
- (c) This article is not intended to provide any owner/operator of residential property with the right or privilege to violate any city ordinance, private conditions, covenants or restrictions applicable to the owner's property that may prohibit the use of such owner's residential property for short term rental purposes as defined in this section or to repeal, arrogate, or impair any existing easements, covenants, or deed restrictions.
 - (1) Exception: existing short-term rentals that have been in operation for at least one year at the time of adoption of this ordinance, but have had no complaints filed against the property in relation to the short-term rental and have filed / paid their hotel occupancy tax (HOT) in a timely manner and can show proof of such, will be considered legal non-conforming and is subject to the regulations set forth in this chapter. Change in ownership will negate the legal non-conforming status.
- (d) Abrogation and greater restrictions. Where this article and another ordinance conflict or overlap, whichever imposes the more stringent restrictions shall prevail.
- (e) An advertisement promoting the availability of short-term rental property in violation of any provision of this ordinance is prima facie evidence of a violation.
- (f) The provisions of this article pertaining to short-term rentals shall be reviewed by the city council within one year of the adoption. Those provisions are subject to amendment or repeal upon such review or at any other time. The adoption of the short-term rental provisions of this article shall not be construed to create any enforceable right to the continuation of short-term rentals or any right to compensation for loss, damages, costs, or expenses alleged to have been incurred in reliance upon its adoption or suffered as a result of its repeal.

(Ord. No. G-11-25, § 1(Exh. A.), 9-8-2025)

- (a) *Registration required:* Prior to using a dwelling unit as a short-term rental or advertising in any manner the availability of the dwelling unit for short-term rental use, the operator must submit the following information on a form and in the manner prescribed by the director:
- (1) The name, address, email and telephone number of the owner and operator of the subject short-term rental unit;
 - (2) The name, address, email and telephone number of a designated local contact person;
 - (3) The local contact person is the operator or person designated by the operator who shall be available for the purpose of:
 - a. Responding to complaints presented by the Port Lavaca Police Department regarding the condition, operation, or conduct of occupants of the short-term rental unit; and
 - b. Responding in person or by phone within 24 hours to all other complaints; and
 - c. Taking remedial action to resolve any such complaints;
 - (4) The name, mailing, and physical address of the proposed short-term rental unit;
 - (5) The number of sleeping rooms and applicable occupancy limit of the proposed short term rental unit. For purposes of this section, a sleeping room is a room designated and used primarily for sleeping and resting on a bed, air mattress, cot, or couch. This shall not be interpreted to include living rooms, family rooms and other similar rooms in which furniture such as fold- down beds or convertible couches are provided on a permanent basis for regular accommodation of residents, temporary or otherwise;
 - a. Maximum occupancy is three times the number of sleeping rooms per dwelling unit as per Texas State Property Code, Title 8, Sec 92.010. Children shall not be counted in the occupancy calculation. For purposes of this section an adult is an individual 18 years of age or older at time of rental.
 - b. The maximum occupancy of a short-term rental shall be determined at the time a short-term rental permit is issued or renewed. That capacity shall not be increased by subsequent construction of any addition to the structure covered by the permit or by construction of any other structure located on the property without an inspection and approval by the building official and submission of an amended registration form;
 - (6) If the applicant does not own the property where the rental unit is located, the applicant must provide written documentation, signed by the property owner before a notary public, authorizing the registrant to operate a short-term rental on the premises;
 - (7) A diagram showing the proposed layout of the property use and any on-site parking available for the short-term rental;
 - (8) Payment of all fees, established by this article or the city council and, for registration renewals, proof of collection and payment of hotel occupancy tax due during the preceding registration periods; and

- (9) Incomplete applications will not be processed and, as a result, any premises associated with an incomplete application will not be registered in compliance with or as required by this division; and any additional information the director determines necessary for the administration of this section.
- (b) Prior to issuance of a short-term rental permit, the operator shall allow an on-site inspection of the short-term rental unit by the building official or his/her designee to ensure compliance with the following:
 - (1) The requirements set forth in section 12-354(a)(1) through (9) of this article: and
 - (2) The requirements set forth in sections 12-354(b)(1) through (8) of this article; and
 - (3) A live inspection must occur every two years.
- (c) Any existing short-term rental shall have 90 days from adoption of the ordinance to obtain a permit.
- (d) Transferability. A short-term rental permit is not transferable to a new property owner. A new owner must apply for a short-term rental permit within 60 days from the closing date of the purchase or any other conveyance of ownership. Failure of a new property owner to apply for permit within 60 days from the closing date may result in the revocation or non-renewal of an existing short-term rental permit or the denial of a new short-term rental registration.
- (e) Any property owner delinquent and/or owing city fees to include but not limited to property taxes, sanitation, or utility service fees, and property maintenance fees will be prohibited from registering a short-term rental until such time as payment or acceptable resolution is approved by the city manager or his/her designee.
- (f) Registration fee; renewal fee.
 - (l) The short-term rental registration form shall be accompanied by an initial non-refundable per unit registration fee of \$150.00.
 - (2) The initial registration of the short-term rental is valid for 12 months from the date the completed registration is filed with the city and payment of the registration fee has been made unless ownership of the short-term rental changes at which time a new registration will be required and new permit issued. Subsequent renewal of a short-term rental accompanied by an initial non-refundable per unit registration renewal fee of \$100.00 will be on an annual calendar year basis beginning January first of each year.
- (g) Each short-term rental, once properly registered, shall be issued a permit with a unique registration number. The registration number must be included in any and all advertisement for the short-term rental, including internet booking sites.

(Ord. No. G-11-25, § 1(Exh. A.), 9-8-2025)

Sec. 12-354. - Short term rental operational requirements.

- (a) The operator shall post the following information in a prominent location within the short-term rental unit, using a form promulgated by the city:

- (1) The unique short-term rental permit number assigned to the short-term rental unit;
 - (2) Operator name and number;
 - (3) Local contact person name and number;
 - (4) The location of any on-site and off-site parking spaces available for guests;
 - (5) The occupancy limit;
 - (6) Instructions to guests concerning disposal of garbage and handling of garbage containers;
 - (7) Depiction of floor plan identifying evacuation routes, including the dwelling's exits, primary evacuation routes and secondary evacuation routes near the front door of the dwelling if applicable;
 - (8) Information to assist guests in the case of emergencies posing threats to personal safety or damage to property, including emergency and non-emergency telephone numbers for police, fire and emergency medical services providers and instructions for obtaining severe weather, natural or manmade disaster alerts and updates;
 - (9) Notification that the guests are responsible for compliance with all applicable laws, rules and regulations pertaining to the use and occupancy of the short-term rental, and that guests may be fined by the city for violations of this article; and
- (b) The operator shall operate a short-term rental in compliance with the following:
- (1) City of Port Lavaca Sign Ordinance, as applicable, set forth in chapter 36 of the Code of Ordinances.
 - (2) Maximum occupancy limits prescribed by the building official, pursuant to the International Fire Code as adopted in chapter 12 article II of the Code of Ordinances being 2021 IFC, Chapter 10 Means of Egress, Texas State Property Code, Title 8, Sec 92.010.
 - (3) Parking shall comply with chapter 48 division 3 - Off Street Parking and Loading of the City's Code of Ordinances. No required parking shall be permitted within public right-of-way or access easements as defined by city code or state regulations regarding parking. Yards and/or landscaping shall not be used to provide the necessary parking.
 - (4) Each short-term rental owner shall provide in the short-term rental working smoke/carbon monoxide detectors in accordance with adopted codes, and at least one working type A fire extinguisher. The premises shall otherwise comply with the applicable Code of Ordinance requirements, including but not limited to all building and fire codes.
 - (5) City of Port Lavaca Hotel Occupancy Tax Ordinance, set forth in chapter 44 article III of the Code of Ordinances.
 - (6) City of Port Lavaca Noise Ordinance, set forth in chapter 20 article VI of the Code of Ordinances.
 - (7) City of Port Lavaca Solid Waste Ordinance set forth in chapter 38 article II of the Code of Ordinances. Accumulation on property per chapter 20 article III.

(8) During any period when a short-term rental is occupied or intended to be occupied by guests, the local contact person shall be available for the purpose of responding to concerns or requests for assistance related to the condition, operation, or conduct of guests of the short-term rental.

(c) Other standards. It is unlawful:

- (1) To advertise on a short-term rental listing service or offer a short-term rental without first obtaining a short-term rental permit in accordance with this article;
- (2) To operate a short-term rental in a manner that does not comply with all applicable city and state laws and codes;
- (3) To operate a short-term rental without paying the required hotel occupancy taxes;
- (4) To operate a short-term rental with an active alarm system that has not been registered with the Port Lavaca Police Department;
- (5) To operate a short-term rental with an active alarm system that is registered with the Port Lavaca Police Department but is not listed on the permit as a short-term rental;

(Ord. No. G-11-25, § 1(Exh. A.), 9-8-2025)

Sec. 12-355. - Notification of complaints.

Complaints related to the operation of a short-term rental, including but not limited to complaints concerning noise, garbage, parking, and disorderly conduct by guests, shall be reported to the City Code Enforcement office during daytime hours and the Port Lavaca Police Department after hours.

(Ord. No. G-11-25, § 1(Exh. A.), 9-8-2025)

Sec. 12-356. - Compliance with other laws.

The owner, operator, local contact person, and guests shall comply with all applicable laws, rules and regulations pertaining to the operation, use, and occupancy of a short-term rental. The owner shall not be relieved from any civil or criminal liability for a violation of this article, regardless of whether such violation is committed by the owner, operator, local contact person, or guest of the owner's short-term rental.

Nothing in this article shall be construed to relieve any person or owner of any other applicable requirements of federal, state, or local law, rules, or regulations. Nothing in this article shall be construed to provide any property owner with the right or privilege to violate any private conditions, covenants, and restrictions applicable to the owner's property that may prohibit the use of such owner's property as a short-term rental as defined in this article.

(Ord. No. G-11-25, § 1(Exh. A.), 9-8-2025)

Sec. 12-357. - Compliance and penalty provision.

- (a) It shall be unlawful for any person or entity to violate any provision of this article. Proof that a violation of this article occurred at a short-term rental shall create a rebuttable presumption that the owner of said short-term rental committed the violation.
- (b) Any violation of this article is a Class C misdemeanor offense, and upon conviction, shall be punished by a fine as set forth in section 1-8 of the Code of Ordinances.
- (c) Prosecution under this article shall not require the pleading or proving of any culpable mental state.
- (d) Penalties provided for in this article are in addition to any other criminal or civil remedies that the city may pursue under federal, state, or local law.

(Ord. No. G-11-25, § 1(Exh. A.), 9-8-2025)

Sec. 12-358. - Permit suspension or revocation; appeal.

Upon conviction of a violation of this article, the director may suspend or revoke any short-term rental permit issued for the same short-term rental where the violation occurred. The director shall notify an owner of a suspension or revocation under this section in writing, delivered by certified mail, return receipt requested, and mailed to the address of the owner as set forth on the most recent short-term rental permit application submitted to the city. An owner may appeal a notice of suspension or revocation under this section by filing a written appeal with the director within 30 days following the date said notice was deposited in the U.S. Mail. Following a timely filing of an appeal hereunder, the owner may present evidence to the director related to the suspension or revocation under this section. Following the director's final decision on appeal, the owner may appeal an adverse decision of the director by filing a written appeal with the director within 30 days following the date of the director's final decision.

