

Chapter 101 BUILDINGS AND CONSTRUCTION

ARTICLE I. IN GENERAL

Sec. 101-1. Definitions.

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

Board of appeals means the board of adjustment of the city.

(Code 1987, ch. 11, subch. A, § 2; Code 1995, § 3.02.002)

Sec. 101-2. Adoption of codes.

- (a) The codes adopted in this section, together with the remaining provisions of this chapter and the fire code and regulations of chapter 10, shall constitute the city construction regulations. The city construction regulations will apply to all construction within the city, except as otherwise specifically provided in this Code.
- (b) The city adopts the following codes as though fully set forth in this chapter, copies of which are on file in the office of the city secretary:
 - (1) International Administrative Code, 2006 Edition, published by the International Code Council.
 - (2) International Building Code, 2015 Edition, published by the International Code Council, subject to the amendments set forth in subsection (d) of this section.
 - (3) International Residential Code, 2015 Edition, published by the International Code Council, with amendments and section AG105 of appendix G.
 - (4) International Energy Conservation Code, 2015 Edition, published by the International Code Council.
 - (5) International Mechanical Code, 2015 Edition, published by the International Code Council.
 - (6) International Plumbing Code, 2015 Edition, published by the International Code Council.
 - (7) National Electrical Code, 2014 Edition, published by the National Fire Protection Association, subject to the amendments set forth in subsection (d) of this section.
 - (8) Uniform Code for the Abatement of Dangerous Buildings, 2015 Edition, published by the International Conference of Building Officials.
- (c) The International Building Code adopted herein is amended as follows:
 - (1) By adding a new section 1505.6.1, which follows immediately after section 3202(c), to read as follows:

Section 1505.6.1. Wood shingles. Notwithstanding any other provision in this code, it is specifically provided that wood shakes, wood shingles, or any wooden roof covering is hereby prohibited to be used as a roof covering within the city.
 - (2) By amending the definition of "height of building" to read as follows:

Building height, nonresidential. The vertical distance from the lowest finished floor elevation (including a garage floor) to the highest part of the following: the coping of a flat roof, the deck line of a mansard roof, or the gable of a pitched or hipped roof. Where, due to topographical or other conditions, the lowest finished floor elevation of a building differs from one part to another, the maximum permissible height shall be computed separately for each portion of such building containing a differing lowest finished floor elevation. If the lowest finished floor elevation is more than four feet directly above the point where the foundation intersects the natural grade, then the vertical distance must be measured from a point that is four feet directly above the point where the foundation intersects the natural grade to the highest point described above.

Building height, residential. The vertical distance above a reference datum measured to the highest point of the building. The reference datum shall be selected by either of the following, whichever yields a greater height of the building:

1. The elevation of the highest adjoining original native ground surface within a five-foot horizontal distance of the exterior wall of the building when such original native ground surface is not more than ten feet above the lowest grade; or
2. An elevation of ten feet higher than the lowest grade when the original native ground surface described in subsection 1 of this definition is more than ten feet above lowest grade.

(d) The National Electrical Code adopted in this section is amended by adding a new section 308, which follows immediately after section 307, to read as follows:

Section 308. Notwithstanding any other provision of this code, the use of aluminum wiring as a conductor of electricity in branch circuit wiring, or in service conductors smaller than six, is hereby prohibited.

(Code 1987, ch. 11, subch. A, §§ 5, 5(a)(3); Code 1995, §§ 3.02.007, 3.02.051, 3.02.101—3.02.103, 3.02.151, 3.02.201, 3.02.251, 3.02.301, 3.02.351, 3.02.352, 3.02.401; Ord. No. 2013-02-20(B), §§ 1, 5, 2-20-2013; Ord. No. 2016-11-16(A), 11-16-2016)

Editor's note(s)—See chapter 10 of this Code for adoption of the city fire code and regulations.

Sec. 101-3. Conflicting regulations.

If there is a conflict between this Code and codes that form the city construction regulations, the most restrictive provision will prevail.

(Code 1987, ch. 11, subch. A, § 13; Code 1995, § 3.02.004)

Sec. 101-4. Area of applicability.

This chapter and the city construction regulations are applicable and in full force and effect within the corporate limits of the city.

(Code 1987, ch. 11, subch. A, § 4; Code 1995, § 3.02.006)

Secs. 101-5—101-26. Reserved.

ARTICLE II. ADMINISTRATION AND ENFORCEMENT

Sec. 101-27. Generally.

