

# DRAFT

## Rollingwood Commercial Corridor Project –Draft

### Exhibit A

All text which is underlined denotes addition of new text. All text which is ~~stricken through~~ denotes removal of existing text. All other text is existing, unchanged text. Any existing text which has been omitted shall be considered unchanged. All text which is both between braces { } and *italicized*, is for document organization and reference only and is not intended to be adopted. The Code of Ordinances of City of Rollingwood, Texas, Part I, Chapter 24 and Part II, Chapters 101,103 and 107 are hereby amended as follows:

{Revisions to Chapter 24. Signs and Advertising, Article II. Sign Regulations}

#### CHAPTER 24 – SIGNS AND ADVERTISING

#### ARTICLE II. – SIGN REGULATIONS

#### DIVISION I. GENERALLY

#### Sec. 24-19. 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:

A-Frame sign means a temporary sign constructed in such a manner as to form an "A" or a tent-like shape, hinged or not hinged at the top with each angular face held at an appropriate distance so as to be adequately secured by a supporting member. These signs may also be referred to as sandwich board signs.

*Animated sign* means signs and lighting that, in whole or part, move, rotate, flash, reflect, blink, change color, or simulate motion in any manner.

*Awning sign* means a nonilluminated building-mounted sign that provides additional functionality as shelter.

*Back-lit channel letter* means a channel letter that contains a clear or transparent back and either an internal light source with an opaque face or an internal light source with a translucent face. The background illumination portion of a back-lit channel letter is commonly referred to as halo lighting.

*Banner* means an on-premises temporary sign composed of lightweight material ~~for promotional use to announce grand openings of business establishments.~~

*Building official* means the city's building official or his authorized representative.

*Changeable electronic variable message sign* or *CEVMS* means a sign which permits light to be turned on or off intermittently or which is operated in a way whereby light is turned on or off intermittently, including any illuminated sign on which such illumination is not kept

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37 stationary or constant in intensity and color at all times when such sign is in use, including an  
38 LED (light emitting diode) or digital sign, and which varies in intensity or color. The term  
39 "changeable electronic variable message sign" does not include a sign located within the right-of-  
40 way that functions as a traffic control device and that is described and identified in the Manual  
41 on Uniform Traffic Control Devices (MUTCD) approved by the Federal Highway Administrator  
42 as the national standard.

43 *Channel letter* means a fabricated or formed three-dimensional letter that may accommodate  
44 a light source.

45 *Channel logo* means a fabricated or formed three-dimensional logo that may accommodate  
46 a light source.

47 *Church building* means a building used as a church in a GI zoning district.

48 *Commercial building* means a building located in the Commercial District (C) with a ~~retail~~  
49 use permitted in the ~~C-2~~-zoning district.

50 *Contractor sign* means a temporary sign erected on the premises where construction,  
51 alteration, or improvement is taking place.

52 *Dimensional letter* means a nonilluminated letter, logo or symbol, either cut out, cast,  
53 molded or fabricated in material such as metal or plastic to create a raised condition.

54 *Directional real estate sign* means a temporary sign directing traffic to an event occurring at  
55 the premises that are held for sale or lease. The sign may or may not be located on the premises  
56 held for sale or lease.

57 *Erect* means to construct, alter, reconstruct, install, place, attach, hang, suspend or affix,  
58 including painting or any physical operation required for construction of a sign, including, but  
59 not limited to, excavation, site clearance, and land fill.

60 *Establishment* means one business, organization, professional office, store, or other entity  
61 located in a ~~professional and business office commercial~~ district (C-1), ~~a business district (C-2)~~,  
62 a hospital district (H), or a planned unit development district (PUD) and engaged in activities  
63 allowed in such zoning districts.

64 *Exposed neon sign* means any sign that exposes neon glass tubing to public view, including  
65 neon window signs, open face channel letters, or border or architectural neon.

66 *Front-lit channel letter signs* means any sign designed to permit internal lighting to  
67 illuminate a translucent channel letter face.

68 *Government building* means a building used as a government office in a GI zoning district.

69 *Hospital building* means a building used as a hospital in a hospital (H) zoning district.

70 *Illuminated awning* means an awning that is back-lit or internally illuminated.

71 *Logo* means a letter, symbol or sign used to represent goods, identity or service.

72 *Menu/message/marquee sign* means a sign structure with manual or electronic changeable  
73 text or permanent text, including reader boards, electronic message displays, pricing displays, or  
74 time and temperature displays.

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75 *Monument sign* means an on-premises freestanding sign that is supported by a pedestal or  
76 other solid foundation in or upon the ground.

77 *Multiple-establishment complex* means a building or series of buildings located on a  
78 common site or contiguous sites designed as a unified development occupied by more than one  
79 establishment. A shopping center containing more than one establishment, or an office building  
80 containing more than one establishment, are examples of multiple-establishment complexes.

81 *Office building* means a building primarily providing office space for businesses,  
82 organizations, professionals, and individuals, and perhaps providing auxiliary services for the  
83 tenants of the building, such as a snack bar.

84 *Off-premises sign* means a sign of a business, organization, professional office, store or  
85 other establishment that is not appurtenant to the use of the premises on which it is displayed.

86 *Painted wall sign* means a sign, including lettering, logos or murals, applied or attached  
87 directly to a building surface.

88 *Personal sign* means a temporary sign displayed by a resident on the resident's lot  
89 advertising personal events, including, but not limited to, garage sales, birthdays and lost pets.  
90 Such sign includes signs that are erected for the purpose of informing the public of that person's  
91 religious, philosophical, or similar beliefs, including viewpoints concerning current events of a  
92 nonpolitical nature.

93 *Political sign* means a temporary sign in support of a political candidate or issue in a future  
94 city, county, state or national election. The term "political sign" includes signs that are erected  
95 for the purpose of informing the public of that person's political beliefs, including viewpoints  
96 concerning current events of a political nature.

97 *Portable sign* means a readily removable temporary sign or other advertising device that  
98 may be erected at successive locations. A newspaper vending rack and A-Frame sign are is not a  
99 portable signs under this article.

100 *Projecting sign* means a nonilluminated building-mounted sign with the faces of the sign  
101 perpendicular to the building fascia.

102 *Public view* means the view as seen from any public street or residential property.

103 *Real estate sign* means a temporary sign located on premises indicating that the premises, or  
104 a portion thereof, are for sale, lease, or rent.

105 *Roof-mounted signage* means a building-mounted sign erected on the roof of a building.

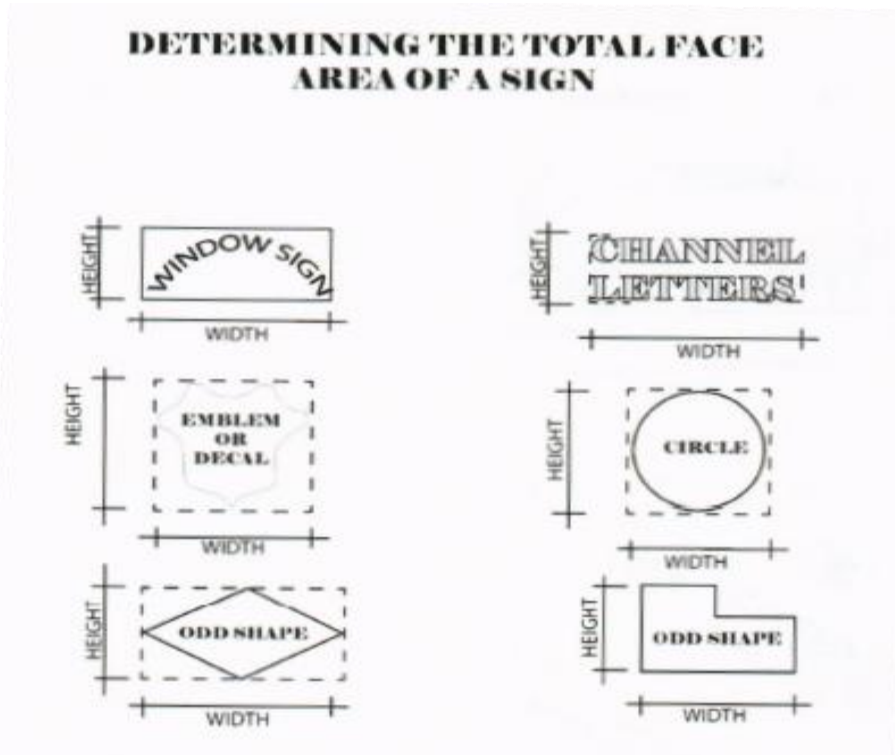
106 *Sign* means the display of any letters, numerals, symbols, images, messages, or anything  
107 else that is intended to advertise or promote any establishment, place, goods, services, activities,  
108 or events, or provide information to persons viewing the display.

109 *Single establishment* means one establishment that is the sole occupant of a building on one  
110 lot and not a part of a multiple-establishment complex.

111 *Store window sign* means a sign that is visible through a window or transparent door of a  
112 building that is oriented in a manner establishing an intent to be viewed off-premises or from  
113 public or private roadways. This term excludes signs displayed inside of buildings primarily for  
114 patrons on the premises.

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115 *Surface area of a sign* means the total surface area of a sign with a distinguishable frame or  
116 background edge includes the surface area within the frame or edge plus the front surface of any  
117 frame. The total surface area of a sign without a distinguishable frame or background edge  
118 includes the surface area of all letters or symbols in the sign plus all space within and between  
119 the letters or symbols. The surface area shall be calculated using an imaginary rectangle which  
120 fully contain all extremities of the sign, including the frame, all words, numbers, figures, designs,  
121 or trademarks. Only one surface of a two-sided ~~freestanding~~ sign is counted if the two sides are  
122 back to back, have identical content, and are not separated by more than four feet at the widest  
123 point. See exhibit below for examples of calculating sign area:



124

125 *Temporary sign* means a nonilluminated sign not intended for permanent installation.

126 *UL* means underwriters' laboratory.

127 *Wall/pole-mounted cabinet sign* means a sign structure consisting of a frame and faces that  
128 has exposed pole supports or is wall mounted, and includes structures containing pan-formed  
129 faces, Lexan faces, Plexiglas faces, flexible faces, or wood faces.

130 *Wayfinding sign* means a nonilluminated single or double post mounted directional sign,  
131 which is limited to street names, entrance points, exit points, reserve parking areas, and critical  
132 locations within a property's internal traffic area. Wayfinding signs enable a person to find his  
133 way to a given destination through the use of effective signage.

134 *Wrap-around awning* means an awning that is installed on a building in a place other than  
135 directly over a door entrance or window frame.

136 *Zoning district* means a zoning district shown on the official zoning map of the city.

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137 **Sec. 24-20. Administration.**

- 138 (a) The building official will administer and enforce the provisions of this article. The duties of  
139 the building official will include the issuance of permits as required by this article, as well  
140 as the responsibility for ensuring that all signs comply with this article.
- 141 (b) The building official will make such inspections as necessary to initiate appropriate action  
142 to bring about compliance with this article if any inspection discloses any instance of  
143 noncompliance.
- 144 (c) The building official will investigate any complaints of alleged violations of this article.

145 **Sec. 24-21. Notice of violation; correction of violations; penalty.**

- 146 (a) If the building official finds that any sign is erected or maintained in violation of the  
147 provisions of this article, the building official will give written notice by certified mail to  
148 the owner of the sign and the owner of the property on which the sign is located.
- 149 (b) If the owner of the sign fails to remove or alter the sign as required by the building official  
150 within 15 days after the mailing of a written notice as required in subsection (a) of this  
151 section, the city may remove the sign at the expense of the owner of the sign or the owner of  
152 the property on which the sign is located and may use other legal remedies available to the  
153 city.
- 154 (c) Any person convicted of a violation of any provision of this article by a court of competent  
155 jurisdiction shall be fined in an amount not to exceed \$500.00 for each violation. Each day  
156 of violation after the 15-day period allowed under subsection (b) of this section constitutes  
157 one violation.

158 **Sec. 24-22. Appeals.**

- 159 (a) An appeal may be made to the city council by any person aggrieved by an action of the  
160 building official. Such appeal, specifying the grounds thereof, must be filed with the city  
161 secretary within ten days from the date the building official mailed the notice as required in  
162 section 24-21(a). The building official will promptly transfer to the mayor all papers  
163 constituting the record upon which the action being appealed was taken. These papers will  
164 be made available to the city council for purposes of the appeal. The filing of an appeal  
165 stays all proceedings related to the action being appealed.
- 166 (b) The city council will have the following authority with respect to appeals:
- 167 (1) To hear and decide appeals where it is alleged there is an error in any order,  
168 requirement, decision, or determination made by the building official; and
- 169 (2) To reverse or affirm, wholly or partially, or modify the order, requirement, decision, or  
170 determination being appealed and make such order, requirement, decision or  
171 determination as the city council determines ought to be made.
- 172 (c) The concurring vote of four councilmembers will be necessary to reverse or change any  
173 order, requirement, decision, or determination of the building official, or to decide in favor  
174 of the person making the appeal.

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## 175 **Sec. 24-23. General requirements.**

- 176 (a) No person shall construct, alter or move any sign or any portion thereof, or cause the same  
177 to be done, without first obtaining a sign permit as required under the city construction code  
178 from the building official. All sign permits shall expire after a period of six months except  
179 for temporary sign permits as described in section 24-93.
- 180 (b) No sign may be erected or maintained in such manner as to obstruct the view of operators of  
181 motor vehicles, or at any location where, by reason of position, shape, size, color or  
182 illumination, it may interfere with, obstruct the view of, or be confused with any authorized  
183 traffic sign, signal or device.
- 184 (c) No person may place, erect or maintain or cause the placement, erection or maintenance of  
185 any sign on any tree, utility pole, fence, retaining wall, easement or right-of-way, unless  
186 specifically authorized by this article.
- 187 (d) No person may place, erect or maintain or cause the placement, erection or maintenance of  
188 any sign upon any city property without the prior approval of the city council.
- 189 (e) Unless expressly authorized or allowed under this article, no signs are permitted within the  
190 city.
- 191 (f) All single establishments or multiple-establishment complexes must display building street  
192 address numbers on signage in compliance with the provisions of this article and the  
193 uniform fire code.
- 194 (g) No sign on a lot zoned Commercial District (C) shall face an adjacent residentially zoned  
195 lot.

## 196 **Sec. 24-24. Prohibited signs.**

197 All signs not expressly permitted under this article or exempt from regulation in accordance  
198 with section 24-26 or that do not conform to the requirements of this article are prohibited in the  
199 city. Such signs include, but are not limited to:

- 200 (1) Animated signs;
- 201 (2) Exposed neon signs;
- 202 (3) Front-lit channel letter signs;
- 203 (4) Illuminated awnings;
- 204 (5) Wrap-around awnings;
- 205 (6) Menu/message/marquee signs;
- 206 (7) Off-premises signs;
- 207 (8) Painted wall signs;
- 208 (9) Portable signs;
- 209 (10) Roof-mounted signage;
- 210 (11) Wall/pole-mounted cabinet signs;
- 211 (12) Externally illuminated signs; and

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212 (13) Changeable electronic variable message signs.

213 **Sec. 24-25. Maintenance; liability.**

214 (a) All signs must be properly maintained in good repair and appearance. The sign and all  
215 braces, bolts, supports, frame and fastenings must be free from deterioration, termite  
216 infestation, rot, or loosening. The building official is authorized and directed to order the  
217 painting, repair, or removal of a sign, or make other improvements as necessary to alleviate  
218 a hazard to public health, safety or welfare.

219 (b) The provisions of this article will not be construed as relieving or limiting in any way the  
220 responsibility or liability of any person erecting or owning any sign from personal injury or  
221 property damage resulting from the placing of the sign, or resulting from the negligence or  
222 willful acts of such person, or such person's agents, employees or workers, in the design,  
223 construction, maintenance, repair or removal of any sign erected in accordance with a  
224 permit issued under the provisions of this article. Nor should this article be construed as  
225 imposing upon the city or its officers, employees or representatives any responsibility or  
226 liability by reason of the approval of any signs, materials, or devices, or taking any other  
227 action under the provisions of this article.

228 **Sec. 24-26. Exempted signs.**

229 The provisions of this article shall not apply to the following signs:

- 230 (1) Memorial signs or tablets, or names of buildings and date of erection when cut into any  
231 masonry surface or when constructed of cast bronze or other metal;
- 232 (2) Signals, markers or signs erected by state or local government for traffic control or  
233 informational purposes;
- 234 (3) Temporary decorations or displays that are clearly incidental to and customarily or  
235 commonly associated with any national, local or religious holiday or celebration,  
236 provided that such decorations or displays are maintained in an attractive condition and  
237 do not constitute a fire, traffic or pedestrian hazard;
- 238 (4) Temporary or permanent signs erected by public utility companies or construction  
239 companies to warn of danger or hazardous conditions, including signs indicating the  
240 presence of underground cables, gas lines and other devices;
- 241 (5) Signs displayed by a civic organization up to three days before and on the meeting day  
242 of such organization if such signs do not exceed four square feet in surface area on  
243 each of the two sides;
- 244 (6) Residential nameplates, residential address numerals, and notices that property is  
245 protected by a security company or neighborhood watch;
- 246 (7) Newspaper names and prices on vending racks;
- 247 (8) Personal signs;
- 248 (9) Political signs.

249 **Secs. 24-27—24-55. Reserved.**

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## DIVISION 2. PERMIT

250

### 251 **Sec. 24-56. Required; expiration.**

252 No person may erect a sign within the city without first obtaining a permit to do so if  
253 required by this article. If the work authorized by a permit issued under this article is not  
254 commenced within 60 days after the date of issuance, the permit becomes null and void.