(Ord. No. G-11-25, § 1(Exh. A.), 9-8-2025)

Chapter 42 - SUBDIVISIONS AND PLATS

Footnotes:

--- (1) ---

State Law reference— *Extraterritorial jurisdiction of municipalities, V.T.C.A., Local Government Code § 42.001 et seq. ; municipal regulation of subdivisions, V.T.C.A., Local Government Code § 212.001 et seq. ; extraterritorial jurisdiction of municipalities in counties that regulate subdivisions, V.T.C.A., Local Government Code § 242.001 et seq. ; recording of plats, V.T.C.A., Property Code § 12.002; extension of subdivision rules to extraterritorial jurisdiction, V.T.C.A., Local Government Code § 212.003.*

ARTICLE I. - IN GENERAL

Sec. 42-1. - 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:

Alley means a permanent public serviceway, dedicated for or in public use, other than a street, place, road, crosswalk, or easement, designed to provide a secondary means of access for special accommodation to the back side of abutting properties and not intended for general traffic circulation.

Barrier (natural or artificial) means any street, highway, river, pond, canal, railroad, levee, embankment, berm, stream, drainage ditch, or screening by fence or hedge.

Benchmark means a definite point of known elevation and location and of more or less permanent character.

Block means a unit of property entirely surrounded by public highways, streets, railroad rights-of-way, waterways, public parks, cemeteries, corporate boundary lines, or other barriers (except alleys, crosswalks, or exterior boundaries of a subdivision, unless such boundary is a street or highway), or any combination thereof.

Buffer yard means an area of land along the perimeter of a lot or parcel of land not constituting any part of a required yard and not on any portion of an existing right-of-way having thereon specified dimension, types and amounts of vegetation, or structures which may be required to reduce or eliminate the effects of land uses upon adjoining land uses or thoroughfares.

Building setback line means the line on a plat delineating the nearest point to which buildings may be located to the property line.

Building site means a lot or parcel of land in a single or joint ownership and occupied or to be occupied by a building or buildings, together with such open spaces as a required by the terms of this title and having its frontage on a public street, road, highway, or permanent means of access by way of city-approved public accessway or thoroughfare for vehicular or pedestrian travel.

City engineer means the city engineer/public works director for the city.

Commercial development means the development of property by construction of a building in one of the following occupancy classifications:

- (1) Assembly;
- (2) Business (5,000 square feet or more in area);
- (3) Educational;

- (4) Factory/industrial;
- (5) Hazardous;
- (6) Institutional;
- (7) Mercantile (5,000 square feet or more in area); and
- (8) Storage (5,000 square feet or more in area).

Common land means that land set aside for open space or recreational use for the owners of the residential lots in a subdivision, which land is conveyed by the developer in fee simple absolute title by warranty deed to trustees whose trust indenture will provide that said common land be used for the sole benefit use and enjoyment of the lot owners present and future. No lot owner shall have the right to convey his interest in the common land except as incident to the ownership of a regularly platted lot.

Cul-de-sac means a short, local-street having one end open to traffic and the other end permanently terminated by a vehicular turnaround

Dead-end street means a street having one end open to traffic and the other end closed.

Design means the arrangement of land for easements, lots and rights-of-way, including materials, improvements, alignments, grades, and width of these elements.

Drainage channel means a natural watercourse or manmade indenture for the drainage of surface water.

Intrusive/invasive species means weeds, undesirable natural and/or nuisance plants or aggressive species.

Monument means an object set in the ground to mark the boundaries of real estate or to mark a survey station.

Multifamily dwelling means any dwelling on a single parcel of property that serves as the residence for two or more families. The term "multifamily dwelling" includes duplexes, triplexes, fourplexes, apartment buildings, condominiums, hotels and motels.

Nonresidential subdivision means either or both of:

- (1) A division or redivision of a tract into more than one lot, plat, or site for commercial or industrial purposes; and
- (2) The dedication or establishment of a street or improvement in conjunction with or for use in a tract for commercial or industrial purposes.

Official submission date means the date when a subdivision plan shall be considered submitted to the planning commission. The term "official submission date" means the date of the planning commission meeting at which all required surveys, plans, plats and data are submitted.

Off-street parking means a parking area, situated entirely within the boundary lines of a lot, which is accessible only by use of the entrance/exit driveways.

Open space means an area, excluding parking or paved area but including any side, rear or front yard or any unoccupied space on the lot, that is open and unobstructed to the sky except for the ordinary projections of cornices, eaves or porches.

Open space, public, means the land which may be dedicated or reserved for acquisition for general use by the public, including parks, recreational area, school sites, community or public building sites, open or green space areas, and other such areas that shall be deemed necessary by the planning commission.

Patio home means a dwelling unit that does not have party walls, but has one or more walls built on the side property line and does not have windows, doors or other openings in these walls.

Pavement means an all-weather, dust-free asphaltic seal on an appropriate base, asphaltic concrete, or concrete surface.

Pedestrian way means an easement or right-of-way dedicated to public use to facilitate pedestrian access to adjacent streets, roadways and properties.

Permeable/pervious area means an area having pores or openings that allow water to pass through that is sufficient to foster plant maturity, health, and absorbability.

Planning commission means the duly appointed city planning commission.

Plat, final, means the plat, prepared by a registered public surveyor, showing complete bearings and dimensions of all lines defining lots and blocks, rights-of-way for all streets, alleys, roadways, and easements, public areas, and other segments of land as may be required for the development of a subdivision.

Plat, preliminary, means a map or plan, prepared by a registered public surveyor, of a proposed land subdivision showing the character and layout of the tract in sufficient detail to indicate clearly the proposed use and suitability of the tract in accordance with the requirements stated in this chapter.

Replat/resubdivision means the subdivision of an existing six or less adjacent lots in a subdivision that has been duly approved and recorded in accordance with this chapter into a new lot.

Right-of-way means the land opened, reserved, or dedicated for a street or roadway, sidewalk, drainage area, railroad or other public purpose.

Rural subdivision means any proposed subdivision outside of the city limits, but within the extraterritorial jurisdiction of the city as prescribed by state law, but more than one-fourth mile (1,320 feet), as measured along existing rights-of-way, from available and adequate city water and wastewater facilities, as determined by the city engineer.

Street means a right-of-way, other than an alley, dedicated or otherwise legally established for public or private use, with a surface, usually affording the principal means of access to abutting property. Streets are intended primarily as a means of vehicular travel. The street right-of-way may provide space for public facilities such as sanitary and storm sewers, water, gas, and electric lines, sidewalks, and drainage ways. Streets may be designated as a highway, thoroughfare, road, throughway, pike, avenue, boulevard, place, lane, drive, court, or circle. For the purposes of this chapter, the term "streets" shall be classified as follows:

- (1) *Arterial*. An arterial street serves the major traffic movement entering or leaving an area. Its principal function is to move traffic and, in cases of high traffic volumes, may require limited access or controlled points of access. Arterial streets are normally characterized by traffic controls and parking restrictions.
- (2) *Collector*. A collector street provides for the traffic movements between arterials and local streets. Collector streets also provide direct access to abutting property.
- (3) *Local*. The sole function of a local street is to provide access to immediately adjacent property. The term "local street" includes a cul-de-sac.
- (4) *Marginal access street/service road*. A marginal access street/service road is a local street parallel and adjacent to arterials, railroad rights-of-way and barriers. Marginal access streets/service roads also provide access to abutting properties.

Street yard means the portion of a lot between the street right-of-way, or easement, or common access drive, and the required building placement; the portion of a lot adjoining a street as measured from the right-of-way.

Subdivider/developer means any person or agent thereof, dividing or proposing to divide land so as to constitute a subdivision. The term "subdivider/developer" includes only the owner, equitable owner or authorized agent of such owner or equitable owner, of the land sought to be subdivided. The terms "subdivider" and/or "developer" are synonymous, and are to be used interchangeably.

Subdivision means the division of a tract of land that cannot be defined as a minor subdivision, into any number of lots, tracts, sites, parcels or areas of any size that includes any improvements. The term "subdivision" includes all redivisions of land or lots.

Subdivision, minor, means the division of land into not more than four lots, tracts, sites, parcels, or areas on an existing city, state, or federal highway or road dedicated or deeded to the public prior to the adoption of the ordinance from which this chapter is derived; provided that the proposed subdivision of land:

- (1) Does not include any new streets, easements, rights-of-way, utility mains, etc.; and
- (2) Conveys any right-of-way necessary for road widening and maintenance of city roads, where the granting of such right-of-way can be given without due hardship.

Surveyor means a person who is duly licensed and registered by the state as a land surveyor or registered public surveyor to engage in the practice of surveying in the state.

Townhouse means a dwelling-unit structure having a party wall with one or more adjoining dwelling-unit structures, with each dwelling-unit structure being constructed on a separate lot and suitable for individual ownership.

Townhouse group means two or more contiguous townhouses connected by party walls.

Tract means an area or parcel of land that the developer intends to subdivide and improve, or to cause to be subdivided and improved, pursuant to the requirements of this chapter.

Yard means an open space, other than a court, on a lot, unoccupied and unobstructed from the ground upward.

(Ord. No. G-3-89, § III, 4-24-1989; Ord. No. G-4-23, § 1(Exh. A), 6-12-2023)

Sec. 42-2. - Purpose.

- (a) The subdivision of land is a major factor in the process of sound community growth, and ultimately becomes a public responsibility in that roads and streets must be maintained, and various public services customary to urban areas must be provided. The welfare of the entire community is thereby affected in many important respects. It is, therefore, to the interest of the public, the developer, and the future owners that subdivisions be conceived, designed, and developed in accordance with sound rules and proper minimum standards.
- (b) The purpose of this chapter is to establish procedures and standards for the development layout and design of subdivisions within the corporate city limits, and within the extraterritorial jurisdiction of the city, as prescribed by state law. This chapter is intended to:
 - (1) Guide, assist, and expedite developers in correct procedures to be followed, and to inform them of the general standards which shall be required;
 - (2) Protect the public interests by controlling the location, design, class, and type of streets, sidewalks, utilities, and general services required; and
 - (3) Provide for public welfare and the essential areas required for educational, recreational, industrial, and commercial purposes.
- (c) The city planning commission, before approving any plats submitted to it, shall refer such plats to the departments, agencies, and utilities in this chapter named for their suggestions and comments by written report.

(Ord. No. G-3-89, § I, 4-24-1989)

Sec. 42-3. - Applicability.

From and after the date of its adoption, the ordinance from which this chapter is derived shall govern all subdivisions of land within the corporate city limits and within the extraterritorial jurisdiction of the city, as prescribed by state statute.

(Ord. No. G-3-89, § II, 4-24-1989)

Sec. 42-4 - Scope; conflicts.

- (a) This chapter shall not apply to any lot forming a part of a subdivision created and recorded prior to the effective date of the ordinance from which this chapter is derived, however, this chapter shall apply to any resubdivision of an existing subdivision, or lot, including thereunder all land within the corporate city limits or within the extraterritorial jurisdiction of the city, as prescribed by state statute.
- (b) It is not the intent of this chapter in any way to impair or interfere with private restrictions placed upon property by deeds, covenants or other private agreements, or with restrictive covenants running with the land to which the city is a party. Where this chapter imposes a greater restriction upon land than is imposed or is required by such existing provision of law, contract, or deed, the provisions of this chapter shall control.

(Ord. No. G-3-89, § IV, 4-24-1989)

Sec. 42-5. - Policy.