The procedures established in this article and in the city construction regulations will be administered by the building official, who may authorize the use of persons, equipment, and facilities as necessary to implement and enforce the provisions hereof.

(Code 1987, ch. 11, subch. A, § 3; Code 1995, § 3.02.005)

Sec. 101-28. Fees.

Permit and other fees associated with this article and codes adopted by reference in this article shall be as provided in the city fee schedule.

(Code 1987, ch. 11, subch. A, § 8; Code 1995, § 3.02.009)

Sec. 101-29. Building official; right of entry.

The building official or his designee may enter any land, building or structure at any reasonable time in order to perform any duty imposed upon him by this article.

(Code 1987, ch. 11, subch. G, art. XV, § 15; Code 1995, § 14.02.865)

Sec. 101-30. Third-party inspections.

If the city contracts with a person to perform the inspections required by the city building code, an inspection performed by such person shall be considered an inspection by the building official; provided, however, that building permits and certificates of occupancy shall be issued only by the city building official. If the city has not contracted with a licensed plumbing inspector to conduct inspections within the city, a nonresidential property owner must secure the services of a licensed plumbing inspector for the city and pay all costs incurred by the city for such inspection services.

(Code 1987, ch. 11, subch. A, § 11; Code 1995, § 3.02.011)

Sec. 101-31. Stop-work orders.

- (a) Whenever any work is being performed in violation of the requirements of this article or the site plan filed pursuant to section 101-94, or a drainage plan approved pursuant to chapter 103, article IV, the building official shall give written notice to the person performing the work or causing the work to be performed directing the person to immediately stop-work on the project (a "stop-work order"), and, if applicable, show cause why the work should not be ordered stopped. No one may continue any work that is the subject of a stop-work order without written revocation or suspension of the stop-work order.
- (b) Any person served with notice may, within five days after service, show cause to the building official why a stop-work order should not be issued. If the person fails to show good cause, the stop-work order shall continue in effect until the building official terminates the stop-work order as a result of a correction or cessation of the violations, or the building official's action is overturned on appeal.
- (c) When a stop-work order is issued, it shall be immediately posted at the premises where the work is being performed in violation of this article.

(Code 1995, § 14.02.866; Ord. No. 2016-11-16, 11-16-2016)

Sec. 101-32. Appeal of stop-work order.

- (a) A person aggrieved by the building official's issuance of a stop-work order under this article may appeal the order by giving written notice to the board of adjustment and the building official no later than three days after the order is posted. The notice of appeal must contain the following information:
 - (1) The name and address of the person bringing the appeal;
 - (2) The facts surrounding the issuance of the order;
 - (3) The technical reasons why the order should be set aside;
 - (4) The board of adjustment will hear the appeal at its next regularly scheduled meeting following receipt of the notice of appeal.
- (b) An appeal under this section will not stay the stop-work order. All approved plans or permits will be suspended during the appeal. No development or construction that is affected by the appeal may occur until final disposition of the appeal.

(Code 1987, ch. 11, subch. G, art. XV, § 17; Code 1995, § 14.02.867)

Sec. 101-33. Discontinuance orders.

- (a) Whenever any land, building or structure is being used or occupied in violation of the provisions of this article, the building official shall serve written notice to the person using or causing such use or occupancy, ordering the person to show cause why such use or occupancy should not be ordered discontinued.
- (b) Any person served with notice may, within five days after service, show cause to the building official why he should not order the use or occupancy discontinued.
- (c) If the person served with notice fails to show cause, the building official shall order the use or occupancy discontinued by written notice served upon the person using or causing such use or occupancy. Within ten days following receipt of the order, such person shall either vacate, or cause to be vacated, such land, building or structure, or make the land, building or structure comply with the requirements of this article.
- (d) When a discontinuance order is issued, it shall be immediately posted at the land, building or structure being use or occupied in violation of this article.
- (e) The show-cause procedure provided under this section may be waived when the building official finds that an unlawful use or occupancy could cause imminent peril to life or property.

(Code 1987, ch. 11, subch. G, art. XV, § 18; Code 1995, § 14.02.868)

Sec. 101-34. Penalty.

Any person who violates any provision of this article will be guilty of a misdemeanor and, upon conviction, will be subject to a fine not to exceed \$2,000.00. Each day of violation will constitute a separate offense. This penalty will be cumulative of any other rights or remedies the city may have.

(Code 1987, ch. 11, subch. A, § 14; Code 1995, § 3.02.003)

Secs. 101-35—101-56. Reserved.