### 255 **Sec. 24-57. Application.**

#### 256 (a) *Application requirements.*

257 (1) A person desiring to erect a sign requiring a permit under this article must file a written  
258 application for the permit. The permit application must be filed with the building  
259 official and must be accompanied by the fee prescribed by the city, together with the  
260 following information:

- 261 a. The name, address and telephone number of the person making application and  
262 the owner of the premises upon which the proposed sign is to be located;
- 263 b. Written consent to the application from the owner of the premises upon which the  
264 proposed sign is to be located;
- 265 c. A site plan depicting the exact location of the proposed sign on the premises, if  
266 applicable; and
- 267 d. An elevation and specification drawing, to scale, of the proposed sign showing the  
268 message to be depicted on the sign, the dimensions of the sign, the materials that  
269 will be used in the construction of the sign, lighting devices (if any) that will be  
270 used to illuminate the sign, and the method by which the sign will be constructed,  
271 attached to the building or placed in the ground, and any associated landscaping.

272 (2) The specification drawing for a monument sign must bear the signature and seal of a  
273 registered professional engineer.

274 (b) *Date of filing.* The application will not be deemed to have been filed until all information,  
275 documentation and fees required by this article have been received by the building official.

### 276 **Sec. 24-58. Approval or denial.**

277 (a) The building official will approve, approve with conditions, or disapprove an application to  
278 erect a sign within 30 working days following the day the application was filed. Failure of  
279 the building official to approve, approve with conditions, or disapprove an application  
280 within the prescribed time will constitute approval of the application.

281 (b) The applicant must comply with all conditions imposed by the building official with respect  
282 to approval of an application.

283 (c) No sign requiring a permit may be erected until such permit is issued by the building  
284 official.

### 285 **Secs. 24-59—24-89. Reserved.**



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## DIVISION 3. STANDARDS FOR SPECIFIC TYPES OF SIGNS

286

287 **Sec. 24-90. Monument signs.**

288 (a) *Monument sign table.*

<i>Sign Type</i>	<i>Commercial &amp; Office Building</i>	<del><i>Office Building</i></del>	<i>Hospital, Church or Government Building</i>	<i>Residential</i>
Monument sign	Yes	<del>Yes</del>	Yes	Not permitted

289

290 Table legend:

291 "Yes" indicates this sign type is allowable under the conditions outlined below.

292 "Not permitted" indicates this sign type is not allowed.

293 (b) *Information on sign.* The information display on a monument sign is limited to the name  
 294 and logo of residing establishments (except, during such time the premises is ~~for held~~ for  
 295 lease, it may include a "for lease" display).

296 (c) *Design and construction standards.* Monument signs must be designed and constructed in  
 297 accordance with the following standards:

298 (1) If internally illuminated, the monument sign must:

299 a. Be designed and constructed in accordance with applicable UL specifications and  
 300 requirements and must exhibit the appropriate UL certification; ~~and-~~

301 b. ~~Use either 30 milliamp neon glass tubing that is 15 millimeters in size and~~  
 302 ~~Lighting must be white in color 6500 white in color or high output fluorescent~~  
 303 ~~lamps.~~

304 (2) Monument sign materials must be noncorrosive, including, but not limited to, the  
 305 frame, bolts, shields, brackets, paint, vinyl, and aluminum.

306 (3) Monument sign faces must be either back-lit channel letters or routed aluminum panel  
 307 faces that are backed with either Plexiglas or up to a maximum one-half inch push-  
 308 through type Plexiglas.

309 (4) A monument sign containing a routed aluminum panel face may have an internally lit  
 310 or back-lit lighting application.

311 (5) Monument signs must display the building street address number, in four-inch metal  
 312 letters, on all visible sign faces.

313 (d) *Number of signs permitted; dimensions and setback requirements.*

314 (1) For properties with less than 100 lineal feet of right-of-way frontage, the surface area  
 315 of the monument sign may not exceed 24 total square feet.

316 (2) For properties with more than 100 lineal feet of right-of-way frontage, the surface area  
 317 of the monument sign may not exceed 48 total square feet.

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- 318 (3) A monument sign may not exceed eight feet in height above the highest point in the  
 319 natural grade immediately adjacent to the base of the sign.
- 320 (4) A monument sign must be set back at least ten feet from the boundary line of the  
 321 property.
- 322 (5) Properties with less than 400 lineal feet of right-of-way frontage may have only one  
 323 monument sign on the premises. Properties with more than 400 lineal feet of right-of-  
 324 way frontage may have up to two monument signs on the premises; provided, however,  
 325 the monument signs must be spaced at least 100 feet apart.

326 **Sec. 24-91. Building-mounted signs.**

327 (a) *Building-mounted sign table.*

<i>Building-Mounted Sign Type</i>	<i>Commercial &amp; Office Building</i>	<i>Office Building</i>	<i>Hospital, Church or Government Building</i>	<i>Residential</i>
Channel letter (illuminated)	Yes	<del>Not permitted</del>	Not permitted	Not permitted
Channel logo (illuminated)	Yes	<del>Not permitted</del>	Not permitted	Not permitted
Dimensional letter (nonilluminated)	Yes	<del>Yes</del>	Yes	Not permitted

328

329 Table legend:

330 "Yes" indicates this sign type is allowable under the conditions outlined below.

331 "Not permitted" indicates this sign type is not allowed.

332 (b) *Channel letters.* Channel letters must be designed and constructed in accordance with the  
 333 following standards:

334 (1) Channel letters:

- 335 a. If illuminated, must have opaque side walls.
- 336 b. If illuminated, must be designed and constructed in accordance with applicable  
 337 UL specifications and requirements and must exhibit the appropriate UL  
 338 certification.
- 339 c. If illuminated, ~~lighting must be white in color must use 30 milliamp neon glass~~  
 340 ~~tubing that is 15 millimeters in size and 6500 white in color.~~
- 341 d. Must be constructed of aluminum faces that are at least 0.090 inches thick,  
 342 aluminum returns that are at least 0.063 inches thick and have a depth of at least  
 343 three inches.
- 344 e. Must contain clear Lexan backs that are at least 0.019 inches thick.

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- 345 f. Must be mounted using an individual reverse mounting method that has at least a  
346 two-inch standoff.
- 347 g. Must be painted with two-stage automotive acrylic paint.
- 348 h. Must have a painted white interior.
- 349 (2) Channel letter displays on a building-mounted sign may contain:
- 350 a. One horizontal line of lettering, not to exceed 24 inches in height, with no more  
351 than one 24-inch-in-height logo that may not exceed four square feet in total  
352 surface area; or
- 353 b. Two horizontal lines of lettering, not to exceed 30 inches in height, with no more  
354 than one 30-inch-in-height logo that may not exceed six square feet in total  
355 surface area.
- 356 (c) *Channel logos*. Channel logos must be designed and constructed in accordance with the  
357 following standards:
- 358 (1) A channel logo:
- 359 a. If illuminated, must contain opaque side walls.
- 360 b. If illuminated, ~~lighting must be white in color must use 30 milliamp neon glass~~  
361 ~~tubing that is 15 millimeters in size and 6,500 white in color.~~
- 362 c. If illuminated, must be designed and constructed in accordance with applicable  
363 UL specifications and requirements and must exhibit the appropriate UL  
364 certification.
- 365 d. Must be constructed of aluminum backs that are at least 0.063 inches thick,  
366 aluminum returns that are at least 0.040 inches thick and have a depth of at least  
367 five inches.
- 368 e. Must contain clear Lexan backs that are least 0.019 inches thick.
- 369 f. Must contain a translucent Plexiglas face that is at least 3/16-inch thick with an  
370 ultraviolet light-resistant vinyl overlay that is designed to resist fading for five  
371 years.
- 372 g. Must contain a trim cap that is at least one inch thick, but not more than two  
373 inches thick.
- 374 h. Must be mounted using an individual mounting method that has at least a two-  
375 inch standoff.
- 376 i. Must be painted with two-stage automotive acrylic paint.
- 377 j. Must have a painted white interior.
- 378 (2) A channel logo display on a building-mounted sign may contain:
- 379 a. One logo, not to exceed 24 inches in height or four square feet in total area; or  
380 b. One logo, not to exceed 30 inches in height or six square feet in total area.

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381 (d) *Dimensional letters.* Dimensional letters may not be illuminated. Dimensional letters must  
382 be designed and constructed in accordance with the following standards:

383 (1) Dimensional letters must:

384 a. Be constructed of noncorrosive metal, including, but not limited to, the bolts,  
385 mounting brackets, and sign faces.

386 b. Be mounted using an individual mounting method that has at least a one-quarter  
387 inch standoff.

388 c. Be painted with two-stage automotive acrylic paint.

389 d. Have ultraviolet light-resistant vinyl overlay faces that are designed to resist  
390 fading for five years.

391 (2) Dimensional letters on a building-mounted sign must be at least one inch deep, but no  
392 more than three inches deep.

393 (e) *General standards for signs on commercial buildings.* General guidelines and restrictions  
394 for building-mounted signs on a commercial building are as follows:

395 (1) Channel letter type building-mounted signs may be internally illuminated.

396 (2) Dimensional letter type building-mounted signs may not be illuminated.

397 (3) Each establishment is limited to one building-mounted sign per building façade with a  
398 public entrance and each building-mounted sign may contain only one logo. Buildings  
399 with more than 10,000 square feet but less than 25,000 square feet in total gross floor  
400 area may have up to two building-mounted signs on the front façade. Buildings with  
401 more than 25,000 square feet in total gross floor area may have up to three building-  
402 mounted signs on the front façade.

403 (4) The width of each building-mounted sign may not exceed 75 percent of the linear  
404 width of the front facade of the premises structure. For multi-tenant buildings this shall  
405 be calculated based on the width of the façade for the individual tenant space.

406 (5) For premises with less than 25,000 square feet in gross floor area, the total surface area  
407 of the building-mounted sign, including any logo, may not exceed 60 square feet in  
408 area.

409 (6) For premises with more than 25,000 square feet, the total surface area of the building-  
410 mounted sign, including any logo, may not exceed 80 square feet.

411 (f) *General standards for signs on ~~office~~, hospital, church, or government building.* General  
412 guidelines and restrictions for building-mounted signs on ~~an office building~~, hospital  
413 building, church building or government building are as follows:

414 (1) Only dimensional letter type building-mounted signs are allowed.

415 (2) Each building-mounted sign may contain only one logo.

416 (3) Building-mounted signs may not be illuminated.

417 (4) Total surface area of each building-mounted sign, including any logo, may not exceed  
418 60 square feet in area.

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- 419 (5) Each building-mounted sign may contain either one or two lines of horizontal lettering,  
420 which will not exceed 30 inches in overall height. The content of the display text is  
421 limited to the building name or the establishment names.
- 422 (6) Buildings with less than 10,000 square feet may have one building-mounted sign.  
423 Buildings with more than 10,000 square feet but less than 25,000 square feet in total  
424 gross floor area may have up to two building-mounted signs. Buildings with more than  
425 25,000 square feet in total gross floor area may have up to three building-mounted  
426 signs.
- 427 (7) The width of each building-mounted sign may not exceed 75 percent of the linear  
428 width of the front facade of the premises structure.

## 429 **Sec. 24-92. Secondary signs.**

### 430 (a) *Secondary sign table.*

<i>Secondary Sign Type</i>	<i>Commercial &amp; Office Building</i>	<del><i>Office Building</i></del>	<i>Hospital, Church or Government Building</i>	<i>Residential</i>
Awning sign	Yes	<del>Not permitted</del>	Not permitted	Not permitted
Projecting sign	Yes	<del>Not permitted</del>	Not permitted	Not permitted
Wayfinding sign	Yes	<del>Yes</del>	Yes	Not permitted

431

### 432 Table legend:

433 "Yes" indicates this sign type is allowable under the conditions outlined below.

434 "Not permitted" indicates this sign type is not allowed.

435 (b) *Awning signs.* Awning signs must be designed and constructed in accordance with the  
436 following standards:

437 (1) *Materials and construction.* Awning signs must:

- 438 a. Have a support structure that is constructed of noncorrosive metal, including, but  
439 not limited to, the bolts, mounting brackets, and frame.
- 440 b. Be made of low sheen, opaque canvas fabric.
- 441 c. Contain white silk-screened display text, which is located on the sign band area of  
442 the canvas fabric only.
- 443 d. Not contain display text that exceeds ten square feet in total surface area of each  
444 awning sign.

445 (2) *Number of signs permitted.* Each establishment may have one awning sign.

446 (c) *Projecting signs.* Projecting signs must be designed and constructed in accordance with the  
447 following standards:

448 (1) *Materials and construction.* Projecting signs must:

# DRAFT

- 449 a. Be constructed of durable noncorrosive materials, and, if painted, must be painted  
450 using two-stage automotive acrylic paint.
- 451 b. Be mounted so that there is at least eight feet of clearance between the bottom of  
452 the projecting sign and the natural grade.
- 453 c. Project no more than four linear feet from the building facade.
- 454 d. Have ultraviolet light-resistant vinyl overlay faces that are designed to resist  
455 fading for five years, if such vinyl materials are used in the projecting sign.

456 (2) *Number of signs permitted, dimensions and contents.*

- 457 a. Total surface area of the projecting sign face may not exceed six square feet in  
458 area.
- 459 b. Each establishment may have only one projecting sign.
- 460 c. Display text is limited to the name, logo, crest, or insignia of the business or  
461 organization.

462 d. Projecting signs may be illuminated using internal lighting that is white in color.

- 463 (d) *Wayfinding signs.* Wayfinding signs must be designed and constructed in accordance with  
464 the following standards:

465 (1) *Materials and construction.* Wayfinding signs must:

- 466 a. Be constructed of noncorrosive metal, including, but not limited to, bolts,  
467 mounting brackets and posts and sign faces.
- 468 b. Be mounted so that there are no more than two exposed posts.
- 469 c. Be painted with two-stage automotive acrylic paint.
- 470 d. Contain directional display graphics that are made of ultraviolet light-resistant  
471 vinyl overlay faces designed to resist fading for five years.

472 (2) *Dimensions and maximum height.*

- 473 a. The total surface area of a wayfinding sign face may not exceed two square feet in  
474 area.
- 475 b. Wayfinding signs may not exceed six feet in height above the highest point in the  
476 natural grade immediately adjacent to the base of the sign.

477 **Sec. 24-93. Temporary signs allowed with prior approval.**

- 478 (a) *Temporary sign with prior approval table.*

<i>Temporary Sign Type Requiring Prior Approval</i>	<i>Commercial &amp; Office Building</i>	<i>Office Building</i>	<i>Hospital, Church or Government Building</i>	<i>Residential</i>
Commercial real estate sign	Yes	Yes	Yes	Not applicable
Banner	Yes	Yes	Yes	Not permitted

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Table legend:

"Yes" indicates this sign type is allowable under the conditions outlined below.

"Not permitted" indicates this sign type is not allowed.

(b) *Standards.* The temporary signs described below are allowable, but require prior approval of the building official:

(1) *Commercial real estate sign.* One commercial real estate sign may be located on the premises being held for sale, lease or rent. A commercial real estate sign may not be displayed for longer than six months. Commercial real estate signs may not exceed ten square feet in surface area. Commercial real estate signs must be at least ten feet from the public right-of-way.

(2) *Banners.* One banner is permitted at a time per establishment. No banner may be displayed for longer than 30 days from the date it is first displayed. No more than three banners may be displayed per establishment per calendar year. The surface area of the banner may not exceed 32 square feet.

**Sec. 24-94. Temporary signs allowed without prior approval.**

(a) *Temporary sign table.*

<i>Type of Sign</i>	<i>Commercial &amp; Office Building</i>	<i>Office Building</i>	<i>Hospital, Church or Government Building</i>	<i>Residential</i>
Residential real estate sign	Not applicable	<del>Not applicable</del>	Not applicable	Yes
Directional real estate sign	Yes	Yes	Yes	Yes
Contractor sign	Yes	Yes	Yes	Yes
Store window sign	Yes	<del>Not permitted</del>	Not permitted	Not permitted
<u>A-frame sign</u>	<u>Yes</u>		<u>Not permitted</u>	<u>Not permitted</u>

Table legend:

"Yes" indicates this sign type is allowable under the conditions outlined below.

"Not permitted" indicates this sign type is not allowed.

(b) *Standards.* The temporary signs described below are allowed without prior approval provided such temporary sign meets the requirements specified below:

(1) *Residential real estate sign.* One residential real estate sign may be located on the premises being held for sale, lease or rent. A residential real estate sign may be displayed only while the premises are for sale, lease or rent. Residential real estate signs may not exceed five square feet in total surface area. Residential real estate signs

# DRAFT

506 must be at least ten feet from the public right-of-way unless, due to unusual  
507 circumstances created by the premises configuration, frontage, size or slope, the ten-  
508 foot setback would create a hardship.

509 (2) *Directional real estate sign.* One directional real estate sign may be located within the  
510 public right-of-way or on private property adjoining the public right-of-way in a  
511 residential zoning district, provided that the following conditions are satisfied:

512 a. The directional real estate sign does not exceed three feet in height above natural  
513 grade;

514 b. The directional sign is installed and removed (before 8:00 p.m.) on the day of the  
515 event that it is advertising; and

516 c. The owner of the directional real estate sign has obtained the prior consent of the  
517 owner of the private property or private property adjacent to the public right-of-  
518 way on which the directional real estate sign will be located.