- (a) It shall be unlawful for any owner or agent of any owner of land to lay out, subdivide, plat or replat any land into lots, blocks, and streets within the jurisdictional area of this chapter without the proper approval of the planning commission. It shall be unlawful for any such owner or agent to offer for sale or sell property for building lots, building tracts or urban use therein, which has not been laid out, subdivided, platted, or replatted with the approval of the planning commission in accordance with this chapter.
- (b) Neither a street number nor a building permit shall be issued for the erection of any new building on any piece of property, within the jurisdictional area of this chapter that has not been established in a duly approved and recorded subdivision, in accordance with this chapter, without the written approval of the planning commission. Such planning commission approval may be given to a developer/builder who wishes to start construction on the lots while construction of the subdivision improvements is taking place.
- (c) A building permit for the remodel/renovation of an existing building in an amount equal to or greater than 30 percent of the existing building's tax-appraised value, shall not be issued without the written approval of the planning commission, unless the building is situated on a piece of property that has been established in a duly approved and recorded subdivision, in accordance with this chapter.
- (d)

In cases of a subdivision or resubdivision of real property, no map, plat of any such subdivision or resubdivision shall be filed or recorded unless and until the same has been authorized by the city planning commission.

(Ord. No. G-3-89, § V, 4-24-1989)

Sec. 42-6. - Procedure.

(a) *Preapplication conference.* Not less than 20 days prior to the official filing of a preliminary plat with the city secretary, the subdivider, or his authorized representative, shall meet with the city engineer to:

- (1) Ascertain the location of proposed highways, primary or secondary thoroughfares, collector streets, parkways, parks, playgrounds, school sites, and other community facilities or planned developments;
- (2) Acquaint themselves with the city's requirements; and
- (3) Determine the general features of the subdivision, its layout, facilities and required improvements necessary for proper preparation of the preliminary plat in accordance with this chapter.

This requirement shall not be mandatory for minor subdivisions, the subdivider may, at his option, schedule a preapplication conference with the planning commission before proceeding with the work necessary for the official filing of the preliminary plat for approval.

(b) *Preliminary plat.*

- (1) The subdivider will cause a preliminary plat to be prepared by a licensed engineer and surveyor in accordance with article II of this chapter. In the case of a minor subdivision, the planning commission may waive certain requirements as outlined in this section for the submission of preliminary and final plats and plans. If the preliminary plat of a minor subdivision also satisfies the additional requirements for a final plat listed in article IV of this chapter, then the planning commission will consider the plat as the final plat if approved, and only the preliminary plat filing fee will be charged.
- (2) A preliminary plat must be approved prior to the offering for sale of any lot, tract, or building site; prior to any construction work; and before any map of said subdivision is prepared in a form for recording. Any plat filed for the first time shall be considered as a preliminary plat, except as otherwise stated in this chapter.
- (3) The preliminary plat shall be checked by the planning commission as to its conformity to the master plan, and as to the plat's compliance with the standards, requirements, and principles hereinafter prescribed in this chapter. Prior to giving approval the planning commission shall cause said preliminary plat to be checked by appropriate parties to ascertain compliance with all applicable additional requirements for city, county, state, and federal departments, and agencies concerned with applicable regulations of public utility companies.

(4)

Approval of a preliminary plat shall be effective for one year. At the end of the one-year period, if the construction of the improvements has not started, the plat will be considered vacated. Upon written application, the preliminary plat may be extended an additional six months by the planning commission, provided no adjacent development has occurred or any additional information has been found that would affect the proposed subdivision as originally approved.

(c) *Construction and improvement plans.*

- (1) Following approval of the preliminary plat by the planning commission, the subdivider shall cause construction and improvement plans and specifications to be prepared by a licensed engineer in accordance with the applicable sections of this chapter. Upon completion, the subdivider shall submit the completed plans and specifications to the city engineer for review.
- (2) Once the subdivider and city engineer have mutually agreed upon any problems discovered during the engineer's review, the final plans and specifications shall be submitted to the planning commission for approval. Upon such approval by the planning commission, the subdivider shall:
 - a. Install the minimum improvements; or
 - b. Provide for an assessment guaranteeing such installations, in accordance with this chapter.

(d) *Final plat.*

- (1) A final plat must be approved prior to the sale of any lot, tract, or building site.
- (2) Upon the city engineer's approval of the improvements installed, the final plat shall be prepared and submitted to the planning commission and the city council in accordance with the provisions of article IV of this chapter.
- (3) In cases where no change has been made from the preliminary plat and construction drawings, as determined by the city engineer, it shall not be necessary for the planning commission to pass upon such final plat before the same is presented to the city council for its approval.

(Ord. No. G-3-89, § VI, 4-24-1989)

Secs. 42-7—42-26. - Reserved.

ARTICLE II. - PRELIMINARY PLAT REQUIREMENTS

Sec. 42-27. - Number of copies; time constraints for filing.

The subdivider shall file ten copies of the preliminary plat along with the required filing fee, title opinion, and county certification, if applicable, with the city secretary at least 14 days (seven days for minor subdivisions) prior to the date on which the planning commission will meet to consider the formal application for approval of the preliminary plat.

(Ord. No. G-3-89, § VII(A), 4-24-1989)

Sec. 42-28. - Fees; certificate of filing.

- (a) The filing fee for each preliminary plat shall be as established in appendix A to this Code.
- (b) A certificate of preliminary plat filing shall be made by the city secretary in duplicate upon the receipt of the filing fee as calculated by the director of public works. Such certification shall be recorded in the minutes of the planning commission at its next regular meeting. No action by the planning commission shall be valid until the filing fee has been paid. This fee shall not be refunded should the subdivider fail to make a formal application for preliminary plat approval or should the preliminary plat be disapproved.

(Ord. No. G-3-89, § VII(B), 4-24-1989)

Sec. 42-29. - Title opinion.

The subdivider shall submit a title opinion prepared by an attorney at law, licensed to practice in the state, who finds the fee simple title to the surface estate of the property described on the preliminary plat to be vested in the subdivider or his principals.

(Ord. No. G-3-89, § VII(C), 4-24-1989)

Sec. 42-30. - Certification from commissioner's court.

The subdivider who is requesting approval of a preliminary plat which lies outside the city limits, but within the jurisdictional area of this chapter, is required to submit a certification from the county commissioner's court stating that the court has reviewed and approved the plat. The planning commission cannot approve such a preliminary plat until this certification is submitted.

(Ord. No. G-3-89, § VII(D), 4-24-1989)

Sec. 42-31. - Application—Required.

The subdivider, or his duly authorized representative shall make a formal application for preliminary plat approval by appearing before the planning commission at an official meeting.

(Ord. No. G-3-89, § VII(E), 4-24-1989)

Sec. 42-32. - Same—Form and content.

The planning commission shall determine whether a preliminary plat is in a suitable form for review and shall not receive or consider such plat until, and unless, it is submitted in accordance with or is accompanied by the following:

- (1) A preliminary outline of any deed restrictions and covenants that will be placed upon the subdivision;
- (2) A field-note description of the boundary survey of the subdivision prepared and certified by a licensed surveyor;
- (3) A vicinity map at a scale no greater than 400 feet to the inch for all subdivisions exceeding five acres, in size. Such map shall show the location and dimension of all existing area subdivisions, streets, utility mains, easements, rights-of-way, property lines and names of the owners of adjoining parcels of land. The map shall depict the general drainage plan consistent with the city's master drainage plan. (This vicinity map requirement may be waived by the planning commission for a minor subdivision);
- (4) The subdivision plat, vicinity map, and any other drawings shall be prepared on 24-inch-wide and 36-inch-long sheets with a three-inch binding margin on the left side and one-inch margins on the other three sides;
- (5) The horizontal scale of the subdivision plat shall be no greater than 200 feet to the inch. When more than one sheet is necessary to accommodate the entire area, an index sheet showing the entire subdivision at a smaller scale shall be attached to the plat; and
- (6) The plat shall show the following:
 - a. Names and addresses of the subdivider, project engineer and surveyor;
 - b. Proposed name of the subdivision, which shall not have the same spelling as or be pronounced similar to the name of any other subdivision located within the city or within five miles of the city;
 - c. Subdivision boundary indicated by heavy lines and the computed acreage of the subdivision;
 - d. Metes and bounds description of the subdivision indicating primary control points and ties to such control points;
 - e. Date of preparation, scale, and north arrow;
 - f.

Location, dimension, description, and name of all proposed, existing, and recorded streets, alleys, watercourses, drainage structures, parks, other public areas, reservations, easements, rights-of-way, blocks, lots, and other sites within the subdivision or contiguous with the subdivision;

- g. Proposed general layout of all utility mains including water, sanitary and storm sewers, electricity, gas, cable, and telephone;
- h. Topographical contour lines at two vertical feet intervals (the planning commission may waive this requirement in the case of a minor subdivision);
- i. A number or letter to identify each lot, tract, parcel and block;
- j. Front building setback lines on each lot including side yard building setback lines at street intersections;
- k. Designations showing the proposed uses of the land within the subdivision (i.e., the type of residential use, location of commercial or industrial sites, sites for churches, schools, parks, etc.);
- l. Location of the city limits line or the city's extraterritorial jurisdiction line should either or both of these lines traverse, form a part of the boundary to, or are contiguous to the subdivision;
- m. Surveyor's professional seal and signature certifying the accuracy of the subdivision survey and plat; and
- n. If the developer intends to subdivide any portion of the parcel into a multiple-dwelling-unit subdivision, then the preliminary plat shall, in addition, include the following information:
 - 1. Gross area of tract;
 - 2. Area in street;
 - 3. Net area of tract;
 - 4. Maximum number of living units;
 - 5. Area of parking and parking ratio;
 - 6. Distance between structures; and
 - 7. Location of entrance/exit drives.

(Ord. No. G-3-89, § VII(F), 4-24-1989)

Sec. 42-33. - Where the subdivision is a unit of a larger tract.

Where the proposed subdivision constitutes a unit of a larger tract owned by the subdivider, which is, intended to be subsequently subdivided, as additional units of the same subdivision, the preliminary plat shall be accompanied by a layout of the entire area, showing the tentative proposed layout of streets, blocks, drainage, water, sewerage, and other improvements for such areas. The overall layout, if approved by the planning commission, shall be

attached to and filed with a copy of the approved subdivision plat in the permanent files of the planning commission. Thereafter, plats of subsequent units of such subdivision shall conform to the approved overall layout, unless there are changes by the planning commission and the subdivider has agreed to such changes. The planning commission may change such approved overall layout only when the commission finds:

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

(Ord. No. G-3-89, § VII(G), 4-24-1989)

Secs. 42-34—42-52. - Reserved.

ARTICLE III. - CONSTRUCTION PLAN REQUIREMENTS

Sec. 42-53. - City engineer review.

- (a) *Time constraints.* One set of construction plans and specifications shall be submitted to the city engineer for such engineer's review. After no more than ten days of review, a meeting shall be scheduled within the next ten days by the city engineer with the developer's engineer to discuss and make corrections.
- (b) *Plan specifications and content.* The construction plans, drawn on sheets 24 inches by 36 inches to a scale of one inch equals 100 feet, except as approved by the city engineer, shall contain the information mentioned in sections 42-54 through 42-57.

(Ord. No. G-3-89, § VIII, 4-24-1989)

Sec. 42-54. - Urban subdivisions.