ARTICLE III. PERMITS AND CERTIFICATES

DIVISION 1. GENERALLY

Sec. 101-57. Demolition permit.

No person shall remove or demolish any building or structure, or any portion thereof, or cause the same to be done without first obtaining a demolition permit from the city. An applicant for a demolition permit must submit a completed application in a form acceptable to the building official. The building official will verify that issuance of the demolition permit is not in conflict with zoning, subdivision and site plan approval requirements or any other provisions of this article.

(Code 1987, ch. 11, subch. G, art. XV, § 21; Code 1995, § 14.02.871)

Sec. 101-58. Emergency and utility construction permit.

A permit for the installation, relocation, or modification of water, sewer, gas, or electrical conductors or fixtures, including service lines and solar installations which are separate from and independent of any other work described in this article may be issued as a utility construction permit. A utility construction permit shall be subject to all applicable codes and regulations but are exempt from the requirements of section 101-92(4) and section 101-93.

(Code 1987, ch. 11, subch. G, art. XV, § 2; Code 1995, § 14.02.852(k); Ord. No. 2017-01-18, 1-18-2017)

Secs. 101-59—101-89. Reserved.

DIVISION 2. BUILDING PERMITS

Sec. 101-90. Required, generally.

- (a) No person shall construct, alter or move any building, structure, gas line, or fence, or any portion thereof, or store building materials or equipment on property, or cause the same to be done, without first obtaining a building permit, as required under the city construction regulations from the building official; provided, however, that no person shall be required to obtain a building permit for the application or installation of new or replacement flooring, appliances (except for water heaters for which a building permit is required unless it is installed by a licensed plumber), light fixtures, wallpaper or wall coverings, tile work, plumbing fixtures, hardware, glazing, paint, stain or plaster, trim work, cabinetry or shelves, insulation, counter tops, doors, garage doors, drywall (except drywall for garage separation), tile work, trim work, plaster, gutters and downspouts, exterior doors or windows (except windows in sleeping areas), roofing materials and all other materials and equipment necessary of the proper completion thereof.
- (b) Except as otherwise authorized in a written order approved by the board, a building permit shall not be issued except in conformity with the provisions of this article.

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- (c) The city council shall adopt a schedule of building permit fees. Such schedule of fees shall remain in force until changed by the city council.

(Code 1987, ch. 11, subch. G, art. XV, § 2; Code 1995, § 14.02.852(a)—(c); Ord. No. 2017-01-18, 1-18-2017)

Sec. 101-91. Required for construction in newly annexed territory.

- (a) No person shall construct or alter any building or structure, or any portion thereof, or store building materials or equipment on property, or cause the same to be done, in any territory annexed by the city without first obtaining a building permit as required under the city construction regulations from the building official.
- (b) No permit for the construction of a building or structure or use of land in newly annexed territory shall be issued by the building official other than a permit to allow the construction of a building or structure or use of land permitted in a residential district, until such territory has been classified in a zoning district other than a residential district by the city council in the manner provided by law except as provided in subsection (c) of this section.
- (c) An application for a permit for any other use than that specified in subsection (b) of this section shall be made to the building official, who shall submit it to the commission for consideration and recommendation to the city council. The commission shall, within ten days of receiving the application, determine whether the application should be approved or disapproved, and submit its recommendation to the city council. If the commission fails to act on the application within the prescribed time, the city council shall consider the application without recommendation at the council's next regular meeting following expiration of the ten-day period.
- (d) No person shall continue or proceed with the construction of any building or structure, or cause the same to be done in any newly annexed territory without first obtaining a building permit. The application for such permit shall be filed with the building official, who shall submit it to the commission for consideration. The commission shall, within 45 days of receiving the application, determine whether it should be approved or disapproved, and submit its recommendation to the city council. If the commission fails to act on the application within the prescribed time, the city council shall consider the application without recommendation at its next regular meeting following the expiration of the 45-day period. The construction for which the building permit application is filed shall be suspended until a building permit is issued.

(Code 1987, ch. 11, subch. G, art. XV, § 20; Code 1995, § 14.02.870)

Sec. 101-92. Application for permit.