519 (3) *Contractor sign.* One contractor sign will be allowed on the premises being improved.  
520 Contractor signs in a residential zoning district may not exceed five square feet in  
521 surface area. Contractor signs in nonresidential zoning districts may not exceed ten  
522 square feet in surface area per contractor or subcontractor, and must be at least ten feet  
523 from the public right-of-way, unless affixed to temporary security/jobsite fencing being  
524 used in conjunction with the improvements. The contractor sign must be removed  
525 immediately after the improvements on the premises are completed.

526 (4) Store window signs. An establishment may have store window signs that shall not  
527 exceed a total combined area of 12 square feet per establishment. An establishment  
528 where the business is at an intersection of two roadways and has windows on different  
529 sides of the building adjacent to the roadways, may have store window signs that shall  
530 not exceed 24 square feet.

531 (5) A-frame sign. One A-frame sign will be allowed per establishment. The A-frame sign  
532 may not exceed five square feet per sign face, with a maximum of 2 sign faces which  
533 shall be parallel to each other (back-to-back). The A-frame sign shall not exceed three  
534 and one-half feet in height. A-frame signs may only be displayed during hours the  
535 establishment is open for business and must be taken down and stored inside the  
536 establishment when the establishment is closed. A-frame signs may not be placed  
537 within the public right-of-way, but may be placed on private sidewalks so long as it  
538 does not impeded pedestrian traffic or ADA accessibility.

## 539 **Sec. 24-95. Signs in governmental or institutional (GI) district or park (P) district.**

540 (a) Churches and hospitals are considered single establishments and the regulations are the  
541 same as for a single establishment in a ~~professional and business office commercial~~ district  
542 (C-1) ~~and a business district (C-2)~~ in this article. Upon request, the city council may  
543 approve additional signs with a favorable vote of at least four councilmembers after a public  
544 hearing.

545 (b) Signs on local, state, or federal government property require approval from the city council  
546 with a favorable vote of at least four councilmembers after a public hearing.



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547 (c) Signs on the premises of a public or private park require approval from the city council with  
548 a favorable vote of at least four councilmembers after a public hearing.

549 **Secs. 24-96—24-118. Reserved.**

550 *DIVISION 4. VARIANCES*

551 **Sec. 24-119. Purpose; limitations.**

552 (a) In order to lessen practical difficulties and prevent unnecessary physical hardships,  
553 variances from the regulations may be granted. A practical difficulty or unnecessary  
554 physical hardship may result from the size, shape, or dimensions of a structure, or the  
555 location of the structure, from topographic or physical conditions on the site or in the  
556 immediate vicinity, or from other physical limitations, street locations, or traffic conditions  
557 in the immediate vicinity. Cost or inconvenience to the applicant of strict or literal  
558 compliance with a regulation shall not be a reason for granting a variance.

559 (b) With respect to signs which are subject to regulation under V.T.C.A., Transportation Code  
560 ch. 391 and state department of highways and public transportation regulations, no variance  
561 shall be granted from spacing, size and lighting requirements when such would result in less  
562 stringent regulation than that provided for under those regulations.

563 **Sec. 24-120. Application.**

564 Application for a variance shall be made upon a form provided by the city. The variance  
565 application shall include the application for a sign permit and shall also state the applicant's  
566 reasons for requesting variance in accordance with the criteria set forth in this article.

567 **Sec. 24-121. Fee.**

568 The fee for a variance shall be as provided in the city fee schedule. The fee shall be paid at  
569 the time of application and shall not be refundable.

570 **Sec. 24-122. Hearing.**

571 Upon receipt of a variance application, the city council shall hold a public hearing prior to  
572 the approval or disapproval of the requested variance.

573 **Sec. 24-123. Action on application.**

574 Within 20 days of the closing of a hearing on a variance application, the city council shall  
575 act on the application. The council may approve the application as submitted, may approve the  
576 application subject to such modifications or conditions as it deems necessary to accomplish the  
577 purpose of this article, or the council may deny the application. A variance may be revocable or  
578 may be granted for a limited time period.

579 **Sec. 24-124. Criteria for approval.**

580 Before the city council acts on a variance application, the applicant must prove hardship,  
581 and the council must find that:

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- 582 (1) There are special circumstances or conditions applying to the land, buildings,  
583 topography, vegetation, sign structures or other matters on adjacent lots or within the  
584 adjacent right-of-way, which would substantially restrict the effectiveness of the sign  
585 in question; provided, however, that such special circumstances or conditions are  
586 unique to the particular business or enterprise to which the applicant desires to draw  
587 attention, and do not apply generally to all businesses or enterprises;
- 588 (2) That such special circumstances were not created by the applicant or anyone in privity to  
589 the applicant;
- 590 (3) That the granting of the variance will be in general harmony with the purposes of this  
591 article, and will not be materially detrimental to the persons residing or working in the  
592 vicinity, to adjacent property, to the neighborhood, or to the public welfare in general;
- 593 (4) The variance applied for does not depart from the provisions of this article any more  
594 than is required to identify the applicant's business or use;
- 595 (5) Such other factors and criteria as the council deems applicable to the proposed  
596 variance.

597

598 *{Amend references to C-1 & C-2 in Sec.101-94.c Site plan requirements}*

## 599 **Sec.101-94. Site plan requirements.**

- 600 (c) If the proposed project is within the ~~commercial district (C) professional and business office~~  
601 ~~district (C-1), business district (C-2)~~ or planned unit development district (PUD), the site  
602 plan must be accompanied by a traffic impact analysis prepared by a professional approved  
603 by the city, indicating the impact of the project on existing traffic conditions and information  
604 on the potential congestion caused by ingress and egress.

605

606 *{Repeal and replacement of Sec.101-248 Nonconformity arising from dedication of right-of-way*  
607 *for Bee Cave Road}*

## 608 **Sec.101-248. Reserved Nonconformity arising from dedication of right-of-way for Bee Cave** 609 **Road.**

- 610 ~~(a) Continuation of existing use, structure, or lot. A lawful use, building, structure, or lot~~  
611 ~~existing prior to a dedication of right-of-way that is rendered nonconforming due to a~~  
612 ~~voluntary dedication of right-of-way for Bee Cave Road may be continued after the~~  
613 ~~dedication as if the dedication had not occurred.~~
- 614 ~~(b) Completion of approved development. A proposed use, building, structure, or lot for which a~~  
615 ~~preliminary plat, building permit, site plan, certificate of occupancy or other similar~~  
616 ~~application for development approval was approved prior to a voluntary dedication of~~  
617 ~~right-of-way for Bee Cave Road may be completed in accordance with the approved plan~~  
618 ~~or application as if the dedication had not occurred.~~

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- 619 ~~(c) — Calculation of impervious cover. If a property owner voluntarily dedicates right-of-way for~~  
620 ~~Bee Cave Road, the property owner will be entitled to calculate impervious cover based~~  
621 ~~upon the property owned prior to the dedication, as if the dedication had not occurred.~~
- 622 ~~(d) — Adjustment of setbacks, parking requirements, etc. If a property owner voluntarily~~  
623 ~~dedicates right-of-way for Bee Cave Road, the property owner will be entitled to reduced~~  
624 ~~setbacks and reduced parking requirements and other adjustments approved by the city~~  
625 ~~council in order, to the extent possible, to place the property owner in the same position as~~  
626 ~~if the dedication had not occurred. These reduced setbacks, parking requirements and other~~  
627 ~~adjustments may be approved by the city council upon a finding that they are necessary in~~  
628 ~~order to place the property owner in the same position as if the dedication had not occurred.~~
- 629 ~~(e) — Repair or reconstruction. If a building or structure rendered nonconforming due to~~  
630 ~~voluntary dedication of right-of-way for Bee Cave Road is destroyed by fire or other~~  
631 ~~means, the owner may repair or reconstruct the building or structure regardless of the~~  
632 ~~extent of the damage, but may not increase the degree of nonconformity beyond that~~  
633 ~~existing immediately prior to the destruction. The owner must obtain a building permit~~  
634 ~~before initiating repair or reconstruction.~~
- 635 ~~(f) — Conflicting regulations. In the event of a conflict between this section and any other~~  
636 ~~provision of chapters 105, 107 or this chapter, this section will control to the extent of the~~  
637 ~~conflict.~~
- 638 ~~(g) — Applicability. This section will only apply to right-of-way necessary for the widening of~~  
639 ~~Bee Cave Road (RM 2244) and which is accepted by the city and the state department of~~  
640 ~~transportation.~~

641

642 *{Addition of required engineer certification of stormwater compliance to Sec.103-206 Permit}*

## 643 **Sec.103-206 Permit**

- 644 (a) When a permit is required pursuant to this article, an applicant's design engineer shall  
645 prepare and seal and submit with an application for a permit construction drawings in  
646 compliance with all applicable regulations of this article and accepted engineering practices.  
647 Only one building permit shall be necessary for construction of all proposed improvements.  
648 If no building permit is otherwise required for other improvements, a building permit  
649 applicable only to proposed drainage facilities must be obtained. For developments  
650 requiring drainage facilities, construction plans and all associated documents shall be  
651 provided to the city and shall conform to the requirements of this article. Drainage facilities  
652 located on private property shall be maintained by the property owner. Construction or  
653 installation of facilities required by this article or by any building permit issued pursuant to  
654 this article shall constitute a condition to the issuance of the building permit and a condition  
655 to lawful occupancy of improvements that are the subject of such required facilities. An  
656 owner is responsible to provide notice of all maintenance requirements to subsequent  
657 purchasers of any part of the affected property.
- 658 (b) Alternative methods of design of drainage facilities may be considered where performance  
659 is demonstrated through sound engineering practices to meet the performance requirements  
660 of this article. If any condition requiring some additional measure of protection is identified

# DRAFT

661 as necessary to conform to the purpose identified in section 103-199, the applicant's  
662 engineer shall make provision therefor in the design of the development.

663 (c) Accepted principles of surface drainage engineering and information obtainable from  
664 professionally recognized sources of hydrology, hydraulics and water resources may be  
665 considered in the application of the regulations provided in this article.

666 (d) Prior to the issuance of a Certificate of Occupancy in the C, H, and GI districts, the  
667 applicant shall submit a letter of certification from a registered professional engineer stating  
668 that the site as built meets all impervious cover requirements, stormwater management and  
669 water quality requirements, and impervious cover incentives from Sec. 107-115, as  
670 applicable, and is constructed in accordance with the approved permit.

671

672 *{Amendments to Chapter 107 Zoning, Article I. In General, Sec.107-3. Definitions}*

## 673 **Sec. 107-3. Definitions.**

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

676 *Commercial district* means a the Commercial District (C) ~~C-1 (professional and business~~  
677 ~~office) zoning district or C-2 (business) zoning district.~~

678

679 *{Amendments to Chapter 107 Zoning, Article II. District Regulations, Division I. Generally,*  
680 *Section 107-25 Districts designated.}*

## 681 **Sec. 107-25. Districts designated.**

682 (a) The city is hereby divided into the following zoning districts:

683 (1) Residential District (R);

684 (2) ~~Professional and Business Office District (C-1)~~ Commercial District (C);

685 ~~(3) Business District (C-2)~~;

686 ~~(3)(4)~~ —Park District (P); ~~and~~

687 ~~(4)(5)~~ Governmental and Institutional District (GI);

688 ~~(5)(6)~~ Hospital District (H); ~~and~~

689 ~~(6)(7)~~ Planned Unit Development District (PUD).

690 (b) These zoning districts are of such shape and area as shown on the City's official zoning  
691 map, and have been deemed best suited to carry out the purposes of V.T.C.A., Local  
692 Government Code ch. 211. Within such districts, this article hereby regulates and restricts  
693 the construction, alteration and use of buildings and structures, and the use of land, as herein  
694 set forth. While the regulations applicable in each of the districts differ, all such regulations  
695 are uniform in each district.

696 (c) Any portion of land within the city not specifically zoned ~~C-1, C-2~~, P, GI, H, or PUD is  
697 hereby expressly zoned R.

# DRAFT

698

699 {Amendments to Chapter 107 Zoning, Article II. District Regulations, Division I. Generally,  
700 Section 107-36 Driveways.}

## 701 **Sec. 107-36. Driveways.**

702 (a) Driveways in the zoning districts other than C district. Each driveway shall be located at  
703 least five feet from a side lot line and ten feet from a rear lot line. Each driveway shall be  
704 permanently hard-topped with a durable surface and shall be designed and constructed in a  
705 manner that will permit ingress and egress of motor vehicles.

706 (b) Driveways in C district.

707 (1) Each driveway shall be permanently hard-topped with a durable surface and shall be  
708 designed and constructed in a manner that will permit ingress and egress of motor  
709 vehicles.

710 (2) Driveways shall be no wider than 25 feet for a single drive and 40 feet for a divided  
711 drive, as measured at the lot line.

712 (3) Driveways taking access from Bee Cave Road shall be spaced no less than 200 feet at the  
713 lot line from any other driveway and no less than 100 feet from the right-of-way of  
714 intersecting streets.

715 (4) Shared and cross access. Notwithstanding any other provisions of the city, unless  
716 otherwise approved by the City, to reduce the number of curb cuts and access driveways,  
717 the dedication of joint-use, private access driveway easements, and cross-lot access  
718 easements shall be required for all commercial development.

719 a. To facilitate access management and internal circulation, common access and cross  
720 access easements are required between and across adjacent lots zoned commercial  
721 fronting on Bee Cave Road unless the city administrator or his/her designee  
722 authorizes an exemption due to site constraints.

723 b. The use of common driveways shall require the dedication of a joint-use public or  
724 private access easement on each affected property.

725 c. Properties which do not share a common driveway straddling a lot line shall provide  
726 cross access easements to facilitate the flow of traffic between adjacent properties.  
727 Cross access shall begin at a driveway and extend side to side to adjacent properties.

728 d. The easement dedication shall be provided on the final plat when a public easement is  
729 used. Alternatively, a private access easement for access via neighboring property,  
730 approved by the city administrator or his/her designee, may be filed by separate  
731 instrument in the county deed records with a copy forwarded to the city. When a  
732 private access easement is used, it shall be filed in the county deed records prior to  
733 recordation of the final plat or prior to issuance of a certificate of occupancy,  
734 whichever comes first.

735 e. The plat or easement instrument shall state that the easement shall be maintained by  
736 the property owner or a property owner's association.

# DRAFT

737 f. The easement shall encompass the entire width of the planned driveway and drive  
738 aisles.

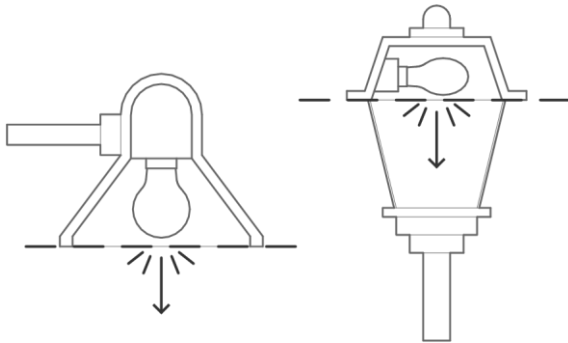
739

740 {Amendments to Chapter 107 Zoning, Article II. District Regulations, Division I. Generally,  
741 creating Section 107-39 Lighting requirements.}

742 **Sec. 107-39. Lighting requirements.**

743 (a) Definitions: As used herein:

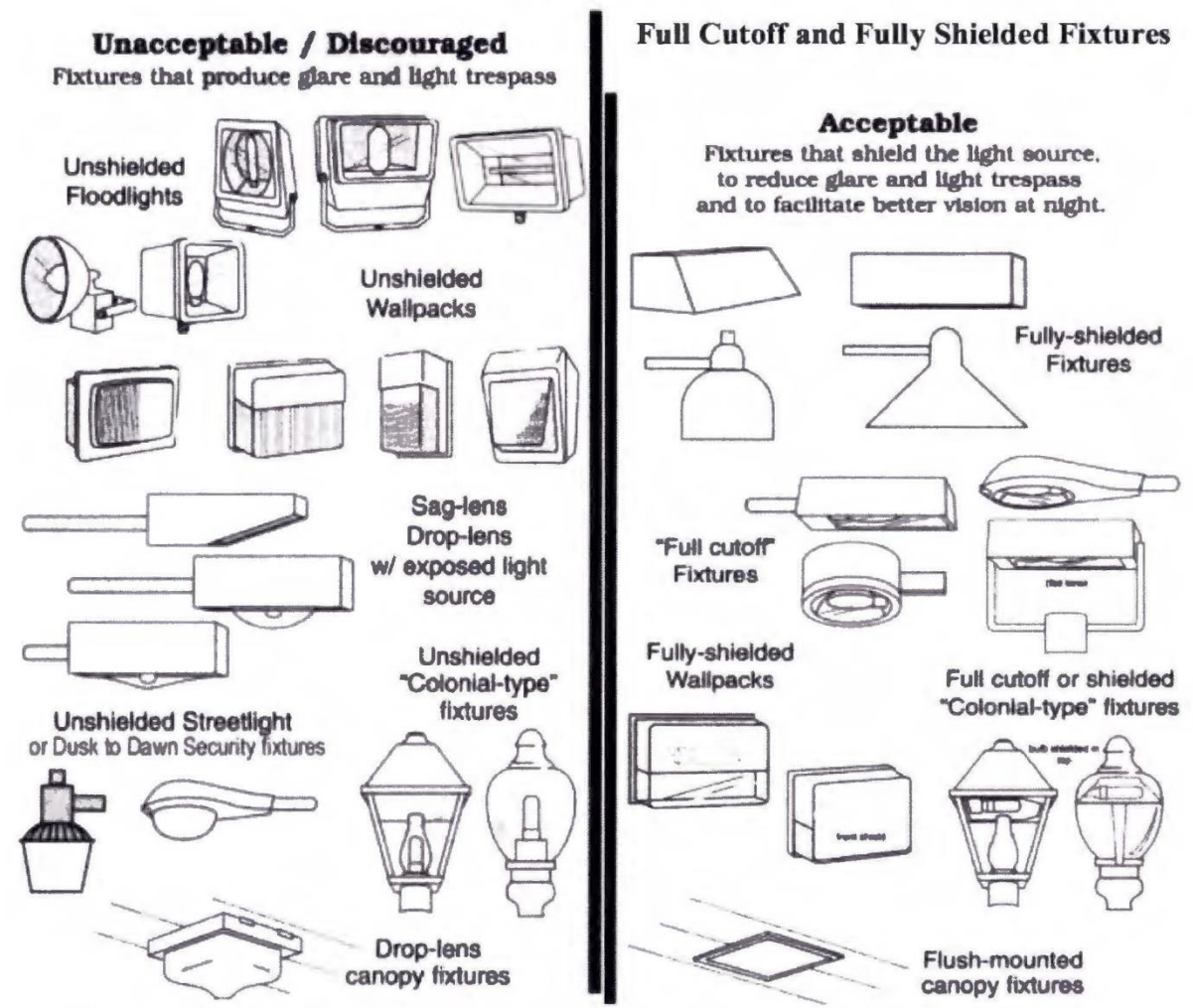
744 (i) "Shielded" means "installed in such a manner that all light emitted by the fixture, either  
745 directly from the bulb or a diffusing element, or indirectly by reflection or refraction from  
746 any part of the fixture, is projected below the horizontal plane immediately beneath the  
747 fixture's lowest light-emitting part."