- (a) *Contour map.* A topographical contour map with contour lines at one-half vertical feet intervals extending 100 feet beyond the property limits of the tract, and based on USGS vertical datum
- (b) *Water system.* A plan of the proposed water system which shows the estimated peak demand flows, and the sizes and types of all lines, fittings, and valve boxes. The proposed water system plan shall also show the location of all fire hydrants with an indicated elevation of the top of the proposed curb at its location.

- (c) *Sanitary sewer system.* A plan of the proposed sanitary sewer system which shows the estimated peak flows and indicating the sizes, types and invert and flow-line grades of all lines and their locations within the system. The proposed sanitary sewer system plan shall also show the locations and sizes of the existing mains to which the system will be connected and the location and invert and flow-line elevations of all manholes and cleanouts.
- (d) *Storm sewer system.* Refer to the city storm drainage design manual.
- (e) *Streets.* A plan for the proposed streets showing the right-of-way width of all streets and their centerline grades and distances, with the elevations indicated at all centerline intersections and grade breaks. The proposed street plan shall also show:
- (1) The location of all curbs, gutters, sidewalks, and driveways as proposed; and
 - (2) The address of each lot as obtained from the city engineer's office.
- (f) *Franchised utilities and street lighting.* A plan for the proposed franchised utilities and street lighting, showing the sizes and location of all streetlights and proposed electric, gas, telephone, and cable lines, as applicable. An easement cross section shall be shown indicating the exact position of each utility in any proposed easement, including water, sewer and storm sewer.
- (g) *Detail plans.* The detail plan sheet shall be a composite of all details which concern the set of construction plans being submitted, such as details of the proposed:
- (1) Catchbasins;
 - (2) Manholes;
 - (3) Cleanouts;
 - (4) Sewer and waterhouse connections;
 - (5) Street cross sections;
 - (6) Curb and gutter;
 - (7) Fire hydrant locations;
 - (8) Footing construction;
 - (9) Concrete junction boxes;
 - (10) Headwalls; or
 - (11) Any other details necessary to show the intent of construction.
- (h)

Plan-profile sheets. The plan-profile sheets shall be drawn to a horizontal scale of one inch is equal to 20 inches or one inch is equal to 50 inches, and the vertical scale of one inch is equal to two inches or one inch is equal to five inches, except as otherwise approved by the city engineer, and shall show the finished plan of the proposed utilities and street construction. The plan-profile sheets shall also indicate the existing profile of the natural ground along with the proposed profiles on the centerline of all streets, flow lines, sanitary sewers, and water lines.

- (i) *Construction plans bearing scale, date, signature and seal.* All construction plans shall indicate a north arrow, scale, date, and shall bear the signature and seal of a licensed engineer registered in the state.
- (j) *Construction plans, estimate and quantity.* The construction plan submission shall include an estimate and quantity sheet indicating quantities for streets, drainage, and utility construction along with structural appurtenances to be dedicated to the public as part of the proposed subdivision.

(Ord. No. G-3-89, § VIII(A), 4-24-1989)

Sec. 42-55. - Rural subdivisions.

The construction drawings for rural subdivisions shall contain the same information as urban subdivisions, except:

- (1) Where a waterwell is proposed for the water supply, the location and construction details of the well shall be provided; and
- (2) Where septic systems are proposed, the details of the system's location and construction shall be provided.

(Ord. No. G-3-89, § VIII(B), 4-24-1989)

Sec. 42-56. - Certification of review by utility companies.

The developer is required to submit a copy of the construction drawings to each of the following entities. The developer shall allow a two-week period for these entities to review the plans and comment. A certification signed by each entity stating that the construction drawings have been reviewed by their staff and any comments shall be submitted to the planning commission prior to approval of the construction drawings. Should any entity not respond within the two-week period, a written statement signed by the developer certifying that the plans were submitted to the name of individual with the name of organization on the date of submittal, shall suffice.

- (1) TV cable company;
- (2) Electric power company;
- (3) Gas utility company; and
- (4) Telephone company.

(Ord. No. G-3-89, § VIII(C), 4-24-1989)

Sec. 42-57. - Certification of approval by county health department and state commission on environmental quality.

The developer of a rural subdivision is required to submit a copy of the construction drawings to the following applicable entities for approval. A certification signed by each required entity stating that the construction drawings have been reviewed and approved as applicable shall be submitted to the planning commission prior to approval of the construction drawings.

- (1) County health department (septic systems); and
- (2) Texas Commission on Environmental Quality (waterwells).

(Ord. No. G-3-89, § VIII(D), 4-24-1989)

Secs. 42-58—42-76. - Reserved.

ARTICLE IV. - FINAL PLAT REQUIREMENTS

Sec. 42-77. - Filing; information required.

For final plat approval the subdivider shall file the following with the city secretary at least seven days prior to the date on which the planning commission will meet to consider the final plat approval:

- (1) The final plat on two reproducible positives along with ten blue/black-line copies.
- (2) The filing fee as required in section 42-78.
- (3) Three certified copies, of the as-built improvement plans certified by a professional engineer registered in the state.
- (4) A certificate, signed by the subdivider's registered engineer, that all improvements constructed in the subdivision have been completed in accordance with the approved construction plans and specifications.
- (5) A maintenance bond executed by a surety company holding a license to do business in the state, and approved as to form and legality by the city attorney, in an amount equal to 110 percent of the cost of the improvements, conditioned that the subdivider will maintain such improvements in good condition for a period of one year after approval of the final plat by the city council.

(Ord. No. G-3-89, § IX(A), 4-24-1989)

Sec. 42-78. - Fees; certificate of filing.

The filing fee for each final plat shall be as established in appendix A to this Code. A certificate of final plat filing shall be made by the city secretary in duplicate upon the receipt of the filing fee. Such certification shall be recorded in the minutes of the planning commission at its next regular meeting. The final plat shall not be approved until the filing fee has been paid.

(Ord. No. G-3-89, § IX(B), 4-24-1989)

Sec. 42-79. - Approval.

Once the final plat has been approved by the city council, the city secretary shall complete the city secretary's certification on the two reproducible positives. These positives shall be returned to the subdivider who shall, within 15 days, file the final plat with the county clerk. The county clerk shall complete the county clerk's certification on both positives, retain one for county records and return one to the subdivider who shall return it to the city secretary for the city records. Should the subdivider fail to comply with this section, the approval of such final plat shall be null and void.

(Ord. No. G-3-89, § IX(C), 4-24-1989)

Sec. 42-80. - Form and content.

In addition to all of the standard requirements for a preliminary plat as indicated in article II of this chapter, the following requirements will also be included as a part of the final plat unless specifically waived by the city council:

- (1) A certified copy of any deed restrictions and covenants that will be placed upon the subdivision. Reference to such deed restrictions shall be made on the plat;
- (2) The certifications typewritten on the plat and in the form shown elsewhere herein; and
- (3) In addition to the requirements cited in section 42-32(6), the plat shall show:
 - a. Accurate dimensions, bearing angles, and curve data including intersection angle, radius, tangent, length of curve, and chord distance;
 - b. The street address of each lot as determined by the department of public works; and
 - c. The location and description of all survey monuments. Concrete monuments shall be required, at minimum, at each boundary corner of the subdivision tract of land.

(Ord. No. G-3-89, § IX(D), 4-24-1989)

Sec. 42-81. - Minimum improvements required.

The following improvements must be installed and accepted by the city council prior to the planning commission authorizing issuance of a building permit to the developer/builder:

- (1) The water system;
- (2) The sanitary sewer system; and
- (3) The underground storm sewer and any open channels, other than curb and gutters.

(Ord. No. G-3-89, § IX(E), 4-24-1989)

Sec. 42-82. - Certifications.

(a) *Owner certification.*

STATE OF TEXAS

COUNTY OF _____

I (we), the undersigned, owner(s) of the land shown on this plat, and designated herein as the

_____ Subdivision to the City of Port Lavaca, Texas, and whose name is subscribed hereto, hereby dedicate to the use of the public forever all streets, alleys, parks, watercourses, drains, easements and public places thereon shown for the purpose and consideration therein expressed.

Owner(s)

STATE OF TEXAS

COUNTY OF _____

Before me, the undersigned authority, on this day personally appeared _____ known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that such person executed the same for the purposes and considerations therein stated.

Given under my hand and seal of office this the ____ day of _____, 20__.

Notary Public,

_____ County, Texas

(b) *Surveyor certification.*

STATE OF TEXAS

COUNTY OF _____

I, _____, a Registered Public Surveyor in the State of Texas, do hereby certify that I prepared this plat from an actual and accurate survey of the land and that the corner monuments shown thereon were placed under my personal supervision, in accordance with the Subdivision Regulations of the City of Port Lavaca, Texas.

Surveyor's Name

Registered Public Surveyor No. ____

Date:_____/___/___

(SEAL)

(c) *Engineer certification.*

STATE OF TEXAS

COUNTY OF CALHOUN

I, _____, a Registered Professional Engineer in the State of Texas, do hereby certify that proper engineering consideration has been given this plat.

Engineer's Name

Texas Registration No. ____

Date:_____/___/___

(SEAL)

(d) *City secretary certification.*

STATE OF TEXAS

COUNTY OF CALHOUN

I, _____, City Secretary of the City of Port Lavaca, an incorporated City in Calhoun County, Texas, do hereby certify that the forgoing plat was approved by the City Council of said City as approved by law, and that the resolution appears of record in Volume ___, Page ___ of the Minutes of the City Council of Port Lavaca as kept in my office.

WITNESS MY HAND AND SEAL OF THE CITY OF PORT LAVACA, TEXAS, on this the

___ day of _____, 20___.

City Secretary

City of Port Lavaca, Calhoun County

State of Texas

(SEAL)

(e) *County clerk certification.*

STATE OF TEXAS

COUNTY OF CALHOUN

I, _____, Clerk of County Court and County Clerk of Calhoun County, Texas, do hereby certify that the foregoing plat of in the City of Port Lavaca, Calhoun County, Texas, duly authenticated by certification of the City of Port Lavaca, Texas, attached hereto, as filed for record in my office on the ___ day of _____, 20___, ___ o'clock ___.m., and was duly recorded on the ___ day of _____, 20___, in Volume ___, Page ___ of the Calhoun County Deed Records.

County Clerk

County of Calhoun

State of Texas

(Ord. No. G-3-89, § IX(F), 4-24-1989)

Secs. 42-83—42-101. - Reserved.

ARTICLE V. - REPLAT REQUIREMENTS

Sec. 42-102. - Filing; number of copies.

The subdivider shall file ten blue/black line copies of the required plats, along with proof of ownership with the city secretary at least seven days prior to the date on which the planning commission will meet to consider the formal application for approval of the replat.

(Ord. No. G-3-89, § X(A), 4-24-1989)

Sec. 42-103. - Fees; certificate of filing.

The filing fee for each replat shall be as established in appendix A to this Code. A certificate of replat filing shall be made by the city secretary in duplicate upon receipt of the filing fee. Such certification shall be recorded in the minutes of the planning commission at its next regular meeting. No action by the planning commission shall be valid until the filing fee has been paid. This fee shall not be refunded should the subdivider fail to make a formal application for replat approval or should the replat be disapproved.

(Ord. No. G-3-89, § X(B), 4-24-1989)

Sec. 42-104. - Subdivider to provide deed and tax receipt as proof of ownership.

The subdivider shall submit a certified copy of the deed showing that he owns the property being proposed for replat, and a copy of his latest property tax receipt showing he is paying taxes on the property.