- (a) All applications for building permit, will serve as the basis for issuing both a building permit and a certificate of occupancy. Each application for a building permit must be accompanied by:
- (1) A check in the amount of required fees;
 - (2) An application for certificate of occupancy;
 - (3) Three copies of a site plan submitted in compliance with the requirements of section 101-94;
 - (4) One copy of a recorded subdivision plat of the property in compliance with the requirements of chapter 105 and one copy of the letter of acceptance required under section 105-67(a);
 - (5) Information relative to the existing and proposed use of the lot and buildings or the structures on the lot, conditions on the lot and abutting properties and provisions for parking;

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- (6) Unless waived by the city council, for property other than property in the residential district, if the application requests authorization to construct a new building after the adoption of this provision or to expand a building or change the use in such a way that increases the utility usage by more than ten percent from the usage level when this provision was adopted, information demonstrating to the satisfaction of the city, consistent with generally accepted engineering principles that providing water or wastewater service to the improvements located on that property will not materially impact water or centralized wastewater service to areas in the city that are residentially zoned as of the date of the application, existing or previously approved commercial businesses in the city, or undeveloped areas in the city zoned for commercial use as of the date of the application.
 - (7) If the application requests authorization to renovate or demolish a public or commercial building, evidence acceptable to the city that an asbestos survey, as required by the Texas Asbestos Health Protection Act, V.T.C.A., Occupations Code ch. 1954, of all parts of the building affected by the planned renovation or demolition has been completed by a person licensed under the act to perform a survey or a certification from a licensed engineer or architect, stating that:
 - a. The engineer or architect has reviewed the material safety data sheets for the materials used in the original construction, the subsequent renovations or alterations of all parts of the building affected by the planned renovation or demolition, and any asbestos surveys of the building previously conducted in accordance with the Texas Asbestos Health Protection Act, V.T.C.A., Occupations Code ch. 1954; and
 - b. In the engineer's or architect's professional opinion, all parts of the building affected by the planned renovation or demolition do not contain asbestos.
 - (8) Any additional information required by the building official.
- (b) Additionally, applications for new construction, reconstruction, remodels and additions budgeted to cost \$20,000.00 or more shall be accompanied by:
- (1) Four copies of construction plans sealed by a licensed architect, licensed engineer, licensed interior designer, or certified building designer.
 - (2) Four copies of all construction documents required by chapter 1, section 106 of the International Building Code, including, but not limited to, sealed plans for new foundations or changes to existing foundations, construction plans for framing, masonry, electrical, plumbing, mechanical and roofing.
 - (3) Four copies of an as-built survey of the property, which must include trees six inches in diameter or greater on the property and any improvements constructed or installed on the property, certified by a licensed surveyor.
 - (4) Four copies each of the front, rear and both side elevations, including site sections.
 - (5) Detailed information showing:
 - a. Heated square footage;
 - b. First-floor square footage (including garages and carports, but excluding porches, stairs and decks);
 - c. Impervious cover (excluding swimming pools), masonry percentages, building footprint to property area ratio; and
 - d. The required state license numbers for the homebuilder or general contractor, and all mechanical, electrical, and plumbing contractors or subcontractors working on the construction project.

In the case of new construction or proposed construction in which the footprint or roof plan of an existing building or structure on the property increases, four copies of a drainage site plan which depicts the existing and proposed contours in two-foot elevations on the property, the existing and proposed drainage patterns and the 50- and 100-year floodplains if they exist on the property.

- (c) Additionally, applications for new construction, reconstruction and additions budgeted to cost less than \$20,000.00, shall be accompanied by four copies of contractor-drawn construction plans (or owner-drawn construction plans if the homeowner is the contractor). Applications for additions, reconstructions and new construction in a commercial district shall also include five copies of the site plan and the documents required by chapter 1, section 106 of the International Building Code.

(Code 1987, ch. 11, subch. G, art. XV, § 3; Code 1995, § 14.02.853(1)—(11); Ord. No. 2009-05-07B, § 8, 5-7-2009; Ord. No. 2011-03-09(C), 3-9-2011; Ord. No. 2013-08-21(F), 8-21-2013; Ord. No. 2014-07-30(C), § 3, 7-30-2014)

Sec. 101-93. Notice of application.