748

749 In Figure A (below), the lights on the left are nonconforming. Those on the right can be used in  
750 most cases. However, the mounting height and proximity to the property line may cause them  
751 to need additional shielding to prevent the luminous elements from being visible from any  
752 other property.

UNSHIELDED FIXTURES



753

754 (ii) "Footcandle" as used herein shall mean: The illuminance produced on a surface one foot  
755 from a uniform point source of one candela and equal to one lumen per square foot.

756

757 (b) Applicability.

758 (1) The regulations contained in this section are applicable to outdoor lighting fixtures  
759 installed on structures within the non-residential zoning districts of the City.

760 (2) All outdoor lighting fixtures existing and legally installed and operating before the  
761 effective date of this section, or installed pursuant to a permit approved prior to the  
762 effective date of this Section, shall be brought into conformance with this Section upon  
763 the earlier of: (1) an application for a site plan or building permit for construction of a  
764 new building or modification of 50% or more of an existing structure; or (2) replacement  
765 or modification of an existing non-conforming fixture.

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766 (3) This section does not apply to interior lighting; however, overly bright lighting emitted  
767 from a structure will be subject to this section if it is determined by the City  
768 Administrator or his/her designee that it creates a nuisance or a potential safety hazard.

769

770 (c) Exemptions. The following are exempt from the provisions of this section:

771 (1) publicly maintained traffic control devices;

772 (2) street lights installed prior to the effective date of this section;

773 (3) temporary emergency lighting (fire, police, repair crews);

774 (4) lighting fixtures and illumination requirements imposed by TxDOT within TxDOT  
775 rights-of-way (ROW);

776 (5) moving vehicle lights;

777 (6) navigation lights (aircraft warning beacons on water towers and wireless transmission  
778 facilities) required by State or Federal law;

779 (7) signs and associated lighting that conform to the city's sign regulations in Chapter 24;

780 (8) seasonal decorations with lights in place no longer than sixty (60) days; and

781 (9) other temporary uses approved by the City Council (festivals, carnivals, fairs, night-time  
782 construction);

783

784 (d) General Standards. The following standards shall apply to all outdoor lighting installed after  
785 the effective date of this section:

786 (1) Lighting must be shielded and aimed downward so as to ensure that the illumination is  
787 only pointing downward onto the ground surface or into the building. No outdoor lighting  
788 fixture shall permit light to shine off the property on which it is installed.

789 (2) The source of the light (the light bulb, light emitting diode, or any other light emitting  
790 device), a refractive or non-refractive lens cover, or reflector shall not be visible in a  
791 direct line of sight from any other property or public right-of-way.

792 (3) Lighting must have a color temperature of no more than 3000 Kelvins (K).

793 (4) For properties other than automotive service stations, the maximum allowable intensity of  
794 lighting shall be 0.25 footcandle measured at the lot line. For automotive service stations  
795 and other fueling facilities, the maximum allowable intensity shall not exceed 10.0  
796 footcandle in the area surrounding pump islands, canopy lighting shall be recessed into  
797 the canopy, and neither canopy lighting nor overhead lighting shall trespass onto any  
798 other property.

799 (5) Any lighting to illuminate parking lots, buildings, or other structures shall not exceed the  
800 height of such buildings or structures, if attached thereto, or, if pole-mounted, a height of  
801 24 feet. All lighting shall be installed in a manner which directs or shields the light away  
802 from nearby dwellings.



# DRAFT

- 803 (6) Outdoor lighting shall be designed to provide the minimum lighting necessary to ensure  
804 adequate safety, night vision, and comfort, and not create or cause excessive glare onto  
805 adjacent properties or public street rights-of-way.
- 806 (7) Outdoor uplighting is prohibited except in cases where the fixture is shielded by a roof  
807 overhang or similar structural shield and a licensed architect or engineer has stamped a  
808 prepared lighting plan that ensures that the light fixtures will not cause light to extend  
809 beyond the structural shield. For spotlights and floodlights mounted overhead on poles  
810 and used for area lighting, the axis of illumination shall be adjusted to an angle not more  
811 than 20 degrees from the vertical line between the fixture and the ground. For spotlights  
812 and floodlights mounted at or near ground level and used to light a building, or other  
813 structure, the axis of illumination shall be adjusted to minimize the amount of light  
814 escaping above, below, and to the sides of the illuminated object.
- 815 (8) The aggregate total of outdoor lighting on any property shall not exceed 25,000 lumens  
816 per acre or equivalent thereof for lots of less than an acre.
- 817 (9) For any location or structure not specified in paragraphs (1) through (8) above, the  
818 Building Official shall set acceptable levels of illuminance upon request based on  
819 guidelines established by the Illuminating Engineering Society of North America  
820 (IESNA).
- 821 (10) No light or illumination that flashes, moves, scrolls rotates, scintillates, blinks, flickers,  
822 varies in intensity or color, or uses intermittent electrical pulsations is permitted.
- 823 (e) Submittals. Applications for all building permits for new construction or redevelopment,  
824 including the installation of outdoor lighting fixtures, shall provide proof of compliance with  
825 this section. The submittal shall contain the following information as part of the permit  
826 application:
- 827 (1) plans indicating the location, type, and height of lighting fixtures including both building  
828 mounted and ground mounted fixtures;
- 829 (2) a description of the lighting fixtures, including lamps, poles or other supports and  
830 shielding devices, which may be provided as catalog illustrations from the manufacturer;
- 831 (3) photometric data, which may be furnished by the manufacturer, showing the angle of  
832 light emission;
- 833 (4) detailed site lighting plan illustrating the footcandle power measured throughout the site;
- 834 (5) a certification by an engineer registered in the state as conforming to applicable  
835 requirements of this code, and
- 836 (6) additional information as may be required by the Building Official in order to determine  
837 compliance with this section.
- 838 (f) Enforcement. The city shall have the power to administer and enforce the provisions of this  
839 Section, as provided in this code. Any violation of this Section is hereby declared to be a  
840 nuisance. A civil penalty of up to \$2,000 for each day a violation occurs may be assessed  
841 when it is shown that the defendant was actually notified of the provisions of this article and  
842 after receiving notice failed to take action necessary for compliance with this article.

# DRAFT

843 **Section 107-~~3940~~ – 107-66. - Reserved**

844

845 {Amendments to Chapter 107 Zoning, Article II. District Regulations, Division 3. Commercial  
846 District (C)}

847 **DIVISION 3. COMMERCIAL DISTRICT (C)~~C-1 AND C-2 ZONING DISTRICTS~~**

848 **Sec. 107-102. Purpose and applicability. ~~Applicability.~~**

849 (a) Purpose. The Commercial District (C) is intended to provide suitable areas for the  
850 development of non-residential uses which offer a wide variety of retail and service  
851 establishments that are generally oriented toward serving the overall needs of the entire  
852 community.

853 (b) Applicability. The regulations set forth in this division shall apply to land, buildings and  
854 structures located in the Commercial District (C). ~~professional and business office district (C-~~  
855 ~~1) or the business district (C-2).~~

856 **Sec. 107-103. Maximum height of buildings/structures.**

857 (a) ~~No portion of any A~~ building or structure ~~or portion thereof~~ within 300 feet of a residential  
858 district shall ~~not~~ exceed 30 feet in height ~~and shall not exceed~~ ~~or~~ two stories; ~~and no portion~~  
859 ~~of any Any~~ other building or structure ~~or portion thereof~~ shall ~~not~~ exceed ~~35-45~~ feet in  
860 height ~~and shall not exceed~~ ~~or two three~~ stories (except as allowed in subsections (b) ~~and (e)~~  
861 of this section). No parking structure shall be higher than the original native ground surface  
862 ~~except as may be approved by the City Council pursuant to Section 107-38., and all All~~  
863 buildings or structures must be of pitched-type construction (hip or gable-type roofs with a  
864 minimum pitch of 3:12).

865 ~~(b) A building or structure other than a personal wireless telephone service facility (commonly~~  
866 ~~known as a cell phone tower or facility) may be three stories, provided that it satisfies all of~~  
867 ~~the following conditions:~~

868 ~~(1) It does not exceed 40 feet in height;~~

869 ~~(2) It is located at least 150 feet from any lot in a residential district;~~

870 ~~(3)(1) It is located on a lot or contiguous lots under common or affiliated ownership at~~  
871 ~~least ten acres in size;~~

872 ~~(4)(2) It is located on property that was the subject of an application for a preliminary~~  
873 ~~plat filed after September 1, 1997, and before March 16, 2000;~~

874 ~~(5)(3) That preliminary plat did not expire during that time nor was a final plat recorded~~  
875 ~~for the property during that time; and~~

876 ~~(6)(4) Any final plat includes all public facilities identified on the preliminary plat and~~  
877 ~~the final plat is processed or the public facilities are dedicated to the city by July 31,~~  
878 ~~2000.~~

# DRAFT

879 ~~(e)~~(b) A personal wireless telephone service facility for which a special use permit has been  
880 issued may be up to five feet in elevation above the highest point of any building located on  
881 the same lot, if the lot has frontage on Bee Caves Road. The personal wireless telephone  
882 service facility must be located at a distance not less than 150 feet from any lot in a  
883 residential district if it:

- 884 (1) Is freestanding and not attached to a building having an independent use; or  
885 (2) Has an elevation higher than the highest point of any building located on the same lot.

## 886 **Sec. 107-104. Minimum lot size.**

887 Each lot shall be at least 15,000 square feet in area.

## 888 **Sec. 107-105. Minimum floor area.**

- 889 (a) Except as provided under subsection (b) of this section, each building shall be at least 1,800  
890 square feet in area.  
891 (b) Separate commercial buildings of at least 800 square feet may be constructed on a lot of one  
892 acre or larger size upon approval by the city council of the development plans for the lot.

## 893 **Sec. 107-106. Development plan approval for commercial buildings.**

- 894 (a) Each application for approval of development plans for commercial buildings shall include  
895 the following information, prepared and sealed where applicable by a registered  
896 professional engineer or registered professional land surveyor:
- 897 (1) Date, scale, north point, title, name of the owner of the property and the name of the  
898 person preparing the plans;
- 899 (2) A legal description of the lot, including a deed reference, a plat reference and, where  
900 applicable, a metes and bounds description;
- 901 (3) Drainage plan: The development drainage plan will ensure that for the two-, ten-, 25-,  
902 and 100-year frequency storm events, the stormwater runoff peak flow rates shall not  
903 be increased above the pre-developed condition and shall not cause increased  
904 inundation of any building or roadway surface. The drainage plan shall include, as a  
905 minimum: determination of stormwater flows will be according to the drainage criteria  
906 manual. Any applicant seeking an increase to impervious cover limits under Section  
907 107-115 shall submit the documentation as required by that section to demonstrate  
908 compliance with the requirements of that section.
- 909 (4) A topographical survey of the site on two-foot vertical contours showing the  
910 centerlines of existing watercourses;
- 911 (5) A comprehensive grading plan shall be included with the development plan.
- 912 a. The grading plan shall be designed to ensure all lots will adequately drain upon  
913 completion of the development improvements.
- 914 b. The engineer will set the elevation of lot corners in conjunction with preparation  
915 of the drainage plan. Lot corner elevations shall be shown on the grading plan.

# DRAFT

- 916 c. All lots shall be graded from rear to front at which point the drainage shall be  
917 intercepted by the street. Alternate grading schemes may be utilized if it can be  
918 demonstrated by generally accepted engineering practices that grading from rear  
919 to front would be detrimental to trees or other natural features; or it would be  
920 prohibitive according to generally accepted engineering practice because of the  
921 existing topography because of excessive cuts and fills, or future lot development  
922 (i.e. commercial, industrial or multifamily lots).
- 923 d. All lots shall be graded at a minimum of one percent. Grading of lots with existing  
924 slopes of one percent or greater will not be required provided the conditions under  
925 subsection (5)c of this section have been satisfied and it is demonstrated by  
926 generally accepted engineering practice that there are no existing or proposed  
927 features that will prevent the lots from adequately draining.
- 928 e. Unless otherwise demonstrated by generally accepted engineering practice,  
929 surface swales shall be designed and provided along lot lines when more than two  
930 lots will be contributing to stormwater runoff at any given point. Side slopes for  
931 swales shall not exceed 3:1 (horizontal:vertical) unless otherwise accepted by the  
932 city engineer.
- 933 f. Minimum finished floor slab elevations shall be shown for all lots. Such  
934 elevations shall be a minimum of two feet above the ultimate 100-year floodplain.
- 935 g. Fills shall be placed in maximum 12-inch lifts and adequately compacted. The  
936 permit applicant shall be responsible for determining any special fill requirements.
- 937 h. Following final grading, all exposed areas shall be permanently stabilized.  
938 Earthen areas shall be seeded or sodded and erosion controls shall remain in place  
939 until grass growth reaches 1½ inches, is of a density where it can be reasonably  
940 expected to be self-sustaining and there are no bare areas in excess of ten square  
941 feet.
- 942 (6) The location and type of proposed drainage features, drainage systems, detention ponds  
943 and filtration ponds;
- 944 (7) Erosion control: brush berms, silt fences, sedimentation basins, stabilized construction  
945 entrances/exits and similar recognized techniques shall be employed during and after  
946 construction to prevent point source sedimentation loading of downstream facilities.  
947 Such installations shall be in accordance with the approved engineered erosion control  
948 plan required by the approved development plan. Additional measures may be required  
949 during and after construction if, in the opinion of the city engineer, they are warranted.  
950 All disturbed and exposed areas due to construction shall be permanently stabilized.  
951 All such areas shall be dressed with topsoil and vegetated by seeding or sodding as  
952 appropriate. Where the city engineer determines that future maintenance is materially  
953 impaired or erosion is a distinct possibility, the developer shall be required to use  
954 concrete or similar permanent cover in lieu of vegetation. Erosion control matting  
955 (either pre-seeded or seeded after placement) may also be required if the city engineer  
956 determines that such protection of slopes is required to ensure that seeding or soil will  
957 not wash off of slopes;

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- 958 (8) The shape, size, location, height and floor area of all existing and proposed buildings  
959 and structures;
- 960 (9) The location and size of existing and proposed streets, private or shared drives,  
961 driveways and parking spaces; and
- 962 (10) The size and location of all existing and proposed public and private utilities.
- 963 (11) Any impervious cover and design features as proposed under Sections 107-115 and  
964 107-116.
- 965 (b) Each application for approval of development plans shall first be submitted to the building  
966 official commission, and shall be subject to all of the notice, hearing and other procedures  
967 provided under this article for proposed changes in zoning.