(Ord. No. G-3-89, § X(C), 4-24-1989)

Sec. 42-105. - Water/sewer tap fees required.

When a portion of a subdivision, which is serviced by city water or sewer, is replatted by either:

- (1) Taking larger lots and dividing them up into a greater number of smaller lots and thereby producing one or more lots without water or sewer service; or
- (2) Is replatted in such a way as to skew the water or sewer taps, i.e., the tap for any particular lot is located in front of the adjoining property and not in front of the property in question;

then the subdivider must pay the applicable tap fees, as specified in appendix A to this Code, in order to establish service to these lots with a tap in front of each property.

(Ord. No. G-3-89, § X(D), 4-24-1989)

Sec. 42-106. - Application—Required.

The subdivider or his duly authorized representative shall appear before the planning commission, at an official meeting, and submit a formal application for replat approval.

(Ord. No. G-3-89, § X(F), 4-24-1989)

Sec. 42-107. - Same—Form and content.

The planning commission shall determine whether a replat is in suitable form for review and shall not receive or consider such plat until and unless it is submitted in accordance with or is accompanied by the following:

- (1) A plat showing the entire block of the lots proposed for replat as it is currently recorded in the subdivision final plat;
- (2) A plat prepared by a licensed surveyor showing the lots as proposed for replat. At a minimum, this plat shall be prepared on an 8½-inch by 14-inch sheet to a scale one inch is equal to 50 feet;
- (3) Each plat shall show the following:
 - a. The names and address of the subdivider and surveyor;
 - b. The date of preparation, scale, and north arrow;
 - c. A number or letter to identify each lot and block shown (existing and as proposed for replat);
 - d. The setback and easement lines; and
 - e. The surveyor's professional seal and signature certifying the accuracy of the replat.

(Ord. No. G-3-89, § X(F), 4-24-1989)

Sec. 42-108. - Existing subdivisions with deed restrictions governed by state law; time constraints for filing.

If any lot, in the existing subdivision plat proposed for replat, was limited by the deed restrictions to residential use for not more than two residential units per lot the requirements of V.T.C.A., Local Government Code § 212.015 shall be met. The time limit for filing the replat with the city secretary shall be 20 days prior to the date on which the planning commission will meet to consider the formal application for approval of the replat.

(Ord. No. G-3-89, § X(G), 4-24-1989)

Sec. 42-109. - Approval.

Once the replat has been approved by the planning commission, the city secretary shall, upon receipt of proof that any required water and sewer tap fees have been paid, complete the city secretary's certification on two reproducible positives provided by the subdivider within five days of the planning commission's acceptance. These positives shall be returned to the subdivider who shall, within 15 days, file the replat with the county clerk. The county clerk shall complete the county clerk's certification on both positives, retain one for county records and return one to the subdivider who shall return it to the city secretary for the city records. Should the subdivider fail to comply with this section, the approval of such replat shall be null and void.

(Ord. No. G-3-89, § X(H), 4-24-1989)

Sec. 42-110. - Certifications.

(a) *Owner certification.*

STATE OF TEXAS

COUNTY OF _____

I (we), the undersigned, owner(s) of the land shown on this plat, and designated herein as

a Replat of Lot(s) ___, Block ___ of ___ Subdivision to the City of Port Lavaca, Texas, originally filed for record at the office of the County Clerk, Calhoun County, Texas the ___ day of _____, 20___ as same appears of record in Volume ___, Page(s) ___ of the Calhoun County Deed Records, do hereby certify that this replat is an amendment to said plat of record.

Owner(s)

STATE OF TEXAS

COUNTY OF

Before me, the undersigned authority, on this day personally appeared ___ known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that such person executed the same for the purposes and considerations therein stated.

Given under my hand and seal of office this the ___ day of _____, 20__.

Notary Public,

County, Texas

(b) *Surveyor certification.*

STATE OF TEXAS

COUNTY OF _____

I, _____, a Registered Public Surveyor in the State of Texas, do hereby certify that I prepared this plat from an actual and accurate survey of the land and that the corner monuments shown thereon were placed under my personal supervision.

Surveyor's Name

Registered Public Surveyor No. ____

Date: ____/____/____

(c) *City secretary certification.*

STATE OF TEXAS

COUNTY OF CALHOUN

I, _____, City Secretary of the City of Port Lavaca, an incorporated City in Calhoun County, Texas, do hereby certify that the foregoing replat was approved by the Planning Commission of said City as approved by law, and that the resolution appears of record in Volume ___, Page ___ of the Minutes of the Planning Commission of Port Lavaca as kept in my office.

WITNESS MY HAND AND SEAL OF THE CITY OF PORT LAVACA, TEXAS, on

this the ____ day of _____, 20__

City Secretary

City of Port Lavaca, Calhoun County

State of Texas

(d) *County clerk certification.*

STATE OF TEXAS

COUNTY OF CALHOUN

I, _____, Clerk of County Court and County Clerk of Calhoun County, Texas, do hereby certify that the foregoing Replat of _____ Subdivision of the City of Port Lavaca, Calhoun County, Texas, duly authenticated by certification of the City of Port Lavaca, Texas, attached hereto, as filed for record in my office on the ____ day of _____, 20__, __ o'clock __.m., and was duly recorded on the ____ day of _____, 20__ in Volume __, Page __ of the Calhoun County Deed Records.

County Clerk

County of Calhoun

State of Texas

(Ord. No. G-3-89, § X(l), 4-24-1989)

Secs. 42-111—42-129. - Reserved.

ARTICLE VI. - DESIGN STANDARDS

Sec. 42-130. - Conformance with minimum standards required.

All subdivisions, group housing and other developments shall conform to the minimum design and construction standards set forth in this article unless otherwise stated.

(Ord. No. G-3-89, § XI(A), 4-24-1989; Ord. No. G-6-07, 5-14-2007)

Sec. 42-131. - Lots.

(a) *Minimum dimensions.*

- (1) *Sewered lots.* Where connection to the city's sewage collection system is available, each lot shall have minimum area of 5,500 square feet with a minimum width of 50 feet measured at the front building line.
- (2) *Unsewered lots.* In rural subdivisions where connection to the city's sewage collection system is not available, the lot size shall be determined in accordance with the requirements of the Texas Department of Water Resources for Septic Tank Systems.
- (3) *Corner lots.* Corner lots shall be at least 70 feet wide. Lots abutting on pedestrian easements shall be treated as corner lots.
- (4) *Side lot lines.* Where practicable side lot lines shall be substantially at right angles to the right-of-way line of the street on which the lot faces.
- (5) *Extra depth and/or width.* Where a residential lot abuts up to a railroad right-of-way, a high-pressure gasoline, oil, or gas line, an arterial street, an industrial area, or other land use which has a depreciating effect on the residential use of property, and where no marginal access street or other street is provided along the property, additional depth and width requirements, as determined by the planning commission shall be required.
- (6) *Manufactured home lots.* The width for lots restricted by the deed restrictions for manufactured home use may be reduced to a minimum of 40 feet.

(b) *Minimum building setbacks.*

- (1) *Front setback line.* Minimum front building setback lines shall be 25 feet. Corner lots shall have a minimum 25-foot setback on both the front and side street.
- (2) *Rear setback line.* Minimum rear setback lines shall be 15 feet from the centerline of a utility easement or no less than five feet in cases where no easement exists.
- (3) *Side setback line.* Minimum side setback lines shall be five feet, except for corner lots that require a 25-foot side setback.
- (4) *Double frontage.* Where lots are double-fronted on a front and back street, the plat shall designate the front lot line and all buildings shall face that street.

(5) *Commercial lots.* Lots with a commercial land use, shall not require building setbacks. It shall be understood that any construction on such lots shall conform to chapter 12, buildings and building regulations, and shall not be built over any utility easement.

(Ord. No. G-3-89, § XI(B), 4-24-1989; Ord. No. G-6-07, 5-14-2007)

Sec. 42-132. - Streets and alleys.

(a) *Street and block layouts.*

- (1) The street layout shall provide public access to all lots and parcels of land within the subdivision, and adequately provide for the layout of utilities, garbage and waste removal, fire and police protection, and other services, and to protect and further the public health and safety generally.
- (2) Street classification shall be limited to four categories in accordance with their use function:
 - a. Arterial;
 - b. Collector;
 - c. Local, including cul-de-sacs; and
 - d. Marginal access (service roads).
- (3) The street layout of the subdivision shall be in general conformity with the major street plan (as it may exist) and provide the most advantageous and aesthetically pleasing development of the entire neighborhood and adjoining streets. Where appropriate to the design of the neighborhood, proposed streets shall be continuous and in alignment and ROW width with existing, planned or platted streets with which they are to connect, or their projections, where adjoining land is not subdivided.
- (4) The proposed location of an intersection of any new street with an existing city street or state highway shall be subject to approval by the state highway department or the city planning commission, as applicable.
- (5) The angle of the intersection between all streets shall not vary more than ten degrees from a right angle, except by variance in cases of exceptional conditions.
- (6) Street layouts which cause an existing or proposed street to have a centerline offset of less than 125 feet with any other proposed street shall not be allowed, except by variance in cases with exceptional conditions.
- (7) The intersection of more than two streets at one point will not be permitted.
- (8) Blocks shall be of sufficient width to provide for two tiers of lots of a depth as specified in subsection (a)(3) of this section. Where the planning commission approves a single tier of lots in cases where lots would otherwise front on a major street or where topographical conditions or the size of the property prevents two tiers, an adequate buffer area shall be provided and access from any abutting major street prohibited.

- (9) Block lengths in urban-residential subdivisions and rural residential subdivisions with lots of one acre in size or less shall not exceed 1,200 feet or be less than 500 feet. In all other subdivision types, the length of blocks shall be such as may be appropriate, in the opinion of the planning commission, for the locality and the type of development contemplated.
- (10) Dead-end alleys shall not be permitted.
- (b) *Street names.* Names of new streets shall not duplicate or cause confusion with the names of existing streets, unless the new street is in alignment with an existing street, in which case the name of the existing street shall be used.
- (c) *Cul-de-sacs and temporary dead ends.*
- (1) Cul-de-sacs and temporary dead ends shall not exceed 400 feet in length. The turnaround shall have a right-of-way diameter of not less than 100 feet and a pavement diameter of not less than 80 feet.
- (2) Except as otherwise provided in this section, temporary dead-end streets may be approved where necessitated by the layout of the subdivision or staging of development; provided that temporary paved turnarounds shall be constructed where lots are fronting on such temporary dead-end streets. The additional width of the right-of-way required for said temporary turnaround shall be the same as required for permanent turnarounds. The extra right-of-way shall be vacated upon extension of the temporary street and the reconditioning of said street and front yards shall be at the expense of the subdivider.
- (d) *Private streets.* Private streets that serve more than one residential lot, or multifamily structure owned by more than one person are expressly forbidden. All such streets shall be dedicated to the public in accordance with these regulations.
- (e) *Miscellaneous.*
- (1) Subdivisions intended for commercial and industrial occupancy shall have access to a collector street under all circumstances, except in the case of appropriately separated planned retail centers.
- (2) Streetlights shall be installed by the subdivider at all intersections within the subdivision, at adjacent intersections on the north and east boundaries of the subdivision, and at intervals of 500 feet maximum along a street where the block is over 500 feet long.
- (3) Street signs shall be installed by the subdivider at all intersections within or abutting the subdivision. Such signs shall be of a type approved by the city, and shall be installed in accordance with city standards.
- (4) Sidewalks shall be installed on both sides of all streets, a distance of one foot from the property line, and in all designated pedestrian easements. Sidewalks shall be a minimum of five feet wide. Where sidewalks intersect with new or existing street curbs, a ramp shall be built into the curb so that the sidewalk and street blend into a common level. Such ramp shall conform to the requirements of ANSI A117.1.
- (5) Driveway approaches shall be installed between the curbline and the property line at each driveway entrance. An expansion joint is required at the property line.