- (a) Except as provided in subsection (h) of this section, written notice of building permit application shall be given to owners, as they appear on the last approved tax roll of the city, of real property lying within 250 feet of the boundaries of the tract or lot for which a building permit is requested. The application shall not be considered as having been filed with the city until such notice has been delivered in accordance with this section and the statement required by this section been submitted to the city.
- (b) Every notice required by this subsection may be served by delivering a copy of the notice to the person to be served, or their duly authorized agent, either in person or by registered or certified mail and by U.S. First Class Mail, postage prepaid to their last-known address. Alternatively, the notice may be given in such other manner reasonably calculated to give notice and approved by the city. Whenever the notice is served by mail, three days shall be added to the prescribed period.
- (c) The burden shall be upon the applicant to give notice as required in this subsection. A sworn written statement by the applicant showing service of a notice shall be required to be submitted with the building permit application. Such sworn statement shall also serve as prima facie evidence of the fact of service. A copy of this statement shall be attached to the building permit application.
- (d) The notice shall consist of:
- (1) A written statement in plain and concise language sufficient to give fair notice of the proposed building permit application;
 - (2) Information as to where the application may be inspected; and
 - (3) The building official will act on the application within no less than 15 nor more than 45 days after the date the application was filed.
- (e) The building official shall provide applicants with a sample form of the notice and shall assist the applicants in identifying the addresses to which the notice shall be mailed.
- (f) The building official shall provide a copy of each application to the city secretary, who shall post a summary of the same on the city's website.
- (g) The applicant will post a sign of the type specified by the building official in the yard of the property.
- (h) Notice of an application for a building permit shall not be required for the following work or improvements:
- (1) Residential interior remodel where no work of any kind is to be done to the exterior of any improvement, the size of the affected improvement will not be altered, and the contour or footprint of the affected improvement will not be altered;

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- (2) Replacement of residential bedroom emergency egress windows;
 - (3) Commercial tenant finish-out where all work to be done in conjunction with the permit is to be confined to the interior of the building.
- (i) For new construction, reconstruction and additions (excluding that occurring inside an existing structure) on land in the city that is located over the Edwards Aquifer Recharge Zone and which is subject to 30 Tex. Admin. Code ch. 213, the applicant shall furnish, as part of the application submitted, written proof of compliance with such regulations.

(Code 1987, ch. 11, subch. G, art. XV, § 3; Code 1995, § 14.02.853(12), (13); Ord. No. 2009-05-07B, § 8, 5-7-2009; Ord. No. 2011-03-09(C), 3-9-2011; Ord. No. 2013-08-21(F), 8-21-2013; Ord. No. 2014-07-30(C), § 3, 7-30-2014)

Sec. 101-94. Site plan requirements.

- (a) Except as required in chapter 103, article III, division 4, a site plan will not be required for the construction of, alteration to or an addition to a single-family residential structure, or an accessory thereto, where only one single-family structure is constructed on a subdivided lot and no proposed improvement is located in the 100-year floodplain ("residential improvements"). Prior to the issuance of a building permit, an applicant for the construction of residential improvements must submit to the city a plot plan of the applicable property reflecting existing and proposed structures and the location of all building setback lines and easements and the septic tank and field serving the property, if any (the "residential plot plan"). The residential plot plan for construction of a new residence on the property must be prepared on a survey of the property prepared by a registered surveyor showing setback lines and easements.
- (b) An approved site plan is required for the construction of any primary structure or accessory structure or facility thereto (other than exempted in subsection (a) of this section). The site plan must be drawn to scale and submitted in duplicate to the city, together with such additional copies as the city may determine to be necessary for review by other city officials. The site plan shall contain the following:
- (1) A legal description of the land; the date, scale, north point, title, and the name of the person preparing the plan;
 - (2) The names, addresses and telephone numbers of the owner, the engineer and the designer/architect;
 - (3) Lot and block number and the street number as approved by the U.S. Postal Service;
 - (4) The actual shape, location and dimensions of the land, an arrow pointing north and the land area of the land included in the site plan;
 - (5) Natural features such as woodlots, watercourses, springs and ponds, both before and after construction of proposed improvements;
 - (6) Location and dimensions of easements and setback requirements;
 - (7) Floodplain elevations which show the floodway and portions of the land that are located in the 100-year floodplain as determined by FEMA; the centerline of all existing watercourses and drainage features;
 - (8) Location of existing and proposed walks, driveways, loading areas, off-street parking design, access roads and ingress and egress locations;
 - (9) Location and dimensions of all components of all private sewage facilities located on the land and their distance from floodplains, wells, lakes, creeks, faults, and water lines within 100 feet of the land;
 - (10) The existing and intended use of the land and of all building and structures upon it;