968 **Sec. 107-107. Reserved.**

969 **Sec. 107-108. Minimum setbacks.**

- 970 (a) No building may be closer than 75 feet from any area within a residential district.
- 971 (b) No building may be closer than 20 feet from any public street or right-of-way.
- 972 (c) Notwithstanding subsection (b),
- 973 i. No building may be closer than 30 feet from Rollingwood Drive.
- 974 ii. A building may be closer than 20 feet, but no closer than 5 feet, from a  
975 property line adjacent to Bee Cave Road if the property owner has been  
976 approved to implement a landscape plan in conformance with Sections 107-  
977 116(d).
- 978 (d) As necessary to implement this chapter, the building official may designate the front or  
979 side lot lines.
- 980 ~~(a) No building may be located closer than 20 feet from the front lot line nor closer than 30~~  
981 ~~feet from the rear lot line.~~
- 982 ~~(b) There is no setback requirement with respect to side lot lines.~~
- 983 ~~(c) No building may be constructed or extended into an area that is closer than 100 feet~~  
984 ~~from any lot line of a lot within a residential district.~~
- 985 ~~(d) If there is a question as to which lot line is the front lot line, the building official shall~~  
986 ~~designate the front lot line.~~

987

988

989 **Sec. 107-109. Buffers between abutting commercial and residential lots.**

- 990 (a) In addition to the setback provided for in Section 107-108, Any lot in the Commercial  
991 District (C) a commercial district which that abuts a lot in a residential district shall be  
992 developed in accordance with the following requirements:

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- 993 (1) A ~~10075~~-foot greenbelt, measured horizontally, shall be provided between the boundary  
994 of a residential district and the impervious cover, including parking and buildings, on  
995 every lot located in the Commercial District (C) a professional and business office  
996 district (C-1) or a business district (C-2). Vegetation within Tthe 10075-foot greenbelt  
997 shall be left in its undisturbed natural state or shall be landscaped as required by the city  
998 council. Clear cutting of native vegetation is prohibited within the 75-foot greenbelt.  
999 Notwithstanding anything contained herein to the contrary, the building official will,  
1000 upon application by the owner thereof, issue a permit for repair, remodeling or  
1001 reconstruction of the building or structure and its related parking, provided that the use  
1002 (as defined in the zoning ordinance) of such building or structure will not be changed  
1003 and the repair, remodeling or reconstruction conforms with the construction materials  
1004 standards set forth in section 107-107. A nonconforming building or structure and its  
1005 related parking may not be enlarged or otherwise altered in a manner that increases the  
1006 square footage of the building or structure or the square footage of the building or  
1007 structure's parking or the extent of their nonconformity.
- 1008 (2) In areas where the natural vegetation, terrain and other features do not provide a visual  
1009 screen between a lot in a commercial district and an abutting lot in a residential district,  
1010 landscaping shall be planted and maintained in accordance with the following  
1011 specifications: terrain and other features do not provide a visual screen between a lot in a  
1012 commercial district and an abutting lot in a residential district, screening shall be  
1013 provided by a cedar or redwood privacy fence at least eight feet high, with its smooth  
1014 side facing the residential lot. If the building official determines that the privacy  
1015 afforded by such fencing does not meet the minimum reasonable expectations of a  
1016 typical residential occupant, he may then require, in addition to the privacy fencing, that  
1017 landscaping be planted and maintained in accordance with specifications prescribed by  
1018 the city council.
- 1019 a. A minimum of one native species shade tree shall be planted for each 25 linear feet of  
1020 landscape buffer.
- 1021 b. A minimum of ten native species large shrubs (of a size of at least 5 gallons) shall be  
1022 planted for each 50 linear feet of landscape buffer. Three small shrubs (of a size of at  
1023 least one-gallon) may be planted for up to two required large shrubs.
- 1024 c. Existing preserved trees and shrubs located within the greenbelt may be credited  
1025 toward these requirements.
- 1026 d. All plantings shall be supported by irrigation necessary to sustain growth and good  
1027 health of the trees and shrubs.
- 1028 e. All required landscape screening shall be, or shall achieve, at least six feet (6') in  
1029 height and at least ninety percent (90%) opacity within two (2) years of initial  
1030 installation.
- 1031 (3) No ~~fences or~~ landscaping required under this section shall be constructed-installed  
1032 without prior approval of the landscaping construction plans by the city ~~council~~ and the  
1033 installation construction shall ~~be in compliance-comply~~ with such approval and with all  
1034 other applicable requirements of the city.

# DRAFT

- 1035 (4) No building shall be constructed with windows, porches or other features which provide  
1036 a view from the building into a dwelling located on an abutting lot.
- 1037 (5) Any lighting to illuminate parking lots, buildings or other structures shall not exceed the  
1038 height of such buildings or structures, and shall be installed in a manner consistent with  
1039 the lighting standards of this Division and which directs or shields the light downward  
1040 and away from nearby dwellings.

1041

## 1042 **Sec. 107-110. Parking spaces.**

- 1043 (a) Except as otherwise provided in ~~section 107-317~~this chapter, off-street parking shall be  
1044 provided in the following ratios: ~~of not less than one parking space~~:
- 1045 (1) When the front face of the building is separated from the front lot line by a drive isle or  
1046 parking lot, one parking space for each 250 square feet of gross floor area in the  
1047 particular building shall be provided.
- 1048 (2) When the front face of the building is located on the front lot line or separated by only  
1049 a sidewalk and or landscaped area from the front lot line, one parking space for each  
1050 500 square feet of gross floor area in the particular building shall be provided.
- 1051 ~~(1) For each 250 square feet of gross floor area in the particular building in a C-1 district;~~  
1052 ~~and~~
- 1053 ~~(2) For each 200 square feet of gross floor area in the particular building in a C-2 district.~~
- 1054 (b) Where possible, shared parking is encouraged. Parking areas which are adjacent to a  
1055 residential district or a required greenbelt buffer shall be limited to a maximum of one drive  
1056 isle with one row of parking on each side.
- 1057 (c) Parking requirement reduction. The building official may reduce the amount of required  
1058 parking by a maximum of 40 percent upon a written request from the property owner  
1059 demonstrating that if the reduction is granted:
- 1060 (1) The reduced parking is sufficient for the proposed use;
- 1061 (2) The granting of the reduction will not result in increased on-street parking in adjoining  
1062 neighborhoods;
- 1063 (2) There will not be a detrimental impact to adjacent properties; and
- 1064 (3) The reduction in available parking will not create traffic congestion or public safety  
1065 hazards.
- 1066 (4) Trail Incentives for property on the north side of Bee Cave Road abutting Eanes Creek.  
1067 Property located north of Bee Cave Road adjacent to Eanes Creek where land or a  
1068 trail/pedestrian easement has been dedicated to and accepted by the City for the Eanes  
1069 Creek trail may claim a 10% reduction in minimum parking requirements.
- 1070 ~~(d)~~ (b) Required parking spaces shall be located on the same lot as the building for which the  
1071 parking spaces are required or within 300 feet of such building. Where required parking  
1072 spaces are located at a place other than the lot on which the building to which the space  
1073 pertains is located, there must be a valid, binding written commitment that such property

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1074 shall be used to fulfill the parking requirement in a form acceptable to the city council. Such  
1075 commitment shall be made enforceable by the city council.

## 1076 **Sec. 107-111. Signs.**

1077 Except as otherwise provided under this article, signs shall be governed by the regulations  
1078 of the city sign ordinance.

## 1079 **Sec. 107-112. Other requirements.**

1080 Each permitted use shall:

1081 (1) Be conducted wholly within an enclosed building appropriate to such use (except in the  
1082 case of a personal wireless telephone service facility for which a special use permit is  
1083 issued); and

1084 (2) Where a special use permit is granted for cafes, cafeterias, or restaurants, such permit  
1085 may also authorize outdoor dining.

1086 ~~(2) Provide for the temporary storage of solid waste in an unobtrusive manner approved by~~  
1087 ~~the building official.~~

## 1088 **Sec. 107-113. Reserved. Prohibitions.**

1089 ~~The following are specifically prohibited:~~

1090 ~~(1) Accessory or temporary buildings;~~

1091 ~~(2) The manufacture of any product for sale;~~

1092 ~~(3) Activities involving the conduct of major automobile repairs, body repair or painting,~~  
1093 ~~welding, storage of dismantled or nonoperational vehicles, sale of used automobile~~  
1094 ~~parts, or the sale of new or used motor vehicles;~~

1095 ~~(4) The use of parking lots or front yards for the display, sale or storage of merchandise,~~  
1096 ~~motor vehicles, equipment, containers or waste material;~~

1097 ~~(5) The wholesale processing of food;~~

1098 ~~(6) Activities which create odors, excessive light, electronic interference, smoke, dust, dirt,~~  
1099 ~~noise, fumes, glare, vibration, the presence of vermin or rodents, or other undesirable~~  
1100 ~~or hazardous conditions; or~~

1101 ~~(7) The provision of personal services, or the display, sale or advertisement of any product~~  
1102 ~~that adversely affects the health, safety, or general welfare of the city; or~~

1103 ~~(8) Retail establishments, other than restaurants, may not be open to the public between~~  
1104 ~~the hours of 10:00 p.m. and 7:00 a.m. the following day. These restrictions do not~~  
1105 ~~apply to automated retail services, including, but not limited to, automated teller~~  
1106 ~~machines and gasoline pumps. Restaurants will be subject to hours of operation as set~~  
1107 ~~forth in the special use permit.~~



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1108 **Sec. 107-114. ~~Reserved. Use and buildings.~~**

1109 ~~Notwithstanding any provision in this division, any use that would be permitted in a~~  
1110 ~~residential district, but which is conducted in a commercial district, shall comply only with the~~  
1111 ~~regulations that would be applicable to the use if it were conducted in the residential district, to~~  
1112 ~~the extent applicable.~~

1113 **Sec. 107-115. Impervious cover.**

1114 (a) Impervious cover shall not exceed 50 percent of the total area of any lot in the Commercial  
1115 District (C) a commercial district except as provided in subsection (b).

1116 (b) Exceptions:

1117 (1) A total of 55% of the total area of any lot in the C district may be impervious cover if the  
1118 increase in impervious cover does not create any increase in stormwater runoff (either  
1119 volume or rate of flow of runoff).

1120 (2) A total of 60% of the total area of any lot in a commercial district may be impervious  
1121 cover upon the following conditions: (i) if the site plan includes permanent low impact  
1122 development (LID) stormwater practices (such as rainwater harvesting, green roofs, bio-  
1123 retention, rain gardens, infiltration/filter strips, and conservation landscaping using native  
1124 plants and trees that promote the area's natural habitat, and natural area preservation)  
1125 above and beyond any required preservation of natural areas that reduce stormwater  
1126 discharge such that the increase in impervious cover does not create any increase in  
1127 stormwater runoff either volume or rate of flow of runoff; (ii) the site plan meets all  
1128 TCEQ best management practices for water quality, and (iii) the site plan meets the  
1129 design criteria specified in Sections 107-39, 107-109, 107-116.

1130 (c) An application under subsection (b) shall include a drainage plan certified by a registered  
1131 professional engineer as consistent with city requirements and all permanent low impact  
1132 development (LID) stormwater practices required under subsection (b)(1) or (2), as  
1133 applicable, along with a proposed plan describing the manner in which the LID practices and  
1134 facilities and design criteria specified in Sections 107-39, 107-109, 107-116 will be  
1135 implemented and maintained for throughout the useful life of the project.

1136 (d) Prior to the issuance of a Certificate of Occupancy in connection with such a permit, the  
1137 applicant shall submit a letter of certification from a registered professional engineer stating  
1138 that the site's stormwater management and drainage facilities as built meet all impervious  
1139 cover, city and LID stormwater management and water quality requirements, and were  
1140 constructed in accordance with the approved permit.

1141 ~~(b)~~ Grass-crete set in sand shall be deemed to be 50 percent impervious cover; paving stones,  
1142 ungROUTED, set in sand, are deemed to be 75 percent impervious cover. Revisions to these  
1143 materials and other materials and applications may be reviewed by the city council and their  
1144 appropriate impervious cover assigned by the council. City Council may establish a list of  
1145 materials and corresponding impervious cover values. This list may be reviewed and revised  
1146 by City Council from time to time. An approved and current list of such revisions shall be on  
1147 file with the city.

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1148 (f) No variance may be granted to exceed the maximum impervious cover limitations of this  
1149 section

1150

## 1151 **Sec. 107-116. Compatibility standards.**

1152 (a) Screening of storage and mechanical equipment. All storage areas and mechanical equipment  
1153 must be screened from view from any adjacent residential district lot and any public street.  
1154 Ground level facilities and equipment may be screened with wood fencing (with a smooth  
1155 side of the fencing facing the residential district lot or public right-of-way), or brick,  
1156 limestone, or other native stone walls. All mechanical equipment (including AC units, vents,  
1157 and wireless facilities) must be located in the following manner:

1158 (1) Under the roof;

1159 (2) Contained within the building;

1160 (3) On the ground and screened from view from any adjacent residential district lot and any  
1161 public street by wood fencing (with a smooth side of the fencing facing the residential  
1162 district or public right-of-way), or materials compatible with the exterior of the building  
1163 as may be approved by the building official; or

1164 (4) On the roof and shielded from view from any adjacent property and any public street with  
1165 an enclosure constructed of the same exterior materials as the building.

1166 (5) The permit application shall include an exhibit demonstrating compliance with these  
1167 screening requirements and adjacent sightlines.

1168 (b) Roof design. Except for buildings with a ground floor area of 8,000 square feet or more, all  
1169 roofs of buildings must be of pitched-type construction (hip or gable-type roofs with a  
1170 minimum pitch of 3:12). For buildings with a ground floor area of 8,000 square feet or more,  
1171 all roofs of buildings must be of pitched-type construction (hip or gable-type roofs with a  
1172 minimum pitch of 3:12) or have architectural elements that give the appearance of pitched-  
1173 roof construction. Roofs generally must be a combination of pitched, gabled, or sloped  
1174 elements. Pitched and "flat" roof areas must be designed and arranged to provide maximum  
1175 aesthetic appeal and provide screening of equipment, AC units, vents, wireless facilities, and  
1176 accessories from any view from a lot in a residential district of the city and any view from  
1177 Bee Cave Road. Roof mounted solar panels shall be designed so as to be consistent in pitch  
1178 or slope with the roof or masked in such a manner as to be unobtrusive when viewed from  
1179 any adjacent lot.

1180 (c) Screening of trash receptacles. All trash receptacles shall be screened from public view and  
1181 neighboring property view with wood fencing (with the smooth side of the fencing facing the  
1182 residential district or public right-of-way), or brick, limestone, or other native stone walls.  
1183 The enclosure shall be a minimum of eight feet (8') in height with gates. Gates shall be of a  
1184 solid sight obscuring material and shall be closed at all times except when loading or  
1185 unloading.

1186 (d) Landscaping buffers. The following landscaping and buffers are required:

1187 (1) Along public rights-of-way. A landscaping buffer is required along any public right-of-  
1188 way. The landscape buffer along public rights-of-way shall be located between the lot

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1189 line adjacent to the right-of-way and any impervious cover on the lot, including parking,  
1190 and along any rear lot pedestrian paths or trail along Eanes Creek. The landscaping  
1191 buffer shall consist of trees with a mature height of at least six feet planted at a ratio of 1  
1192 tree per 25 feet of linear frontage along the public right-of-way to shade adjacent  
1193 sidewalks and any pedestrian path and may include shrubs with a mature height of at  
1194 least three feet. The grouping or clustering of trees as necessary to accommodate  
1195 driveway spacing, utilities, drainage facilities, or similar site features is permitted.

1196 (2) Parking area landscaping. Parking areas shall be screened from any adjacent public right-  
1197 of-way with a ten-foot deep landscaping buffer.

1198 a. The landscaping buffer shall be planted with trees planted at a ratio of 1 tree per 25  
1199 feet of linear frontage along the right of way, and with shrubs and other landscaping  
1200 with a mature height of at least three (3) feet, planted at sufficient density to disrupt  
1201 sightline into the parking area and screen vehicular headlights.

1202 b. One tree is required for every six parking spaces and may be located in landscaped  
1203 islands, peninsulas, or medians. Tree preservation is encouraged, thus preservation of  
1204 an existing protected tree shall be provided credit in accordance with Section 107-  
1205 121(c)(3).

1206 c. No parking space shall be located further than 50 feet from a tree.

1207 d. Impervious paving over the critical root zone of any existing tree is prohibited, and  
1208 any approved paving shall be porous pavement to allow water and air exchange, or  
1209 other acceptable means to preserve the health of the tree.

1210 e. All required tree plantings shall be installed prior to the occupancy or use of property.  
1211 Where compliance is not practicable due to the season of the year, the building  
1212 official or his/her designee may grant a temporary certificate of occupancy. Any  
1213 temporary certificate of occupancy may be revoked, after 30 days' written notice to  
1214 the occupant and the owner of the affected property, if tree plantings are not  
1215 undertaken as required under this article.

1216 (3) Each required tree shall be at least 12 feet high when planted and shall be maintained in a  
1217 healthy condition. Said trees shall not be pruned except either to remove dead wood, or to  
1218 prevent growth or to remove existing growth lower than 15 feet above the ground.  
1219 Existing trees having a height of at least 11 feet may be counted as required trees,  
1220 provided that the ground beneath the canopy remains unimproved. Any species of tree  
1221 which does not normally grow to a height of 15 feet in the city, as determined by the city  
1222 arborist or other competent person designated by the city administrator, shall not qualify  
1223 as a required tree under this section. Any required buffer areas or trees required to be  
1224 planted by this chapter shall be counted toward satisfying this requirement. All  
1225 landscaping and buffering required by this section must be maintained by the property  
1226 owner. If at any time after the issuance of a Certificate of Occupancy, the approved  
1227 landscaping is found to be in nonconformance with standards and criteria of this section,  
1228 notice by the City may be issued to the owner, citing the violation and imposing a fine  
1229 pending compliance with this section.

1230 (4) An exception to the requirements of this subsection (d) may be approved by the building  
1231 official for the location of a driveway in required landscaped areas.

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1232 (e) Removal of vegetation from the city right-of-way. Any excavation, grading, or site clearance  
1233 of a lot that involves the removal of vegetation from the city's right-of-way is prohibited  
1234 without prior approval of the city building official.