(6) The installation of sidewalks and driveway approaches may be postponed until such time that each lot is developed or built upon.

(f) *Street cross sections.*

(1) *Arterial.* The design for all arterial roads shall be performed by a state-registered professional engineer in accordance with the current edition of AASHTO's A Policy on Geometric Design of Highways and Streets and other AASHTO standards for street pavement design. The design shall be in conformance to the city's master thoroughfare plan and based upon the projected traffic volumes and loads. The design shall provide a minimum 30-year service life. The developer must submit a copy of the pavement design calculations stamped by a state-registered professional engineer.

(2) *Collector.*

- a. Minimum right-of-way width: 60 feet.
- b. Minimum pavement width: 40 feet.
- c. Crown: Three percent cross slope until 6.0 inches, then two percent cross slope.
- d. Pavement design: Provide for a minimum structural number of 3.0 using the coefficients listed in the table contained in subsection (f)(5) of this section.

(3) *Local collector.*

- a. Minimum right-of-way width: 60 feet.
- b. Minimum pavement width: 36 feet.
- c. Crown: 9.0 inches parabolic.
- d. Pavement design: Provide for a minimum structural number of 2.66 using the coefficients listed in the table contained in subsection (f)(5) of this section.

(4) *Local.*

- a. Minimum right-of-way width: 55 feet.
- b. Minimum pavement width: 28 feet.
- c. Crown: 7.0 inches parabolic.
- d. Pavement design: Provide for a minimum structural number of 2.66 using the coefficients listed in the table contained in subsection (f)(5) of this section.

(5) *Alleys.* Alleys are not permitted except under special circumstances when recommended by the city engineer and authorized by the planning commission.

Pavement Component	SN (per inch)
Lime stabilized subgrade	0.11
Limestone base or lime stab process base	0.14
Cement stabilized process base	0.23
Asphaltic concrete	0.44
Two-course surface treatment	0.00

- (6) *Alternate designs.* If a developer proposes to utilize materials in the pavement design that are not included in the table contained in subsection (f)(5) of this section, the pavement design must be submitted as described for arterial roads. The design service life for all roads other than arterial shall be 20 years.
- (7) *Construction.* The construction of all streets shall comply with the latest edition of the Texas Department of Transportation and Public Transportation's Standard Specifications for Construction and Maintenance of Highways, Streets, and Bridges.
- (g) *Street grades.* No street or gutter grade shall be less than 0.2 percent.
- (h) *Specifications.*
- (1) *Preparation and construction.* The preparation and construction of the earthwork, subbase, base and surface courses of the streets; the concrete curbs, gutters, sidewalks, and driveway approaches; and any other incidental construction shall be in accordance with the latest edition of the Texas Department of Transportation and Public Transportation's Standard Specifications for Construction and Maintenance of Highways, Streets, and Bridges, and any other minimum standards specified elsewhere in this article.
 - (2) *Curb and gutters.* The soil in an area 12 inches behind the curb shall be compacted in six-inch lifts to 90 percent modified proctor to the depth of the flexible base or subgrade.
 - a. Subgrade/base: Equal to that of the adjacent street cross section.
 - b. Concrete: 2,500 psi at 28 days, five sack mix.
 - c. Reinforcing: Four each, No. 4 with No. 3 stirrup bars at five feet OCBW.
 - d. Expansion joints: Four each, No. 5 smooth dowels with sleeves. The filler shall be three-fourths inches thick, meeting the requirements of ASTM D-1752.
 - (3) *Sidewalks.*
 - a. Subgrade: 90 percent modified proctor.

- b. Base: Four inches of sand.
- c. Concrete: 2,500 psi at 28 days, five sack mix.
- d. Reinforcing: Six by six by No. 6 ww or No. 3 at 12 inches OCBW b/w.
- e. Expansion joints: Three each, No. 5 smooth dowels with sleeves. The filler shall be three-fourths inches thick, meeting the requirements of ASTM D-1752.

(4) *Driveway approaches.*

- a. Subgrade: 90 percent modified proctor.
- b. Base: Four inches of sand.
- c. Concrete: 2,500 psi at 28 days, five sack mix.
- d. Reinforcing, residential: Six by six by No. 6 ww or No. 3 at 12 inches OCBW b/w.
- e. Reinforcing, commercial: No. 4 at 12 inches OCBW b/w.
- f. Expansion joints: Three each, No. 5 smooth dowels with sleeves. The filler shall be three-fourths inches thick, meeting the requirements of ASTM D-1752.

(5) *Reinforcing alternative:* A synthetic fiber product may be added to the concrete at a rate of 1.5 pounds per cubic yard in lieu of using welded wire, in cases where welded wire is permitted and in curb and gutter construction.

(Ord. No. G-3-89, § XI(C), 4-24-1989; Ord. No. G-6-07, 5-14-2007; Ord. No. G-6-19, 5-13-2019)

Sec. 42-133. - Utility easements.

- (a) Each block, that does not contain an alley, shall have a utility easement at the rear of all lots reserved for use by all public utilities for service and main lines, conduits, manholes, meters, equipment, and maintenance procedures. These easements shall be a minimum 15 feet in width, taking footage from each lot where the rear of two lots abut each other, and shall be continuous for the entire length of the block. These easements shall parallel, as closely as possible, the street line frontage of the block. Storm sewer easements shall be as specified in the City of Port Lavaca Storm Drainage Manual.
- (b) Where overhead electric power is to be provided, overhang easements of at least eight feet on each side of the 15-foot easement strip or alley, at a height of 18 feet shall be provided in all utility easements. Where utility easements are not straight within each block, or if they do not connect on a straight course with the utility easement of adjoining blocks, then an additional easement shall be provided for the placing of guy wires on lot division lines in order to support poles set on curving or deviating rights-of-way or alleys.

- (c) Wherever possible, utility easements shall be used exclusively by the franchised utilities, and the water and sewer lines shall be located in the street rights-of-way.

(Ord. No. G-3-89, § XI(D), 4-24-1989; Ord. No. G-6-07, 5-14-2007)

Sec. 42-134. - Pedestrian easements.

Pedestrian easements not less than ten feet wide, with not less than a 48-inch-wide sidewalk shall be dedicated where deemed necessary by the planning commission to provide access to schools, playgrounds, shopping centers, other neighborhood facilities, and to promote general pedestrian circulation where blocks exceed 800 feet in length.

(Ord. No. G-3-89, § XI(E), 4-24-1989; Ord. No. G-6-07, 5-14-2007)

Sec. 42-135. - Water system.

- (a) The design, construction, and installation of the water distribution system shall be in accordance with:

- (1) The current American Water Works Association (AWWA) standards;
- (2) The state department of health, division of water hygiene's most current Rules and Regulations for Public Water Systems; and
- (3) Any other minimum standards specified elsewhere in this article.

- (b) Water mains shall ensure two-way flow at all points in the system, with the exception of short dead-end runs that may be approved by the planning commission.

- (c) The minimum pipe size for all water mains shall be eight inches in diameter except for short dead-end runs.

- (d) All valve boxes located in areas other than the street pavement will be set in a six-inch thick concrete pad, 36 inches in diameter, reinforced with synthetic fibers, and set flush with the top of the valve box cover.

- (e) Every residential lot shall be within 500 linear feet and each commercial lot shall be within 300 linear feet of a fire hydrant as measured along the streets.

- (f) The water system installation shall be tested to withstand 150 psi of water pressure for 24 hours to the satisfaction of the director of public works. This test shall commence and end in the presence of a designated city representative.

- (g) Prior to acceptance of the water system by the city, the contractor must chlorinate the lines, sample the water, and have the samples tested for coliform organisms by the state department of health. The chlorination and sampling procedures shall be performed in the presence of a designated city representative.

(Ord. No. G-3-89, § XI(F), 4-24-1989; Ord. No. G-6-07, 5-14-2007)

Sec. 42-136. - Sanitary sewer system.

- (a) The design, construction, and installation of the sanitary sewer system shall be in accordance with:
 - (1) The rules of the state water commission;
 - (2) The standards of Texas Administrative Code chapter 317 entitled Design Criteria for Sewerage Systems; and
 - (3) Any other minimum standards specified elsewhere in this article.
- (b) Manholes shall be spaced no more than 500 feet apart.
- (c) All manholes located in areas other than the street pavement will be set in a six-inch thick concrete pad, five feet in diameter, reinforced with synthetic fibers, and set flush with the top of the manhole cover.

(Ord. No. G-3-89, § XI(G), 4-24-1989; Ord. No. G-6-07, 5-14-2007)

Sec. 42-137. - Storm sewer system.

- (a) The design and construction of the storm sewer system and drainage structures shall be in strict accordance with:
 - (1) The Storm Drainage Design Manual for the City of Port Lavaca, Texas;
 - (2) The applicable sections of the latest edition of the Texas State Department of Highways and Public Transportation's Standard Specifications for Construction of Highways, Streets, and Bridges; and
 - (3) Any other minimum standards specified elsewhere in this article.
- (b) All concrete in drainage structures shall develop a compressive strength of not less than 3,000 psi in 28 days.
- (c) All manholes located in areas other than the street pavement will be set in a six-inch thick concrete pad, five feet in diameter, reinforced with synthetic fibers, and set flush with the top of the manhole cover. The manhole covers shall bear the words "STORM SEWER."

(Ord. No. G-3-89, § XI(H), 4-24-1989; Ord. No. G-6-07, 5-14-2007)

Sec. 42-138. - Franchised utilities.

The design, construction, and installation of all franchised utilities shall be closely coordinated between all applicable utility companies. Section 42-56 requires that, before acceptance of the construction drawings by the planning commission, each applicable utility must sign a certification that they have reviewed the construction plans.

(Ord. No. G-3-89, § XI(I), 4-24-1989; Ord. No. G-6-07, 5-14-2007)

Sec. 42-139. - Site grading.

Refer to the Storm Drainage Design Manual for the City of Port Lavaca, Texas.

(Ord. No. G-3-89, § XI(J), 4-24-1989; Ord. No. G-6-07, 5-14-2007)

Secs. 42-140—42-158. - Reserved.

ARTICLE VII. - GROUP HOUSING AND COMMERCIAL DEVELOPMENT

Sec. 42-159. - Approval of planning commission required.

No person shall construct a multifamily dwelling, townhouse, patio home or other commercial development project without approval of said construction project by the planning commission, however, the building inspections department shall have the authority to approve the construction of multifamily dwellings of four units or less; provided such construction is proposed on platted property approved by the planning commission and filed in the county clerk's office.

(Ord. No. G-3-89, § XII(A), 4-24-1989)

Sec. 42-160. - Minimum design standards.

All group housing and commercial development shall conform to the design and construction standards set forth in article VI of this chapter or as otherwise stated as follows:

(1) *Multifamily dwellings.*

a. *Density.* The ratio of dwelling units per gross acre shall not exceed the greater of the following:

Units per Bedrooms per Multifamily	Gross Acre	Gross Acre Units
21	35	2—50
25	42	51—80
27	45	81 or more

Note—Hotels/motels three stories or less in height shall not exceed 60 units per acre.