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- (11) Existing and proposed grades and drainage systems and structures with topographic contours at intervals not exceeding two feet;
 - (12) The architectural design, shape, size, dimensions and location of all buildings or other structures to be erected, altered, or moved, and of any buildings or other structures already on the lot; a calculation of proposed impervious cover of the land;
 - (13) Site clearance excavation plans, including data on the amount of cut and fill;
 - (14) Landscaping plans;
 - (15) Exterior lighting plans;
 - (16) Location of all trash receptacles and air-conditioning and heating units; and
 - (17) All other information required in the development plan called for in the applicable zoning district.
- (c) If the proposed project is within the professional and business office district (C-1), business district (C-2) or planned unit development district (PUD), the site plan must be accompanied by a traffic impact analysis prepared by a professional approved by the city, indicating the impact of the project on existing traffic conditions and information on the potential congestion caused by ingress and egress.
 - (d) The site plan shall be accompanied by an approval from the state department of transportation, if applicable, with regard to the location of points of ingress and egress.
 - (e) The site plan shall show such other information concerning the land or adjoining land as may be deemed necessary by the city for determining compliance with the provisions of this Code.
 - (f) Unless waived by the city council, the site plan must be accompanied by information demonstrating to the satisfaction of the city, consistent with generally accepted engineering principles that providing water or wastewater service to the improvements located on that property will not materially impact water or centralized wastewater service to:
 - (1) Areas in the city that are residentially zoned as of the date of the application;
 - (2) Existing or previously approved commercial businesses in the city; or
 - (3) Undeveloped areas in the city zoned for commercial use as of the date of the application.
 - (g) The applicant will submit the site plan to the city. The city administrator will ensure that the site plan is reviewed by city staff and shall make a final report to the city council recommending approval or disapproval. The city administrator's report to the city council will consider the following:
 - (1) Whether the proposed improvements show compliance with all applicable city ordinances;
 - (2) Whether the proposed improvements would adversely impact the efficient flow of traffic within the city;
 - (3) Whether any aspect of the proposed development would create a financial obligation on the part of the city (for example, creek retaining walls, retaining ponds, sedimentation filtration systems, etc.).

(Code 1987, ch. 11, subch. G, art. XV, § 4; Code 1995, § 14.02.854; Ord. No. 2017-01-18, 1-18-2017)

Sec. 101-95. Site plan approval.

After receipt of a report from the city administrator with regard to the site plan application, the city council will consider the site plan for approval. No site plan will be approved or released unless the proposed use is authorized by the zoning classification attributable to such property. The city council may, at its discretion, grant one or more variances to site plan requirements. A site plan will expire as to improvements not yet constructed

within three years from the approval thereof by the city council. The city council, at its discretion, may grant one or more extensions to such site plan expiration date.

(Code 1987, ch. 11, subch. G, art. XV, § 5; Code 1995, § 14.02.855)

Sec. 101-96. Correction of errors in plans.

The issuance of a permit upon approval of plans and specifications does not prevent the building official from thereafter requiring the correction of errors in the plans and specifications found to be in violation of the code or any other ordinance of the city.

(Code 1987, ch. 11, subch. A, § 7; Code 1995, § 3.02.008)

Sec. 101-97. Permit issuance or denial.

- (a) If the building official finds that the work described in the permit application and site plan conforms to the requirements of this article and that any subdivision improvements have been constructed and accepted as required under section 105-67(a), he shall mark one copy of the plans "approved," sign the copy, and return it to the applicant.
- (b) If the building official finds that the work described in the permit application and site plan does not conform to the requirements of this article, he shall mark one copy of the plans "disapproved," sign the copy, and return it, together with a statement describing the specific reasons for such disapproval, to the applicant.
- (c) One copy of each building permit application and site plan shall be maintained in a file by the building official. One copy of each building permit and site plan, stamped "approved" by the building official, shall be maintained on the construction site until a certificate of occupancy is issued.

(Code 1987, ch. 11, subch. G, art. XV, § 6; Code 1995, § 14.02.856; Ord. No. 2009-05-07B, § 9, 5-7-2009)

Sec. 101-98. Expiration of building permits.

Except as otherwise provided under this section, a building permit authorizing the construction or alteration of a building or structure in the residential district expires 365 days following the date of its issuance and a building permit authorizing the construction or alteration of a building or structure in a C-1 district, C-2 district, GI district or PUD district expires 365 days following the date of its issuance. If a project is found by the building official to be in compliance with this division, work may be continued into a 15-day grace period following the expiration of the permit period.

(Code 1987, ch. 11, subch. G, art. XV, § 7; Code 1995, § 14.02.857)

Sec. 101-99. Building permit renewals.