1235 ~~(a) Trash disposal, storage and mechanical equipment. All trash disposal areas, storage areas and~~  
1236 ~~mechanical equipment must be screened from view from any residential district and any~~  
1237 ~~public street by wood fencing (with a smooth side of the fencing facing the residential district~~  
1238 ~~or public right of way), or brick, limestone, or other native stone walls for ground level~~  
1239 ~~facilities, and an enclosure constructed of the same exterior materials as the building for any~~  
1240 ~~mechanical equipment located on the roof.~~

1241 ~~(b) Roof design. Except for buildings with a ground floor area of 8,000 square feet or more, all~~  
1242 ~~roofs of buildings must be of pitched type construction (hip or gable type roofs with a~~  
1243 ~~minimum pitch of 3:12). For buildings with a ground floor area of 8,000 square feet or more,~~  
1244 ~~all roofs of buildings must be of pitched type construction (hip or gable type roofs with a~~  
1245 ~~minimum pitch of 3:12) or have architectural elements that give the appearance of pitched-~~  
1246 ~~roof construction. Roofs generally must be a combination of pitched, gabled or sloped~~  
1247 ~~elements, and the materials used must be compatible and complementary to the masonry.~~  
1248 ~~These pitched areas may be metal with nonreflective finishes or nonmetallic clay or concrete~~  
1249 ~~tile. Except for buildings less than 8,000 square feet of floor space, composition or wood~~  
1250 ~~shakes and shingles may not be utilized. Exposed metal roof decks that reflect light in a~~  
1251 ~~glaring manner, such as galvanized steel sheets, are specifically prohibited. Pitched and "flat"~~  
1252 ~~roof areas must be designed and arranged to provide maximum aesthetic appeal and provide~~  
1253 ~~screening of undesirable roof surfaces, equipment and accessories from any view from a lot~~  
1254 ~~in a residential district of the city and any view from Bee Cave Road. All mechanical~~  
1255 ~~equipment must be located in the following manner: under the roof; contained within the~~  
1256 ~~building; on the ground; or shielded from view as approved by the city council.~~

1257 ~~(c) Lighting. Lighting fixtures installed to illuminate parking lots, buildings or other structures~~  
1258 ~~may not exceed the height of the buildings or structures, if attached thereto, or, if pole-~~  
1259 ~~mounted, a height of 24 feet. All exterior lighting must be shielded and down turned to direct~~  
1260 ~~light away from nearby dwellings and to concentrate the light within the lot. Exterior~~  
1261 ~~lightbulbs may not exceed 400 watts.~~

1262 ~~(d) Landscaping buffers. A ten-foot landscaping buffer is required between buildings on separate~~  
1263 ~~lots in a professional and business office district (C-1) or the business district (C-2) with a~~  
1264 ~~minimum of five feet of such buffer located on each such lot, as well as between all parking~~  
1265 ~~lots in a commercial district and any public right of way. The landscaping buffer must~~  
1266 ~~consist of shrubs or trees with a mature height of at least six feet planted at sufficient density~~  
1267 ~~to visually disrupt the outlines of buildings, pavement, and other structures; provided,~~  
1268 ~~however, that plant material located at the front of a site or between buildings (as determined~~  
1269 ~~by the building official) may consist of shrubs or trees with a mature height of at least three~~  
1270 ~~feet.~~

1271

## 1272 Sec. 107-117. Permitted uses.

1273 (a) No area, building, or structure within the land may be used, constructed, or altered, except as  
1274 follows:

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- 1275 (1) Uses permitted in the residential district, excluding dwelling uses or subdivision sales  
1276 offices;
- 1277 (2) Administrative, professional, and business offices and services, including account,  
1278 architecture, attorney, computer services (including research and design) engineer,  
1279 physician, veterinary services, broker, consultant, insurance agent, property  
1280 management, investment, personnel, travel, secretarial, telephone answering,  
1281 photocopy and reproduction, real estate agent, or similar administrative, professional,  
1282 and business offices.
- 1283 (3) Accessory structures, other than buildings, and uses customarily incidental to these  
1284 administrative, professional, or business offices.
- 1285 (4) Retail bakeries;
- 1286 (5) Barbershops or beauty shops;
- 1287 (6) Craft or hobby shops;
- 1288 (7) Department, sporting goods, novelty, variety, or toy stores;
- 1289 (8) Drugstores;
- 1290 (9) Laundry pickup and dry cleaning pickup stations;
- 1291 (10) Florist shops;
- 1292 (11) Antique stores;
- 1293 (12) Household or office furniture, furnishings, or appliance stores;
- 1294 (13) Jewelry or optical goods stores;
- 1295 (14) Shoe repair shops;
- 1296 (15) Variety stores;
- 1297 (16) Wearing apparel shops;
- 1298 (17) Retail uses which supply the everyday shopping needs of residents of the city.

1299

## **Sec. 107-118. Special uses.**

- 1301 (a) Subject to approval by the city council, the following special uses may be permitted in the C  
1302 district:
- 1303 (1) Facilities for assembling of and testing electronics components;
- 1304 (2) Child day care facilities, provided this is the only use on the particular lot;
- 1305 (3) Banks or savings and loan associations, including automated teller machines (ATMs);
- 1306 (4) Parking garages, provided that the garage is an accessory to the primary use on the  
1307 same lot or an adjacent commercial lot;
- 1308 (5) For lots with frontage on Bee Caves Road, a personal wireless telephone service  
1309 facility;

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- 1310 (6) Research laboratories;
- 1311 (7) Cafes, cafeterias, or restaurants without outdoor dining;
- 1312 (8) Cafes, cafeterias, or restaurants with outdoor dining;
- 1313 (9) Convenience stores;
- 1314 (10) Grocery or food specialty stores;
- 1315 (11) Package liquor stores;
- 1316 (12) Automotive service stations;
- 1317 (13) Parking garages, provided that the garage is an accessory to the primary use on the
- 1318 same lot or an adjacent commercial lot;
- 1319 (14) Camera or photography supply stores;
- 1320 (15) Clinics without overnight facilities;
- 1321 (16) Hardware stores;
- 1322 (17) Art and photography studios; and
- 1323 (18) Facilities for assembling computer software products.

1324

## 1325 **Sec. 107-119. Prohibited uses.**

1326 (a) All uses not specifically permitted under section 107-117 and section 107-118 are prohibited,

1327 including, but not limited to, the following:

- 1328 (1) Accessory and Temporary buildings;
- 1329 (2) The manufacture of any product for sale;
- 1330 (3) Activities involving the conduct of major automobile repairs, body repair or
- 1331 painting, welding, storage of dismantled or nonoperational vehicles, sale of used
- 1332 automobile parts, or the sale or rental of new or used motor vehicles;
- 1333 (4) The use of parking lots or front yards for the display, sale, or storage of merchandise,
- 1334 motor vehicles, equipment, containers, or waste material;
- 1335 (5) The wholesale processing of food;
- 1336 (6) Activities which create odors, excessive light, electronic interference, smoke, dust,
- 1337 dirt, noise, fumes, glare, vibration, the presence of vermin or rodents, or other
- 1338 undesirable or hazardous conditions;
- 1339 (7) Veterinarian services and kennel services;
- 1340 (8) The repair, sale, resale, manufacture, refurbishment, or storage of boats, trailers,
- 1341 mobile homes, or recreational or sport vehicles;
- 1342 (9) Laundries or dry cleaning plants;
- 1343 (10) Music studios;
- 1344 (11) Monument sales or funeral homes and related services;

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- 1345 (12) Warehouses or the rental of storage space for personal or commercial property;  
1346 (13) Junkyards;  
1347 (14) Painting sales or service, except to the extent incidental to an otherwise permissible  
1348 use;  
1349 (15) Assisted living, retirement, nursing home, or convalescent services or facilities;  
1350 (16) Tire retread facilities;  
1351 (17) Sexually oriented businesses, including, but not limited to, modeling studios and  
1352 dating or escort services businesses;  
1353 (18) Hotel and motel; and  
1354 (19) Dwelling uses or subdivision sales offices.  
1355 (b) Retail establishments, other than restaurants, may not be open to the public between  
1356 the hours of 10:00 p.m. and 7:00 a.m. the following day. These restrictions do not  
1357 apply to automated retail services, including, but not limited to, automated teller  
1358 machines and gasoline pumps. Restaurants will be subject to hours of operation as set  
1359 forth in the special use permit.

## 1360 **Sec. 107-120 Tree Canopy Management within the Commercial District (C).**

- 1361 (a) Definitions. For purposes of this section,  
1362 (1) A "protected tree" shall be a tree of a "protected species" tree as defined in Part II, Land  
1363 Development Code, Chapter 107, Division 10, Subdivision 2 (Sections 107-369 through  
1364 107-396) having a trunk with a diameter not less than 12 inches nor more than 24 inches,  
1365 measured 4 1/2 feet above natural grade, as measured by an arborist.  
1366 (2) "Heritage tree" means a tree of a "protected species" as defined in Part II, Land  
1367 Development Code, Chapter 107, Division 10, Subdivision 2 (Sections 107-369 through  
1368 107-396) having a diameter of 24 inches or more, measured 4½ feet above natural grade,  
1369 or a tree cluster, as measured by an arborist.  
1370 (3) "Diameter at breast height" or (DBH) means the diameter of a tree at a height of 4 1/2  
1371 feet above natural grade.  
1372 (4) "Critical root zone" means "the area around and under a tree having a radius of one foot  
1373 per inch of DBH from the trunk of the tree outwards and twenty-four inches inn depth.  
1374 For example, for a tree having a 10-inch DBH, the critical root zone is 10 feet out from  
1375 the trunk and twenty-four inches deep.  
1376 (5) "Tree Cluster" means a cluster of three or more trees of a "protected species" located less  
1377 than ten feet apart having a combined total diameter of 24 inches or more.  
1378 (b) Part II, Land Development Code, Chapter 107, Division 10, Subdivision 2 (Sections 107-369  
1379 through 107-396) addressing protection of protected trees, shall apply to any property within  
1380 any zoning district other than the residential zoning district. To the extent of any conflict  
1381 between Part II, Land Development Code, Chapter 107, Division 10, Subdivision 2 (Sections  
1382 107-369 through 107-396) and this Section, this Section shall control.

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1383 (c) In addition to the requirements of subsection (b), the following requirements for the  
1384 preservation and protection of protected and heritage trees shall apply to any property,  
1385 including any property within the city’s rights-of-way, within any zoning district other than  
1386 the residential zoning district.

1387 (1) Permit required. A grading plan, tree survey, and tree protection plan shall be submitted  
1388 prior to any tree removal, clearing or grading, filling, or other form of site development.  
1389 No tree may be removed, nor shall any clearing or grading permit, site development plan,  
1390 building permit, or tree removal permit be issued until a tree survey is submitted and tree  
1391 protection plan is submitted and approved.

1392 (2) Tree survey requirements. The tree survey shall address all requirements specified in  
1393 Section 107-376, Development Application Requirements, indicate all existing, live,  
1394 healthy trees with an eight-inch or larger diameter and all protected and heritage trees,  
1395 and shall indicate the diameter, location, and species of each tree. Trees observed to be  
1396 distressed will be indicated with an asterisk on the tree list. Trees shall be represented by  
1397 circles indicating the diameter of the tree. Unbroken circles indicate trees that are to  
1398 remain. Dashed circles indicate trees that are to be removed, including trees identified to  
1399 be distressed. Protected trees proposed to be removed to accommodate the development  
1400 shall be indicated, along with the proposed replacement trees.

1401 (3) Credit for preservation of existing trees. Preservation of existing protected species trees  
1402 and heritage trees that are located outside the required 75-foot greenbelt may be credited  
1403 toward required plantings (for example, landscape requirements, street trees, trees in  
1404 parking areas) but not for required mitigation according to the following table:

<u>Type of tree</u>	<u>DBH</u>	<u>Credit factor *</u>
<u>Protected species</u>	<u>4-7.9 inches</u>	<u>1.15:1</u>
<u>Protected species</u>	<u>8-12 inches</u>	<u>1.5:1</u>
<u>Protected species</u>	<u>greater than 12 inches</u>	<u>2.0:1</u>
<u>Tree cluster</u>		<u>1.5:1 for each inch within the cluster</u>

1406 \*Credit factor provides tree credits per tree preserved.

1407 Where the application of a credit factor produces a fractional number, rounding up to the  
1408 next whole number of "credited" trees is permitted.

1409 Example: Preservation of one 10-inch diameter protected species tree produces a credit  
1410 equal to 1.5 trees of required planting.

1411 (4) Mitigation. Any protected or heritage trees that are removed as a result of approval of a  
1412 Tree Removal Permit must be mitigated by planting of a tree of the same species on the  
1413 same property in the following ratios:

1414 a. for each protected tree removed, one new tree of a protected species having a similar  
1415 mature canopy spread as the removed tree, with a DBH of at least four inches and  
1416 fourteen feet in height,



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1417 b. for each heritage tree removed, three new trees of a protected species having a similar  
1418 mature canopy spread as the removed tree, with a DBH of at least four inches and  
1419 fourteen feet in height.

1420 An exception to the mitigation requirements may be granted by the Building Official,  
1421 with the approval of the City Arborist, if the applicant demonstrates: (1) the existing tree  
1422 canopy would prohibit the growth of the replacement tree(s); or (2) the required  
1423 replacement trees to be installed would be planted under the canopy of an existing tree.  
1424 A permit authorizing the removal of a protected or heritage tree shall require mitigation  
1425 as specified above.

1426 (5) Prohibition on removal of heritage trees. Removal of a heritage tree is prohibited unless a  
1427 Heritage Tree Removal Special Exception is granted under Subsection (6) or a certified  
1428 arborist confirms that the heritage tree is either: (i) dead; (ii) is an imminent hazard to life  
1429 or property, and the hazard cannot reasonably be mitigated without removing the tree, in  
1430 whole or in part; or (iii) is diseased and restoration to sound condition is not practicable  
1431 or the disease may be transmitted to other trees and endanger their health. The city  
1432 administrator shall have the authority to determine whether such documentation is in  
1433 order and may consider specific safety situations in light of potential hazards to life or  
1434 property. In the case of an imminent hazard to life or property under subsection (ii),  
1435 documentation may be submitted within 72 hours after the action is taken.

1436 (6) Heritage Tree Removal Special Exception. Except as provided in subsection (5), removal  
1437 of a heritage tree is prohibited unless a Heritage Tree Removal Special Exception is  
1438 granted by the Board of Adjustment upon a finding that: (i) all reasonable efforts have  
1439 been made to avoid removing the tree, (ii) the location of the tree precludes all reasonable  
1440 access to the property or all reasonable use of the property, and (iii) removal of the tree is  
1441 not based on a condition caused by the method or design chosen by the applicant to  
1442 develop the property.

1443 (7) Limitation on removal of a protected tree. A protected tree may be removed upon the  
1444 determination of the City Arborist and approval of the Building Official if: (i) the tree is  
1445 damaged by natural causes or is diseased beyond the point of recovery, (ii) the tree is in  
1446 danger of falling, or (iii) the tree is dead. Any application to remove a protected tree shall  
1447 be supported by certification by a certified arborist that one or more of these conditions  
1448 exists and such conditions shall be reviewed by the City Arborist. In addition, removal  
1449 may be approved upon the grant of a special exception by the Board of Adjustment upon  
1450 a finding that (i) all reasonable efforts have been made to avoid removing the tree, (ii) the  
1451 location of the tree precludes all reasonable access to the property or all reasonable use of  
1452 the property, and (iii) removal of the tree is not based on a condition caused by the  
1453 method or design chosen by the applicant to develop the property.

1454 (d) Pre- and post-construction tree protection plan. A pre- and post-construction tree protection  
1455 plan shall be submitted with the tree permit and shall include the following:

1456 (1) Irrigation and fertilization are required for any protected or heritage tree that will be or  
1457 have been disturbed by construction activities, including disturbance of the critical root  
1458 zone. Fertilizers must be phosphate-free. The tree protection plan shall describe the plan  
1459 for irrigation and fertilization during the construction period until final installation of all  
1460 landscaping.

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1461 (2) The tree protection plan shall describe all measures to be taken during construction to  
1462 protect any protected and heritage trees from damage during construction, including rigid  
1463 fencing, shielding, and signage, as necessary. Tree protection shall include rigid fencing  
1464 placed with a radius of at least ten feet from the trunk or at the critical root zone,  
1465 whichever is greater, unless property lines or other features prohibit a complete radius.  
1466 Rigid fencing shall consist of chain link or wood fencing not less than four feet high at  
1467 the drip line of the tree. Stakes shall be no more than six feet apart and at least 1½ deep  
1468 into the ground. Rigid fencing shall be at least three feet in height. Tree protection shall  
1469 remain in place until final landscaping installation is approved by the city administrator  
1470 or designee.

1471 (3) Protection of critical root zone. Construction within or impervious paving over the  
1472 critical root zone of any protected or heritage tree is prohibited. A minimum of 50% of  
1473 the critical root zone of any protected tree or heritage tree must be preserved at natural  
1474 grade and with natural ground cover. No cut or fill nor any deposit or stockpiling of  
1475 earthen materials in their natural state greater than four inches will be located closer to  
1476 the tree trunk than one-half the CRZ radial distance. No grade changes, excavation or  
1477 trenching shall be permitted within the limits of the critical root zone unless adequate  
1478 construction methods are approved by the city arborist.

1479 (4) Parking or storing of vehicles, equipment or materials allowed within the critical root  
1480 zone or any protected or heritage tree is prohibited. The plan shall designate where all  
1481 construction equipment and materials will be stored outside the critical root zone.

1482 (5) Activities requiring approval of the city arborist shall be identified in the tree protection  
1483 plan and shall be submitted for review and comment to the city arborist, along with such  
1484 fees as are required by the city to cover all costs of the review process.

1485 (e) Violations/Penalties.