- b. *Floor space per acre.* The maximum square feet of livable floor space per acre shall not exceed 50 percent of the lot size.
 - c. *Minimum space between buildings.* All multifamily dwellings shall maintain the following distance between outside finished walls. If wood shingles are used in roof construction the distances between buildings shall conform to the standard building code as adopted by the city.
 - 1. *Two to four units per building.* Ten feet with maximum 24-inch overhang.
 - 2. *Five or more units per building.* Sixteen feet with maximum 36-inch overhang.
 - d. *Sidewalks.* The sidewalks must be constructed the entire length of all public streets that abut the proposed multifamily development.
 - e. *Interior streets.* The interior streets shall be a minimum 28 feet in width.
 - f. *Driveway entrance/exits.* The entrance/exit driveways to all multifamily developments shall have a centerline offset, when present, of a minimum 125 feet with any public street or other similar group housing or commercial development driveway. Variances may be approved in cases with exceptional conditions.
 - g. *Subdivision plat.* Lots intended for multifamily use shall be so designated on the subdivision plat.
- (2) *Townhouses.*
- a. *Area requirements.*
 - 1. There shall be at least four connected units in each project.
 - 2. There shall be no more than 18 dwelling units per acre.
 - 3. The townhouse project lot size shall average at least 2,500 square feet per unit, including the common area, if any. Individual lot sizes shall be governed by subsection (2)a.5. of this section.
 - 4. Not less than 80 percent of the townhouse lots in a project shall be a minimum 20 feet wide; provided that the remaining lots in a project shall be at least 16 feet in width.
 - 5. Each lot 20 feet or more in width shall contain not less than 1,600 square feet, and each lot less than 20 feet shall contain not less than 1,280 square feet.
 - 6. Each townhouse shall be located on an individual lot.
 - b. *Coverage requirements.*
 - 1.

The coverage of a project shall not exceed 55 percent of the total site area. The term "coverage" includes all buildings, structures and required parking spaces. The remaining 45 percent can include driveways, sidewalks, patios, and grass/landscaped areas.

2. The coverage of the common area, if any, shall not exceed 40 percent of such common area.

c. *Yard requirements.*

1. Each lot shall contain a private yard with not less than 300 square feet of area. Not more than one-half of the private yard may be occupied by a driveway, but parking areas shall not be included in the computation of the required private yard area.
2. A private yard may have a patio cover or roof that does not cover more than 25 percent of the private yard.
3. A wall or solid fence not less than five feet in height shall be required on side lot lines where the required private yard adjoins such lot lines, and on rear lot lines where the townhouse lots are backing a public street.
4. At least 7.5 feet of side yard shall be provided at the side property line of any townhouse project.
5. No side yard shall be required between connected townhouses or units.

d. *Minimum space between townhouse groups.* Within a townhouse project there shall be at least 15 feet of separation between each townhouse group.

e. *Setback requirements.* The planning commission may approve a lesser setback from the setback that was specified in article VI of this chapter when rear access is provided and when reduced setbacks will not, in the opinion of the planning commission, detrimentally affect existing or proposed development adjacent to and across the street and within 200 feet on each side of the area proposed for reduction of setback within the project. A pictorial representation or drawing of the proposed project, including location of buildings, off-street parking, rear access and any other proposed improvements, shall be provided to the planning commission before the commission may act upon a request for a reduced building setback line.

f. *Length requirement.* No townhouse group shall exceed 200 feet in length.

g. *Utility meters.* There shall be separate utility meters for each townhouse building.

h. *Parking and driveway requirements.* In addition to the requirements of chapter 48, article II, division 3, off-street parking and loading, the following requirements shall be complied with:

1. A required parking space not located on the individual lot shall be located within 200 feet of the lot.
2. No driveway located in the front yard of a townhouse lot shall exceed a 20-foot width.
- 3.

Individual driveways may not open onto a collector street or larger. When townhouse units are located on a collector street, the driveway entrances/exits will be limited to providing access to a common interior driveway located at the rear of the property, and shall have a centerline offset, when present, of a minimum 125 feet with any public street or other similar group housing or commercial development driveway, unless a variance is issued in an exceptional case.

- i. *Subdivision plat.* All townhouse subdivision plats must contain the following statement:

"This (development, section, lot, etc.) shall be restricted to townhouses only."

(3) *Patio homes.*

- a. *Area requirements.* The area requirements for patio homes shall be the same as for townhouses.
- b. *Coverage requirements.* The coverage requirements for patio homes shall be the same as for townhouses.
- c. *Yard requirements.*
 - 1. Each lot shall contain a private yard with not less than 300 square feet of area. Not more than one-half of the private yard may be occupied by a driveway, but parking areas shall not be included in the computation of the required private yard area.
 - 2. A private yard may have a patio cover or roof that does not cover more than 25 percent of the private yard.
 - 3. A wall or solid fence not less than five feet in height shall be required on side lot lines where the required private yard adjoins such lot lines, and on rear lot lines where the patio home lots are backing a public street.
- d. *Setback requirements.*
 - 1. The planning commission may approve a lesser front setback than what is specified in article VI of this chapter when rear access is provided and when reduced setbacks will not, in the opinion of the planning commission, detrimentally affect existing or proposed development adjacent to and across the street and within 200 feet on each side of the area proposed for reduction of setback within the project. A pictorial representation or drawing of the proposed project, including location of buildings, off-street parking, rear access and any other proposed improvements, shall be provided to the planning commission before the commission may act upon a request for a reduced building setback line.
 - 2. All zero side lot lines shall be designated on the subdivision plat, and each lot shall have only one zero lot line. No windows, doors, or other dwelling openings shall be allowed on the zero lot line.
 - 3. A minimum of six feet shall be maintained between each patio home, and the six-foot building line shall be indicated on the patio home subdivision plat.
- e. *Utility meters.* There shall be separate utility meters for each patio home.

f. *Parking and driveway requirements.* These requirements shall be the same as for townhouses.

g. *Subdivision plat.* All patio home subdivision plats must contain the following statement:

"This (development, section, lot, etc.) shall be restricted to patio homes only."

(4) *Commercial development.*

a. *Sidewalks.* The sidewalk must be a minimum of five feet wide and be constructed the entire length of all public streets that abut the proposed commercial development.

b. *Driveway entrance/exits.* The entrance/exit driveways to all commercial developments shall have a centerline offset, when present, of a minimum 125 feet with any public street or other similar group housing or commercial development driveway. Variances may be approved in cases with exceptional conditions.

c. *Subdivision plat.* Lots intended for commercial use shall be so designated on the subdivision plat.

d. *Setback requirements.* There are no building setbacks stipulated for commercial development, but a building cannot be located in a designated utility easement and must be constructed in accordance with the latest edition of the standard building code adopted by the city.

(Ord. No. G-3-89, § XII(B), 4-24-1989; Ord. No. G-6-19, 5-13-2019)

Sec. 42-161. - Landscaping.

(1) *Purpose.*

(a) The purpose of this article is to establish landscaping standards for nonresidential and multifamily residential developments that protect and preserve the appearance and character of the city;

(b) Improve the compatibility of abutting uses;

(c) Protect the health and quality of life of the residents through the preservation of protected trees on property within the city;

(d) Conserve scarce water resources by promoting the planting of native and drought-resistant trees and shrubs;

(e) In establishing these standards, it is the city council's intent to:

1. Encourage the preservation of trees and their value to the community;

2. Increase the compatibility of abutting uses;

3. Aid in energy conservation; and

4.

To minimize the effects on the surrounding environment due to noise, dust, debris, artificial light intrusions, and other impacts of an adjoining or nearby use.

- (2) *Applicability.* This article applies to all new nonresidential and multifamily developments, redevelopments, and substantial improvements in the city, and where specifically indicated, to existing trees and landscaping.

Exceptions. The following are exceptions to the standards of this article:

- (a) Individual existing lots of record that are used for existing single-family detached or attached dwellings, or duplexes.
 - (b) Modifications to nonresidential buildings where the building expansion or redevelopment does not exceed the gross floor area of the existing building by more than ten percent or 3,000 square feet, whichever is less.
 - (c) Sites that are proposed for redevelopment or substantial improvement, where due to the geometry of the site or existing improvements, installation of landscaping in compliance within this article would be impractical or unreasonable, in which case the pre-development committee may approve a lesser landscaping requirement, provided that the reduction of landscaping standards is only the extent necessary to make the installation practicable. In no case shall this exception be interpreted to lessen these requirements for reasons other than those provided.
- (3) *Landscape plan.* A landscape plan is required where this article specifies below and shall apply to all building sites within the city limits where any of the following conditions are present:
- (a) *New construction.*
 - 1. Any new building construction for which a building permit is required.
 - 2. Any construction of a new parking lot or parking area.
 - (b) *Additions/renovations.* Any building addition or renovation exceeding 50 percent of the existing building area or existing building value as defined by the footprint of the existing building for which the building permit is required.
 - (c) *Parking lot additions.* Any parking lot addition on an existing or legal nonconforming property by more than 1,000 square feet or ten percent in area of the existing parking lot must add landscaping in conformance with the provisions of this article.
 - (d) *Protection of landscaping during construction.* Existing trees that qualify to generate credit against landscaping requirements, as provided in this article, shall be protected during on-site development and construction activities.
 - 1. Barricades shall be installed at the protective root zone. The protected root zone is the area that extends from the center of the trunk 18 inches per each [one] inch of diameter at breast height of the protected tree.
 - 2.

Each protected root zone shall be barricaded during construction to prevent damage to the tree and its roots. The barricades shall be made of wood, fencing or solid material.

3. Barricades shall be no less than three feet in height.
4. No cutting, filling, or storage of building materials or equipment, debris or disposal of wastes shall take place within a protected root zone.
5. Protective barricades are only to be removed at the final landscaping stage.

(4) *General requirements.*

- (a) *Irrigation.* All landscaped areas shall be irrigated by means of a subsurface irrigation system and/or a hose attachment within 75 feet of a landscaped area or plant for nonresidential, and multifamily lots that require continued or periodic watering to be sustained.
- (b) *Clear view.* All landscaping shall be located so as to not interfere with the act of parking, so as to not create traffic hazard by obscuring driver or pedestrian vision of intersections, walkways, driveways, and streets or a combination thereof.
- (c) *Time allowance.* All approved vegetative landscaping, including screening and irrigation systems, shall be in place prior to the issuance of a certificate of occupancy, or if reasonable considerations prohibit completion of the planting of landscape material, a temporary certificate of occupancy may be issued for such time as is reasonable.
- (d) *Maintenance.* It is the responsibility of the owner, tenant, or anyone exercising control of the premises, and their agents and employees, shall be responsible for the placement and maintenance of all landscaping required herein, including irrigation systems; and to keep same in good condition as to present a healthy, neat and orderly appearance free of debris.
- (e) *Requirements.* Requirements for the removal and/or planting of all landscape material is set out in this article. The minimum landscape surface ratio (LSR) is combined with this Section, in addition to other applicable requirements of this article, to determine the type, quality, quantity, and location of required landscape material on a parcel proposed for development.