- (a) Upon expiration of a building permit, the permittee may, within 15 days of the date upon which the permit expired, apply for a renewal of the permit. The application shall be in a form prescribed by the building official, and shall state the permittee's reason for failing to complete the work authorized under the permit within the prescribed time. The application shall be accompanied by a check in the amount of the permit renewal fee established in the fee schedule on file with the city.
- (b) The building official shall evaluate the application for a building permit renewal on the basis of the following factors:

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- (1) The applicant's diligence in attempting to complete the project;
 - (2) The applicant's compliance with the city's building code and applicable ordinances, and his compliance with agreements with the city for the benefit of the city or neighborhood groups; and
 - (3) The applicant's demonstrated willingness to progress toward timely completion of the work that would be authorized under the permit renewal.
- (c) Upon finding reasonable justification for issuing a building permit renewal, the building official shall issue the permit. The building official may issue additional permit renewals to the applicant if:
- (1) The applicant applies for each permit renewal within 15 days following the date of expiration of the preceding permit renewal;
 - (2) The applicant files a permit renewal application and pays a permit renewal fee; and
 - (3) The building official, upon completing the evaluation required under this section, finds reasonable justification for issuing a permit renewal.
- (d) Upon finding no reasonable justification for issuing a building permit renewal, the building official shall deny such permit renewal.

(Code 1987, ch. 11, subch. G, art. XV, § 8; Code 1995, § 14.02.858; Ord. No. 2017-01-18, 1-18-2017)

Sec. 101-100. City council action on building permit renewals.

- (a) Upon request of an applicant, the city council shall consider and act upon an application for a building permit renewal when:
- (1) A building permit has been revoked pursuant to section 101-101;
 - (2) The building official, pursuant to section 101-99, disapproves an application for a building permit renewal; or
 - (3) An applicant has failed to apply for a building permit renewal within 15 days of the expiration date of a building permit or a building permit renewal.
- (b) Any person who received a new building permit or a permit renewal pursuant to the provisions of this section shall pay such fee as shall be established by the city council from time to time.

(Code 1987, ch. 11, subch. G, art. XV, § 9; Code 1995, § 14.02.859; Ord. No. 2009-05-07B, § 10, 5-7-2009)

Sec. 101-101. Revocation of building permits.

- (a) Whenever work is being performed in violation of the requirements of the city's building code or site plan filed with the city, the building official shall give written notice to the person performing or causing work to be performed, directing such person to show cause why the building permit authorizing the work should not be revoked.
- (b) Any person served with notice may, within five days after service, show cause to the building official why the building permit should not be revoked. If the person fails to show good cause, the building official shall revoke the building permit and give written notice of the revocation to the person.
- (c) A building permit revocation order shall be posted upon the building or structure where work is being performed.

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- (d) The show-cause procedure provided under this section may be waived by the building official when the building official finds that the work being performed in violation of the city's building code could cause imminent peril to life or property.

(Code 1995, § 14.02.869; Ord. No. 2017-01-18, 1-18-2017)

Secs. 101-102—101-130. Reserved.

DIVISION 3. CERTIFICATE OF OCCUPANCY

Sec. 101-131. Certificate of occupancy required.

- (a) It is unlawful to use, occupy, or permit the use or occupancy of any land, building or structure, or part thereof, constructed, altered or moved, until a certificate of occupancy has been issued by the building official stating that the premises and the proposed use of the premises comply with the requirements of this division. The building official shall provide a duplicate original of the signed certificate of occupancy to the property owner.
- (b) No nonconforming building, structure or use shall be maintained, renewed, changed or extended, nor shall a permanent water, electrical or gas utility connection be made to any land, building or structure, until a certificate of occupancy has been issued by the building official.

(Code 1987, ch. 11, subch. G, art. XV, § 10; Code 1995, § 14.02.860)

Sec. 101-132. Application for certificate of occupancy.

An application for a certificate of occupancy shall be made on a form prescribed by the building official and filed together with the application for a building permit.

(Code 1987, ch. 11, subch. G, art. XV, § 11; Code 1995, § 14.02.861)

Sec. 101-133. Certificate of occupancy approval/disapproval.

- (a) The building official shall issue a certificate of occupancy within ten days after the later to occur of the date the building official has determined that the land, building or structure conforms to the requirements of this division or the date the building official has been notified in writing and determined that all construction materials and construction equipment have been removed from the premises, and the land, building or structure is ready for occupancy.
- (b) If the building official finds that the land, building or structure does not conform to the requirements of this division, the building official shall notify the applicant in writing of the specific reasons for such disapproval.
- (c) If the building official finds that the land, building or structure does not conform to the requirements of this division, he shall disapprove the application and notify the applicant, in writing, of the specific reasons for such disapproval.