1486 (1) It shall be an offense for a person:

- 1487 a. To fail to perform an act required by the provisions of this section;  
1488 b. To fail to timely comply with any term of a permit issued pursuant to this section,  
1489 including terms regarding the preservation of heritage trees and the planting and  
1490 maintenance of required replacement trees;  
1491 c. To hire, engage, or permit any person engaged in the business of tree planting,  
1492 maintenance, or removal to perform such services on property in the city without a  
1493 permit issued by the city pursuant to this Code;  
1494 d. Except as expressly allowed pursuant to this subdivision, to remove or to cause the  
1495 removal of a heritage or protected tree without first obtaining a permit therefor;  
1496 e. To transfer property subject to obligations arising from a permit issued pursuant to  
1497 this section if all obligations with respect to such permit are not then fulfilled unless  
1498 the transferee of the property agrees in writing submitted to the city secretary to  
1499 assume such permit and all obligations with respect to the protection of heritage trees  
1500 and the planting and maintenance of required replacement trees; or  
1501 f. To fail to submit an application for a permit as required by this section.

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- 1502 (2) An offense shall constitute a Class C misdemeanor punishable by a fine not to exceed  
1503 \$1,000.00. An offense committed intentionally, knowingly, recklessly, or with criminal  
1504 negligence shall be punishable by a fine not to exceed \$2000.00 per offense. Each tree  
1505 damaged or removed in violation of this division shall constitute a separate offense. A  
1506 failure to plant and maintain a required replacement tree shall constitute a separate  
1507 offense. Each day a violation continues shall constitute a separate offense. The owner or  
1508 tenant of any building, structure, or premises and any designer, builder, contractor, agent  
1509 or other person who knowingly commits, participates in, assists in or maintains such  
1510 violation may each be found guilty of a separate offense and subject to the penalties as  
1511 provided herein.
- 1512 (3) The City Arborist, City Council, or other duly authorized city official may issue a stop  
1513 work order in connection with site clearing, site preparation, any permitted development  
1514 of the property from which a heritage tree is removed without authorization or upon the  
1515 occurrence of any other violation of this subdivision or of any term of a permit issued  
1516 pursuant to this subdivision. Any person, including a workman on the site, who fails to  
1517 comply with a stop work order shall be guilty of a misdemeanor punishable as provided  
1518 for in the penalty section hereof. It shall be unlawful for any person to do any work on  
1519 the site covered by the stop work order unless and until a new permit, application, or site  
1520 plan has been filed and processed in accordance with the provisions of this chapter and  
1521 the City Council has granted approval to a new permit, application, or site plan which  
1522 corrects the violations covered in the stop work order and all fees and fines have been  
1523 paid.
- 1524 (4) No certificate of occupancy shall be issued for a building or other structure that is not  
1525 then in compliance with any permit issued pursuant to this subdivision. No certificate of  
1526 occupancy shall be issued for a building or other structure that is not then in compliance  
1527 with any permit issued pursuant to this subdivision for removal of a protected tree.
- 1528 (5) Any temporary occupancy permit issued pending any completion of any required  
1529 planting due to seasonal suitability of planting shall state the day by which planting shall  
1530 be completed or an extension requested, and shall be revoked if the required planting is  
1531 not completed or an extension granted by the stated date.
- 1532 (6) Injunction and other remedies. Any tree removal or other work done contrary to any of  
1533 the provisions of this Section or to any of the details contained in any final site plan  
1534 approved by the City or to any of the conditions imposed in connection with the granting  
1535 of any application required by this Section is hereby declared to be unlawful and shall  
1536 constitute a violation of this Section. The City Council may direct the City Attorney to  
1537 initiate injunction, mandamus, abatement, or any other action available in law or equity to  
1538 prevent, enjoin, abate, or correct unlawful tree removal or other work.
- 1539 (f) To the extent of conflict with another section of the Code, this section controls.

1540 **Secs. 107-~~121117~~—107-145. Reserved.**

1541  
1542 *{Amendments to Chapter 107 Zoning, Article II. District Regulations, Division 4. RESERVED}*

1543

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1544 ~~DIVISION 4. RESERVED. PROFESSIONAL AND BUSINESS OFFICE ZONING DISTRICT (C-~~  
1545 ~~1)~~

1546 ~~**Sec. 107-146. Applicability.**~~

1547 ~~The regulations set forth in this division shall apply to all land, buildings and structures in a~~  
1548 ~~professional and business office district (C-1).~~

1549 ~~**Sec. 107-147. Purpose.**~~

1550 ~~This district is intended to provide sites for quiet, low density commercial office uses.~~

1551 ~~**Sec. 107-148. Permitted uses.**~~

1552 ~~No area, building or structure within the land may be used, constructed or altered, except as~~  
1553 ~~follows:~~

1554 ~~(1) Uses permitted in a residential district, excluding dwelling uses or subdivision sales~~  
1555 ~~offices;~~

1556 ~~(2) Administrative, professional and business offices and services, including account,~~  
1557 ~~architecture, attorney, computer services (including research and design) engineer,~~  
1558 ~~physician, veterinary services, broker, consultant, insurance agent, property~~  
1559 ~~management, investment, personnel, travel, secretarial, telephone answering,~~  
1560 ~~photocopy and reproduction, real estate agent, or similar administrative, professional~~  
1561 ~~business offices.~~

1562 ~~(3) Accessory structures, other than buildings, and uses customarily incidental to these~~  
1563 ~~administrative, professional or business offices.~~

1564 ~~**Sec. 107-149. Special uses.**~~

1565 ~~Subject to approval by the city council, the following special uses may be permitted in a C-1~~  
1566 ~~district:~~

1567 ~~(1) Facilities for assembling of and testing electronics components;~~

1568 ~~(2) Child day care facilities, provided this is the only use on the particular lot;~~

1569 ~~(3) Banks or savings and loan associations;~~

1570 ~~(4) Parking garages, provided that the garage is an accessory to the primary use on the~~  
1571 ~~same lot or an adjacent commercial lot; and~~

1572 ~~(5) For lots with frontage on Bee Caves Road, a personal wireless telephone service~~  
1573 ~~facility.~~

1574 ~~**Secs. 107-15046—107-166. Reserved.**~~

1575  
1576 ~~{Amendments to Chapter 107 Zoning, Article II. District Regulations, Division 5. Reserved}~~  
1577

# DRAFT

1578 *DIVISION 5. RESERVED. BUSINESS ZONING DISTRICT (C-2)*

1579 **~~Sec. 107-167. Applicability.~~**

1580 ~~The regulations set forth in this division shall apply to all land, buildings and structures in a~~  
1581 ~~business district (C-2).~~

1582 **~~Sec. 107-168. Permitted uses.~~**

1583 ~~No area, building or structure may be used, constructed or altered, except as follows:~~

1584 ~~(1) Uses permitted in a C-1 zoning district;~~

1585 ~~(2) Retail bakeries;~~

1586 ~~(3) Barbershops or beauty shops;~~

1587 ~~(4) Craft or hobby shops;~~

1588 ~~(5) Department, sporting goods, novelty, variety or toy stores;~~

1589 ~~(6) Drugstores;~~

1590 ~~(7) Laundry pickup and dry cleaning pickup stations;~~

1591 ~~(8) Florist shops;~~

1592 ~~(9) Antique stores;~~

1593 ~~(10) Household or office furniture, furnishings, or appliance stores;~~

1594 ~~(11) Jewelry or optical goods stores;~~

1595 ~~(12) Shoe repair shops;~~

1596 ~~(13) Variety stores;~~

1597 ~~(14) Wearing apparel shops; and~~

1598 ~~(15) Retail uses which supply the everyday shopping needs of residents of the city.~~

1599 **~~Sec. 107-169. Special uses.~~**

1600 ~~Subject to approval by the city council, the following special uses may be permitted in a C-2~~  
1601 ~~district:~~

1602 ~~(1) Research laboratories;~~

1603 ~~(2) Other special uses that meet the criteria set forth in this article;~~

1604 ~~(3) Cafes, cafeterias or restaurants;~~

1605 ~~(4) Convenience stores;~~

1606 ~~(5) Grocery or food specialty stores;~~

1607 ~~(6) Package liquor stores;~~

1608 ~~(7) Automotive service stations;~~

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- 1609 ~~(8) Parking garages, provided that the garage is an accessory to the primary use on the~~
- 1610 ~~same lot or an adjacent commercial lot;~~
- 1611 ~~(9) Camera or photography supply stores;~~
- 1612 ~~(10) Clinics without overnight facilities;~~
- 1613 ~~(11) Hardware stores;~~
- 1614 ~~(12) Art and photography studios;~~
- 1615 ~~(13) Facilities for assembling computer software products; and~~
- 1616 ~~(14) For lots with frontage on Bee Caves Road, a personal wireless telephone service~~
- 1617 ~~facility.~~

## 1618 **Sec. 107-170. Prohibited uses.**

1619 ~~All uses not specifically permitted under section 107-168 or 107-169 are prohibited,~~  
1620 ~~including, but not limited to, the following:~~

- 1621 ~~(1) Temporary buildings;~~
- 1622 ~~(2) The manufacture of any product for sale;~~
- 1623 ~~(3) Activities involving the conduct of major automobile repairs, body repair or painting,~~
- 1624 ~~welding, storage of dismantled or nonoperational vehicles, sale of used automobile~~
- 1625 ~~parts, or the sale of new or used motor vehicles;~~
- 1626 ~~(4) The use of parking lots or other outdoor areas for the display, sale or storage of~~
- 1627 ~~merchandise, motor vehicles, equipment, containers or waste material;~~
- 1628 ~~(5) The wholesale processing of food;~~
- 1629 ~~(6) Activities which create a nuisance;~~
- 1630 ~~(7) Veterinarian services and kennel services;~~
- 1631 ~~(8) The repair, sale, resale, manufacture, refurbishment or storage of boats, trailers, mobile~~
- 1632 ~~homes or recreational or sport vehicles;~~
- 1633 ~~(9) Laundries or dry cleaning plants;~~
- 1634 ~~(10) Music studios;~~
- 1635 ~~(11) Monument sales or funeral homes and related services;~~
- 1636 ~~(12) Warehouses or the rental of storage space for personal or commercial property;~~
- 1637 ~~(13) Pawnshops;~~
- 1638 ~~(14) Junkyards;~~
- 1639 ~~(15) Painting sales or service, except to the extent incidental to an otherwise permissible~~
- 1640 ~~use;~~
- 1641 ~~(16) Assisted living, retirement, nursing home or convalescent services or facilities;~~
- 1642 ~~(17) Tire retread facilities;~~

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1643 ~~(18) Sexually oriented businesses, including, but not limited to, modeling studios and dating~~  
1644 ~~or escort services businesses;~~

1645 ~~(19) The display, sale or advertisement of any product that adversely affects the health,~~  
1646 ~~safety, or general welfare of the residents of the city;~~

1647 ~~(20) Hotel and motel; and~~

1648 ~~(21) Dwelling uses or subdivision sales offices.~~

1649 **Secs. 107-~~171~~67—107-193. Reserved.**

1650  
1651 *{Amendments to Chapter 107 Zoning, Article II. District Regulations, Division 9. Planned Unit*  
1652 *Developments, Sections 107-313 & 107-314}*

1653 *DIVISION 9. Planned Unit Developments*

1654 **Sec. 107-313. Purpose.**

1655 A planned unit development (PUD) is a permitted use within the C-~~1~~ district ~~or the C-2~~  
1656 ~~district~~, the purpose of which is to encourage planned developments as a means of creating a  
1657 superior community environment through unified planning and building operations; to provide  
1658 adequate community facilities well located with respect to needs; to protect the natural beauty of  
1659 the landscape; to encourage the preservation and more efficient use of open space; and to offer  
1660 an opportunity for greater flexibility and, consequently, more creative and imaginative design for  
1661 the development of the city than is generally possible under the zoning regulations established  
1662 elsewhere in this article.

1663 **Sec. 107-314. General regulations.**

1664 Regulations that apply in a C-~~1~~ district ~~or a C-2 district~~ shall apply to planned unit  
1665 developments except as otherwise provided in this division.

1666

1667 *{Amendments to Chapter 107 Zoning, Article II. District Regulations, Division 9. Planned Unit*  
1668 *Developments, Sections 107-316 & 107-317}*

1669 **Sec. 107-316. Permitted uses.**

1670 Except for uses permitted in a residential district, all uses permitted in a C-~~1~~ district ~~or a C-2~~  
1671 ~~district~~ shall be permitted in a PUD, and all special uses permitted in a C-~~1~~ district ~~or a C-2~~  
1672 ~~district~~, subject to the procedures for application and approval, and any restrictions provided  
1673 therefor, shall be permitted in a PUD.

1674 **Sec. 107-317. Parking adjustment for storage and warehouse areas. ~~Mixed use zoning.~~**

1675 ~~Limited C-2 zoning may be granted for specified areas within the buildings or structures~~  
1676 ~~located in C-1 zoning. A property owner unable to comply with parking requirements may~~  
1677 ~~designate one or more specific areas within the buildings or structures for storage or warehouse~~

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1678 ~~purposes. Such areas~~ Areas within a building designated as storage or warehouse areas shall have  
1679 parking spaces allocated in a ratio of one parking space for each 1,000 feet of storage or  
1680 warehouse area.

1681  
1682 *{Amendments to Chapter 107 Zoning, Article II. District Regulations, Division 10. Landscaping,*  
1683 *Subdivision 1. Non-Residential Regulations}*

1684  
1685 *DIVISION 10. LANDSCAPING*

1686 **Subdivision 1. Landscaping Non-Residential Regulations for zones other than Residential**  
1687 **District (R) and Commercial District (C)**

1688 **~~Sec. 107-340. Removal of vegetation from right-of-way.~~**

1689 ~~Any excavation, grading or site clearance of a lot zoned for commercial use, including~~  
1690 ~~planned unit development, which involves the removal of vegetation from the city's right of way~~  
1691 ~~is prohibited without prior written approval of the city building official. Damaged, destroyed or~~  
1692 ~~removed trees having a height of 11 feet or more shall be restored in accordance with the~~  
1693 ~~landscape provisions of section 107-341 of this division.~~

1694 **Sec. 107-340~~1~~. Landscape requirements.**

1695 (a) ~~This subdivision is applicable to every lot in the city zoned for a use other than Residential~~  
1696 ~~District (R) or Commercial District (C), including a Planned Unit Development, with~~  
1697 ~~respect to which a building permit for any new structure or enlargement of any existing~~  
1698 ~~structure is issued. The provisions of this section are applicable to every lot zoned for a use~~  
1699 ~~other than residential, with respect to which a building permit for any new structure or~~  
1700 ~~enlargement of any existing structure is issued.~~

1701 (b) ~~Any excavation, grading, or site clearance of a lot that involves the removal of vegetation~~  
1702 ~~from the city's right-of-way is prohibited without prior written approval of the city building~~  
1703 ~~official. Damaged, destroyed, or removed trees having a height of 11 feet or more shall be~~  
1704 ~~restored.~~

1705 (c) ~~Twenty (20)~~ percent of the total area of each lot shall be devoted to landscaped open space,  
1706 with one tree being required for each 2,000 square feet of area, or fraction thereof, of each  
1707 lot. Each required tree shall be at least 12 feet high when planted and shall be maintained in  
1708 a healthy condition. Said trees shall not be pruned except either to remove dead wood, or to  
1709 prevent growth or to remove existing growth lower than 15 feet above the ground. Existing  
1710 trees having a height of at least 11 feet may be counted as required trees, provided that the  
1711 ground beneath the canopy remains unimproved. Any species of tree which does not  
1712 normally grow to a height of 15 feet in the city, as determined by the city arborist or other  
1713 competent person designated by the city administrator, shall not qualify as a required tree  
1714 under this section. Any required buffer areas or trees required to be planted by this chapter  
1715 shall be counted toward satisfying this requirement.



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1716 (de) When off-street parking for ten or more vehicles is provided, there shall be landscaped open  
1717 space within the perimeter of the parking area or areas, in the minimum amount of 18  
1718 square feet for each parking space. Said landscaped open space need not be contiguous, but  
1719 there shall be at least one tree in each separate area. Said trees shall be included in  
1720 computing the number of trees required in subsection (b) of this section.

1721 (ed) All required tree plantings shall be installed prior to the occupancy or use of property.  
1722 Where compliance is not practicable due to the season of the year, the building official may  
1723 grant a temporary certificate of occupancy providing an appropriate delay period in the  
1724 installation of the required plantings ~~shall grant an appropriate delay~~. Any temporary  
1725 certificate of occupancy may be revoked, after 30 days' written notice to the occupant and  
1726 the owner of the affected property, if tree plantings are not undertaken ~~or maintained~~ as  
1727 required under this article.

1728 (f) All landscaping and buffering required by this section must be maintained by the property  
1729 owner. If at any time after the issuance of a Certificate of Occupancy, the approved  
1730 landscaping is found to be in nonconformance with standards and criteria of this section,  
1731 notice by the City may be issued to the owner, citing the violation and imposing a fine  
1732 pending compliance with this section.

1733 (eg) A ~~nonresidential~~ lot to which this Section applies that is adjacent to a public street or right-  
1734 of-way or that is adjacent to a residential property line shall have a landscaped greenbelt at  
1735 least 20 feet in width measured from the property line parallel with and adjacent to each  
1736 such street, right-of-way or residential property line. An exception may be approved by the  
1737 city council for the location of a driveway in such required landscaped greenbelt if the city  
1738 council finds that special traffic conditions affect the property, and that the interest of safety  
1739 of the driving public and pedestrians would better be protected by the location of a  
1740 driveway. ~~in the area of the required greenbelt. Such greenbelt shall contain a minimum of~~  
1741 ~~one tree, not less than 12 feet in height, for every 500 square feet of greenbelt.~~

1742 **Secs. 107-3432 - 107-35968. Reserved.**

1743

## 1744 Subdivision 2. FEMA Floodplain Management in Zones Other Than Residential

### 1745 Sec. 107-360. Clearing of vegetation in a floodplain.

1746 (a) This section applies to all zoning districts other than Residential District (R).