(5) *Approval and maintenance.*

- (a) *Generally.* The landscape plan shall have the following information and must be submitted concurrently with and approved as a part of the application for building permit:
 1. A planting plan of landscape material identifying location, size and quantity and labeled by its scientific and common names.
 2. Plans with dimensions and elevations, where appropriate, of special structural elements such as fences, walls, planters, fountains, berms, walkways, irrigating systems, and other elements included as special features to the landscape plant material. For the purpose of evaluating the effectiveness of proposed screening, site sections may be required.

3. Building outlines, parking areas and arrangements, fences, monument signs and other structural features to be constructed on the site.
 4. Dimensions and locations of sight distance triangles.
- (b) *Changes to the landscape plan.* Prior to alteration, enlargement, or change to an approved landscape plan, an amended plan shall be submitted to and approved by the director of development services and shall be submitted in accordance with the provisions of this article.
- (c) *Required landscape surface ratio.*
1. A minimum of ten percent of the total building site, as defined herein, shall be devoted to landscaping; except that the square footage of all portions of the building site covered by buildings footprints or areas designated as fenced and secured storage areas shall be subtracted from the building site area prior to making the ten percent calculation.
 2. At least 70 percent of the required landscaped area shall be located within the street yard.
 3. For multi-family developments, where it would be more desirable to disperse the landscaping throughout the site, the percentage of landscaping to be located in the street yard may be reduced by the approval of the pre-development committee.
- (6) *Landscape area.* Landscape areas shall meet the following minimum requirements:
- (a) Only approved landscape plants count towards the landscape requirements of this article. Such plants shall be suitable for the city's region in accordance with the most current U.S. Department of Agricultural Hardiness Zone Map.
 - (b) Plants that are not suitable for the city's region are allowed, but they are not counted towards compliance with this article.
 - (c) Plant species that are listed [on the] *Invasive and Noxious Weeds* list for the State of Texas by the United States Department of Agriculture or on the *Texas Noxious and Invasive Plants* list by the Texas Department of Agriculture, are not allowed in the city.
 - (d) Landscaped areas shall include a combination of the following types of materials: trees, shrubs, annual and/or perennial plants, vines, grass, and/or groundcover. Nonliving, durable materials commonly used in landscaping, such as, but not limited to organic mulches, rocks, pebbles, sand, walls and fences, but excluding paved surfaces, may also be utilized in landscaped areas. Pervious, decorative paving materials and brick pavers may be included in the form of walkways or driveways through landscaped areas; however, off-street parking areas paved with such materials shall not be considered as landscaped areas.
 - (e) All landscaped areas shall be protected by concrete curbing or other acceptable devices which prohibit vehicular access to and encroachment of these areas.
 - (f)

At least one tree shall be provided per 800 square feet of landscaped area required by the provisions of this section. A landscaped area of at least five feet by five feet shall be provided surrounding each tree. Each tree shall be a minimum caliper of two inches and a minimum height of five feet when planted. Outdoor car lots and other exhibitors of merchandise will be exempt from the tree requirement on any part of the landscaped areas that directly abut the show or display area.

(g) Shrubs, annual and/or perennial plants, vines, grass, and ground cover planted to meet the requirements of this section shall be good, healthy nursery stock. Shrubs shall be a minimum of one foot in height or width when planted.

(h) Grass areas shall be planted in species normally grown as permanent lawns in the City of Port Lavaca. Grass areas may be sodded, plugged, sprigged or seeded, except that solid sod shall be used in the right-of-way, street yard and swales or other areas subject to erosion.

(7) *Parking lot landscaping.* Parking lot landscaping is required within and around nonresidential and multifamily parking lots that contain more than 20 parking spaces.

(a) *Parking lot planting locations.* Parking lot landscape areas are required as follows:

1. At the ends of parking rows, planted in endcap islands that are not less than nine feet wide and the length of the parking row (i.e., if there is single row of 90-degree parking spaces, the length is 18 feet; if there is a double row of 90-degree parking spaces, the length is 36 feet), with ten-foot curb radii on the side closest to the parking aisle.
2. In the middle of parking rows at intervals required by subsection c., below, planted in interior islands that are not less than nine feet wide and the length of the parking space (i.e., if there is single row of 90-degree parking spaces, the length is 18 feet; if there is a double row of 90-degree parking spaces, the length is 36 feet), with five-foot curb radii on the side closest to the parking aisle.
3. At the corners of parking lots, planted in corner islands, which is the area defined by the extension of the edges of intersecting parking rows.
4. Three-foot landscape hedge along 25 percent of parking lot when it is adjacent to street right-of-way and access drives to multi-tenant shopping centers.

(b) *Parking lot planting requirements.* Parking lot landscape islands shall be provided at an interval of one island for each 20 parking spaces, or fraction thereof, planted as follows:

1. Each interior and endcap island shall be planted with a minimum of:
 - i. One large tree per parking row; and
 - ii. Ground cover, which shall:
 - a.

Consist of xeric shrubs, ornamental grasses, or perennials that are planted at intervals of not less than three feet in a bed of mulch, and sod, which may only be used for a maximum of 25 percent of the ground cover area.

- b. Not include concrete, asphalt, or other impervious surfaces, with the exception of decorative pavers or stamped, dyed concrete which may be used only within the first foot of the parking island to allow persons to access their vehicle without stepping on landscaping.
- c. Each parking lot corner shall be planted with two large trees or five small trees and ground cover in conformance with this section.

(8) *Street trees.*

- (a) *Street trees.* Street trees are those trees which are planted at regular intervals in the street right-of-way and shall be planted according to the standards of subsection (e), below, in the following circumstances:
 - 1. Along both sides of all streets (except alleys) within nonresidential and multi-family developments (except where the street is an existing street without room for the installation of street trees);
 - 2. Along both sides of new streets in other developments where there is sufficient right-of-way width to accommodate the street tree lawn; and
 - 3. Along existing rights-of-way where a street tree lawn is present and the entity responsible for the right-of-way authorizes the improvement.
- (b) *Street tree requirements.* Generally, street trees shall be provided in street tree lawns or street tree grates in sidewalks as follows:
 - 1. Along new public streets or private street easements that are created on a parcel proposed for development;
 - 2. In medians (including cul-de-sacs) that are created on a parcel proposed for development;
 - 3. In medians that are constructed near a parcel proposed for development in order to manage the traffic impacts of the development, provided that the medians:
 - i. Are of sufficient width to accommodate the root system;
 - ii. Are maintained by the property owners' association of the development that provides the median; and
 - iii. The installation of street trees in the median would not be detrimental to public safety.
 - 4. Unless otherwise approved, generally, street trees shall be spaced 60 feet on center in street tree lawns or street tree grates, but shall not be installed in locations that interfere with required site triangles (see below). Special plantings may be clustered if it is demonstrated that the cluster arrangement will not negatively affect the long-term health of the clustered trees.
- (c) *Street tree plan approval.* A street tree plan shall be submitted to the city with the civil infrastructure construction plans.

(d) *Maintenance of street trees.* Street trees required by this chapter shall be maintained by a developer, lot owner/operator, tenant, property owners' association or other entity having legal interest in the ownership of the commercial or multifamily development. The city will not be responsible for the replacement of landscape materials or irrigation which must be removed during the repair or maintenance of public utilities or other public improvements.

(9) *Distance from utilities.*

(a) No street trees or large trees shall be planted under or within ten lateral feet of any overhead utility lines.

(b) No trees, except street tree species that are approved by the city, shall be planted over or within five lateral feet of any underground water line, sewer line, transmission line, or other utility line, or as required by the owner of the utility or the requirements of the specific easement.

(10) *Sight distance triangles.* Trees or hedges shall not be installed in locations where there is a substantial likelihood that the mature form of the tree would have to be materially compromised in order to maintain sight distance triangles at the intersection within an area defined by lines of joining points located 20 feet back from the intersection of all curb lines extended.

(11) *Completion of landscape improvements.*

(a) *Buffer yard and street trees.* Buffer yard and street tree landscaping must be completed prior to a certificate of occupancy being issued. If this requirement would result in the installation of landscaping during an inappropriate season, then the city may:

1. Allow the site plan to be recorded upon condition that security is provided for the installation of the required landscaping during planting season; or
2. Issue a temporary certificate of occupancy, on the condition that a permanent certificate of occupancy will not be issued unless the required landscaping is installed.

(b) *All other landscaping.* All other landscaping must be installed before issuance of a permanent certificate of occupancy. A temporary certificate of occupancy may be issued if necessary to allow for the planting of landscaping improvements during an appropriate season or weather condition.

(12) *Maintenance.*

(a) Upon the issuance of a certificate of occupancy, maintenance of the landscape areas and plantings required by this article shall be maintained and all plant materials that die shall be replaced by the owner/operator.

(b) The city may inspect each site periodically after issuance of the certificate of occupancy to ensure compliance with the article.

(13) *Penalty.*

(a)

Criminal. Any person who shall violate any provision of this article, or fail to comply with any of the requirements of this article, shall be guilty of a misdemeanor. Each such person shall be deemed guilty of a separate offense for each and every day or portion thereof during which any violation of any of the provisions of this article is committed or continued, and upon conviction of any such violation such person shall be punished by a fine of up to \$500.00.

- (b) *Civil.* The city may file a civil action in the district court seeking an injunction and civil penalties of up to \$1,000.00 per day for each and every day or portion thereof during which any violation of any of the provisions of this article is committed or continued.

(Ord. No. G-4-23, § 1(Exh. A), 6-12-2023; Ord. No. G-9-23, § 1(Exh. A), 9-11-2023)

State Law reference— Enforcement of municipal ordinances, V.T.C.A., Local Government Code Ch. 54 .

Sec. 42-162. - Dumpster screening.

Applicability: For new construction and major renovation exceeding 50 percent of the existing building area or existing building value.

- a. Every owner, occupant, or lessee using or occupying a building or structure within the corporate city limits of the city for other than residential purposes, and all residential structures required by this chapter to have a dumpster or have adequate area for a dumpster pad site as described herein, or purposes accessory thereto, shall maintain on such premises a dumpster meeting the requirements in this section.
- b. Dumpsters and associated screening required by this section shall be maintained in good order and condition. When the code enforcement officer determines a container to be unsafe or unsightly, notice shall be given to the occupant of the premises upon which the dumpster is located for corrective action.
- c. The dumpster must be fully screened from view by enclosure consisting of two side walls and a rear wall plus a gate in the front.
- d. *Minimum height.* Screening walls and gates must be not less than six feet nor more than eight feet in height.
- e. *Screening materials.* Dumpster screening materials must be wood, metal, masonry, brick, stone, reinforced concrete, or other similar masonry materials. Any metal screening must be painted to blend with the primary building on the same lot. Corrugated metal, R panel and U panel sheet metal, and fiberglass panels are prohibited and may not be used as screening material.
- f. *Gates.* Screening gates must be solid metal and must screen dumpsters from view when closed. Gates must swing out to an angle greater than 90 degrees and create an opening at least 12 feet wide for collection truck to enter the enclosure. Each gate must be equipped with a pin capable of holding the gate in its fully opened position while the dumpster is being accessed. Gates must swing clear of fire lanes, sidewalks, and streets. Gates must remain closed unless the dumpster enclosure is in the process of being emptied, filled, painted, cleaned, constructed, installed, repaired, or otherwise maintained.

g. *Bollards*. A minimum of four bollards shall be provided within the enclosure, two in the rear, and one on each side to prevent the dumpster from striking or damaging the screening enclosure.

h. Dumpster Screening plans must be submitted as a part of the construction plans review packet.

(Ord. No. G-9-23, § 1(Exh. A), 9-11-2023)