1747 (b) Within a floodplain or special flood hazard area as identified by the Federal Emergency  
1748 Management Agency, the removal of native vegetation is prohibited.

1749 (c) This section does not prohibit:

1750 a. trimming or other ordinary maintenance of vegetation,

1751 b. removing dangerous, diseased, damaged, dead, or dying vegetation, or

1752 c. removing, trimming, or maintaining vegetation as necessary to protect public  
1753 health and safety.

# DRAFT

- 1754 (d) An offense shall constitute a Class C misdemeanor punishable by a fine not to exceed  
1755 \$1,000.00. An offense committed intentionally, knowingly, recklessly, or with criminal  
1756 negligence shall be punishable by a fine not to exceed \$2000.00 per offense. Each tree  
1757 damaged or removed in violation of this division shall constitute a separate offense. Each  
1758 day a violation continues shall constitute a separate offense.
- 1759 (e) The City Arborist, City Council, or other duly authorized city official may issue a stop  
1760 work order in connection with site clearing, site preparation, or any permitted  
1761 development of the property upon the occurrence of any other violation of this  
1762 subdivision. It shall be unlawful for any person to do any work on the site covered by the  
1763 stop work order unless and until a new permit, application, or site plan has been filed and  
1764 processed in accordance with the provisions of this chapter and the City Council has  
1765 granted approval to a new permit, application, or site plan which corrects the violations  
1766 covered in the stop work order.
- 1767 (f) Injunction and other remedies. Any vegetation removal or other work done contrary to  
1768 any of the provisions of this Section is hereby declared to be unlawful and shall constitute  
1769 a violation of this Section. The City Council may direct the City Attorney to initiate  
1770 injunction, mandamus, abatement or any other action available in law or equity to  
1771 prevent, enjoin, abate or correct unlawful tree removal or other work.

1772

1773 **Secs. 107-361 - 107-368. Reserved.**

1774

1775 **Sec. 107-343. Variances.**

1776 ~~The city council is authorized, upon written appeal of a property owner or developer subject~~  
1777 ~~to the requirements of this division, to grant a variance from the requirements of this division as~~  
1778 ~~will not be contrary to the public interest, where, due to special conditions, literal enforcement of~~  
1779 ~~the requirements of this division will result in unnecessary hardship, and so that the spirit of this~~  
1780 ~~division shall be observed and substantial justice done. In considering any proposed variance, the~~  
1781 ~~following rules shall be observed:~~

- 1782 ~~(1) The applicant for the variance must present to the city council a set of plans setting out~~  
1783 ~~the applicant's proposal and the nature of the proposed variance.~~
- 1784 ~~(2) The proposed variance may not substantially adversely affect any adjoining property or~~  
1785 ~~the general welfare of the community.~~
- 1786 ~~(3) The city council must find that the granting of the variance will not merely serve as a~~  
1787 ~~convenience to the applicant but will serve to alleviate some demonstrable and unusual~~  
1788 ~~hardship or difficulty based on the condition of the affected property or surrounding~~  
1789 ~~areas.~~

1790 **Secs. 107-343 – 107-368. Reserved.**

1791

1792 *{Amendments to numbering of Chapter 107 Zoning, Article II. District Regulations, Division 10.*  
1793 *Landscaping, Subdivision 2. Residential Tree Canopy Management}*

# DRAFT

1794 **Subdivision ~~23~~. Residential Tree Canopy Management**

1795  
1796

1797 *{Amendments to Chapter 107 Zoning, Article III. Special Uses, Section 107-397 Applicability}*

1798 **ARTICLE III. – SPECIAL USES**

1799 **Sec. 107-397. Applicability.**

1800 The regulations set forth in this article shall apply to land, buildings and structures located  
1801 in a commercial district (C), ~~professional and business office district (C-1), a business district (C-~~  
1802 ~~2)~~, a governmental and institutional zoning district (GI), a park zoning district (P), a hospital  
1803 zoning district (H), and a PUD.

1804

1805 *{Amendments to Chapter 107 Zoning, Article III. Special Uses, Section 107-401 Criteria*  
1806 *applicable to individual special uses}*

1807 **Sec. 107-401. Criteria applicable to individual special uses.**

1808 (a) Alcoholic beverages sold in a restaurant for on-premises consumption. A proposal to sell  
1809 alcoholic beverages in a restaurant for on-premises consumption must comply with the  
1810 following specific criteria and conditions, as well as the general criteria prescribed under  
1811 section 107-400:

1812 (1) The restaurant where alcoholic beverages are proposed to be sold is not located within  
1813 300 feet of a church or school;

1814 (2) The restaurant where alcoholic beverages are proposed to be sold is not located on  
1815 property, two or more sides of which abut property in a residential district;

1816 (3) The gross receipts derived from the sale of alcoholic beverages shall not exceed the  
1817 gross receipts derived from the sale of food; and

1818 (4) The permit shall be reviewed annually by the city secretary and if reissued, reissued at  
1819 the end of the city's fiscal year.

1820 (b) Alcoholic beverages sold in grocery stores for off-premises consumption.

1821 (1) The grocery store where the alcoholic beverages are proposed to be sold is not located  
1822 within 300 feet of a church or school;

1823 (2) The grocery store where the alcoholic beverages are proposed to be sold is not located  
1824 on property, two or more sides of which abut property in a residential district;

1825 (3) The permit shall be reviewed annually by the city secretary and if reissued, reissued at  
1826 the end of the city's fiscal year;

1827 (4) Additional fees are to be collected after three years' operation in accordance with  
1828 alcoholic beverage commission permit rules; and

1829 (5) A permit shall only be granted if:

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- 1830 a. The applicant agrees that all litter associated with off-premises consumption of  
1831 alcoholic beverages within 200 feet of the applicant's premises is presumed to be  
1832 the applicant's; and
- 1833 b. The applicant agrees to collect and dispose of all litter within 200 feet of the  
1834 boundary line of the premises from which alcoholic beverages are sold.
- 1835 (c) Banks/savings and loan associations in ~~C-1~~ districts. A proposed bank or savings and loan  
1836 association in a ~~C-1~~ district must comply with the following specific criteria and conditions,  
1837 as well as the general criteria prescribed under section 107-400:
- 1838 (1) The site plan must provide adequate stack space for motor vehicles;
- 1839 (2) The site shall be designed and developed in a manner that will not impede the flow of  
1840 traffic in the vicinity of the bank or savings and loan association;
- 1841 (3) The site plan shall provide for adequate landscaping and the maintenance of  
1842 landscaped areas shall be governed by the provisions of restrictive covenants  
1843 enforceable by the city; and
- 1844 (4) There shall be no more than one curb cut for access to the office complex unless  
1845 otherwise approved by the city council.
- 1846 (d) Personal wireless telephone service facility in certain parts of a ~~C-1, C-2~~, and H district, and  
1847 a PUD. A proposed personal wireless telephone service facility on a lot with frontage on  
1848 Bee Caves Road in a ~~C-1, C-2~~ or H district or in a PUD must comply with the following  
1849 specific criteria and conditions as well as the general criteria prescribed under section 107-  
1850 400:
- 1851 (1) The facility shall have a design and appearance that mimics other uses and ancillary  
1852 structures in the vicinity, such as a flagpole, tree trunk or other object compatible with  
1853 surrounding buildings and uses, or, in lieu thereof, the lower 15 feet of a freestanding  
1854 facility shall be screened by vegetation;
- 1855 (2) The use or operation of the facility shall not be attended by noise or light that is  
1856 incompatible with surrounding uses, or other attributes constituting a nuisance to  
1857 surrounding uses;
- 1858 (3) The facility will at all times be operated in compliance with applicable federal and state  
1859 law, including law regulating radio frequencies, microwaves, and other electronic or  
1860 magnetic emissions or transmissions; and
- 1861 (4) No auxiliary generator or power source producing excessive noise or polluting  
1862 emissions shall be included.
- 1863 (e) Cafes, cafeterias, restaurants, and bakeries. A proposed café, cafeteria, restaurant, or  
1864 bakery must comply with the general criteria prescribed under section 107-400 and must provide  
1865 adequate exhaust air filtration systems as needed to control and capture smells created by the use  
1866 prior to release to the outside atmosphere.

1867

1868 *{Amendments to Chapter 107 Zoning, Article IV. Nonconforming Structures and Uses, Section*  
1869 *107-422 Nonconforming buildings, structures}*

# DRAFT

1870

## **ARTICLE IV. – NONCONFORMING STRUCTURES AND USES**

1871

### **Sec. 107-422. Nonconforming buildings, structures.**

1872

Any nonconforming building or structure may, so long as it remains otherwise lawful, be continued subject to the following requirements and limitations:

1873

1874

(1) Except as otherwise required by ordinance or law, a nonconforming building or structure may not be altered in a manner that increases the extent of its nonconformity.

1875

1876

(2) Except as otherwise required by ordinance or law, a nonconforming building or structure must be brought into conformity if:

1877

1878

a. Fifty percent of the square footage of the building or structure is demolished, excluding a permit for interior construction or remodeling only; or

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1880

b. If the nonconforming building or structure is moved, it shall conform to the regulations for the district within or into which it is moved.

1881

1882

(3) The provisions of subsection (2)a of this section do not apply to the demolition of the roof of a building or structure.

1883

1884

(4) If the nonconforming building or structure, other than a dwelling, is damaged or destroyed by fire or other accident or natural means, the building official shall, upon application by the owner thereof, issue a permit for repair or reconstruction of the building or structure, provided that the repair or reconstruction conforms with the construction materials standards set forth in section 107-107, the compatibility standards set forth in section 107-116, and will not increase the extent of the nonconformity of the building or structure.

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(5) If the nonconforming building or structure that is a dwelling is damaged or destroyed by fire or other accidental or natural means, the building official shall, upon application by the owner thereof, issue a permit for repair or reconstruction of the building or structure if the repair or reconstruction will not increase the extent of the nonconformity of the building or structure.

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(6) Nothing in this article shall be deemed to:

1897

a. Prevent ordinary repairs to nonconforming buildings or structures;

1898

b. Prevent alterations of or extensions to nonconforming building or structures as required by law or ordinance; or

1899

1900

c. Prevent the restoration to a safe condition of any nonconforming building or structure, or portion thereof, declared to be unsafe by the building official or other duly authorized official.

1901

1902

1903

1904

*{Amendments to Chapter 107 Zoning, Article V. Administration and Enforcement, Division 1. Generally}*

1905

1906

## **ARTICLE V. ADMINISTRATION AND ENFORCEMENT**

# DRAFT

## DIVISION 1. GENERALLY

1907

### 1908 **Sec. 107-442. Penalty for violation.**

1909 (a) If any building or structure is constructed or altered, or if any premises are used in violation  
1910 of the provisions of Chapter 107 or any permit this article, the building official is authorized  
1911 and directed to institute any appropriate action to put an end to such violation.

1912 (b) ~~Any person who violates or fails to comply with any of the requirements of this article shall~~  
1913 ~~be guilty of a misdemeanor and shall be liable to a fine not to exceed \$2,000.00. Each day~~  
1914 ~~any such violation occurs shall constitute a separate offense. Any person, firm, or~~  
1915 ~~corporation who violates any of the provisions of this Chapter or any permit, or fails to~~  
1916 ~~comply therewith, or who shall violate or fail to comply with any order or regulation made~~  
1917 ~~hereunder, or who shall build any project or facility in violation of any detailed statement of~~  
1918 ~~specification or plans submitted and approved hereunder, or any certificate or permit issued~~  
1919 ~~hereunder, shall, for each and every violation and noncompliance respectively be deemed~~  
1920 ~~guilty of a misdemeanor and upon conviction thereof shall be fined a sum not to exceed~~  
1921 ~~\$2,000 or the appropriate legal maximum as determined by statute. Each and every day that~~  
1922 ~~such violation and/or noncompliance shall exist shall be deemed a separate offense. In case~~  
1923 ~~any person, firm, or corporation violates any of the provisions of this Chapter or any permit~~  
1924 ~~or fails to comply therewith, the city, in addition to imposing the penalties above provided~~  
1925 ~~may institute any appropriate action or proceedings in court to prevent, restrain, correct, or~~  
1926 ~~abate or to prevent any illegal act, conduct, business, or use in or about any land, and the~~  
1927 ~~definition of any violation of the terms of this chapter or any permit as a misdemeanor,~~  
1928 ~~shall not preclude the city from invoking the civil remedies given it by law in such cases,~~  
1929 ~~but same shall be cumulative of and in addition to the penalties prescribed for such~~  
1930 ~~violation.~~

1931 (c) The owner or owners of any land, building or structure, or part thereof, where anything in  
1932 violation of this ~~article~~ Chapter or any permit shall be placed or shall exist, and any person  
1933 employed in connection therewith and who assists in the commission of such violation,  
1934 shall be guilty of a misdemeanor and shall be liable to a fine not to exceed \$2,000.00.

1935 (d) Nothing herein contained shall prevent the city from taking such other lawful action as  
1936 necessary to prevent or remedy any violation of this ~~article~~ Chapter or any permit.

1937

### 1938 **Secs. 107-443—107-459. Reserved.**

1939

1940 *{Amendments to Chapter 107 Zoning, Article V. Administration and Enforcement, Division 3.*  
1941 *Board of Adjustment, Sec.107-491 Special Exception to add a special exception for 75-greenbelt*  
1942 *reduction}*

1943

## DIVISION 3. BOARD OF ADJUSTMENT

# DRAFT

1944 **Sec. 107-491.- Special exceptions**

1945 (a) The board of adjustment may, in a specific case, where the board of adjustment makes the  
1946 findings required under subsection (c) herein, grant the following special exceptions from the  
1947 requirements of this division:

1948 (1) Permit the reconstruction of a nonconforming building or structure that has been  
1949 damaged by fire or other cause;

1950 (2) Permit the enlargement or extension of a nonconforming use or nonconforming building  
1951 upon the lot occupied by such use or building at the time of the passage of this division;

1952 (3) In undeveloped sections of the city, grant temporary and conditional permits for not more  
1953 than two years, provided that the grant of a temporary or conditional permit shall not be  
1954 reason or cause for extension of such permit;

1955 (4) Permit such modifications of yard, open space, lot area, or lot width regulations as may  
1956 be necessary to improve a parcel of land, if the parcel is of such restricted size that it  
1957 cannot be appropriately improved without such modification; or

1958 (5) Permit a public utility or public service building of a ground area or height at variance  
1959 with those provided for the district in which such public utility or public service building  
1960 is permitted to be located, when found reasonably necessary for the public health,  
1961 convenience, safety or general welfare.

1962 (6) Permit a reduction or modification in the 75-foot setback requirements of Section 107-  
1963 108(a) and/or the 75-foot greenbelt requirements of Section 107-109(a), provided that:

1964 a. In addition to the notice and hearing required under Subsection 107-494(a), the board  
1965 of adjustment shall conduct a public hearing on the application to consider public  
1966 comment and any alternative to the proposed application. The public hearing required  
1967 by this subsection shall be held no less than 30 days prior to the date of any hearing at  
1968 which the board of adjustment will consider action on the application. Upon the  
1969 decision of the board of adjustment or upon request of the applicant, the board of  
1970 adjustment may recess such public hearing, from time to time, to consider any  
1971 alternative proposal. In the event the Applicant requests the board of adjustment to  
1972 consider an alternative proposal, notice of the alternative proposal shall be given in  
1973 the manner required by Subsection 107-491(a), and the hearing on the alternative  
1974 proposal shall be set no less than 30-days prior to the date notice is given; and

1975 b. The board of adjustment finds all of the following:

1976 (i) The lot to be developed has no existing 75-foot greenbelt or the existing greenbelt  
1977 is less than the required 75-feet;

1978 (ii) The proposed alternative, as compared to the existing development, mitigates the  
1979 impact of the existing development upon adjacent residential properties and/or  
1980 improves to the greatest extent practicable the buffering of the adjacent residential  
1981 properties, and preserves or enhances existing landscaping to the greatest  
1982 reasonable extent;

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1983 (iii) The proposed alternative, as compared to the existing development, is consistent  
1984 with and promotes the recommendations and policies within the city's  
1985 comprehensive plan;

1986 (iv) The proposed alternative enhances the site, as compared to the existing  
1987 development, without detriment to the adjacent residential properties, and  
1988 therefore, the overall environment of the city; and

1989 (v) The proposed alternative if granted will not have a detrimental impact on any  
1990 adjacent properties.

1991 (b) The board of adjustment may grant such other special exceptions as may be provided for  
1992 elsewhere in this division, subject to the terms and conditions therein set out.

1993 (c) Prior to granting a special exception, the board shall make a finding that it is empowered  
1994 under this chapter to grant the special exception, that the public convenience and welfare will  
1995 not be substantially or permanently injured in the granting of the special exception, and that  
1996 the grant of the special exception will not adversely affect the public health, convenience,  
1997 safety or general welfare.

1998 (d) In granting a special exception, the board of adjustment may prescribe appropriate conditions  
1999 and safeguards in conformity with this division.

2000 (e) The board of adjustment shall prescribe a time limit within which the action for which the  
2001 special exception is required shall be begun or completed, or both. Failure to comply with the  
2002 time limits set by the board shall void the special exception.