(Code 1987, ch. 11, subch. G, art. XV, § 12; Code 1995, § 14.02.862)

Sec. 101-134. Temporary certificates of occupancy.

The building official may issue a temporary certificate of occupancy, pending completion of the construction or alteration of any building or structure. A temporary certificate of occupancy is valid for not more than 180 days following its issuance, and may not be renewed. A temporary certificate of occupancy shall not be construed to alter the duty or obligation of any person with respect to the use or occupancy of land, buildings or structures covered under this division.

(Code 1987, ch. 11, subch. G, art. XV, § 13; Code 1995, § 14.02.863)

Sec. 101-135. Occupancy permit records.

The building official shall maintain a record of all occupancy permits, both approved and disapproved. Copies of certificates of occupancy in the custody of the building official shall be furnished upon request to any person having a proprietary or tenancy interest in the particular land, building or structure. No fee shall be charged for an original certificate; a fee shall be charged for each copy of an original certificate as established in the fee schedule on file with the city.

(Code 1987, ch. 11, subch. G, art. XV, § 14; Code 1995, § 14.02.864)

Secs. 101-136—101-153. Reserved.

ARTICLE IV. UNSAFE BUILDINGS

Sec. 101-154. 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:

Responsible party means the owner, occupant or person in custody of the building or structure.

Unsafe building means any building or structure in or about which any or all of the following conditions exist:

- (1) Walls or other vertical structural members list, lean, or buckle;
- (2) Damage or deterioration exists to the extent that the building is unsafe;
- (3) Loads on floors or roofs are improperly distributed or the floors or roofs are of insufficient strength to be reasonably safe for the purposes used;
- (4) Damage by fire, wind, or other cause has rendered the building or structure dangerous to life, safety, morals, or the general health and welfare of the occupants or the people of the city;
- (5) The building or structure is so dilapidated, substandard, decayed, unsafe, unsanitary, or otherwise lacking in the amenities essential to decent living that the same is unfit for human habitation or is likely to cause sickness, disease or injury or otherwise to constitute a detriment to the health, morals, safety, or general welfare of those persons assembled, working, or living therein or is a hazard to the public health, safety and welfare;
- (6) Light, air, and sanitation facilities are inadequate to protect the health, morals, safety, or general welfare of persons who assemble, work, or live therein;
- (7) Stairways, fire escapes, and other facilities of egress in case of fire or panic are inadequate; or

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- (8) Parts or appendages of the building or structure are so attached that they are likely to fall and injure persons or property.

(Code 1987, ch. 5, subch. H, § 1; Code 1995, § 3.03.001)

Sec. 101-155. Unsafe building prohibited; declared nuisance.

- (a) It is unlawful for any person to maintain or permit the existence of any unsafe building in the city, and it is unlawful for any person to permit same to remain in such condition. All unsafe buildings are hereby declared to be public nuisances and shall be abated by repair, rehabilitation, demolition, or removal in accordance with the procedures provided in this article.
- (b) A building is unsafe if a condition renders the building or structure unsafe, unsanitary, or otherwise detrimental to the health, safety, morals, or welfare of the people of the city.

(Code 1987, ch. 5, subch. H, § 2; Code 1995, § 3.03.002)

Sec. 101-156. Applicability to preexisting structures.

A responsible party may continue to use and occupy any building located within the city, regardless of the date the building was constructed, if such building meets the applicable minimum standards for buildings prescribed in this Code and is not in violation of this article.

(Code 1987, ch. 5, subch. H, § 1; Code 1995, § 3.03.001)

Sec. 101-157. Inspections.

The building official shall inspect, or cause to be inspected, every building, or portion thereof, reported to be unsafe. If such building, or any portion thereof, is determined to be unsafe, the building official shall give the responsible party notice in accordance with the requirements set forth in sections 101-158 and 101-159.

(Code 1987, ch. 5, subch. H, § 3; Code 1995, § 3.03.003)

Sec. 101-158. Notice requirements.

Whenever the building official determines that a building is unsafe, he shall give notice of such determination to the responsible party. Such notice shall:

- (1) Be in writing;
- (2) Identify the specific conditions upon which such determination was based;
- (3) Specify the corrective measures required;
- (4) Provide a reasonable time for compliance;
- (5) Advise the responsible party that there will be conducted a public hearing before the city council to determine whether a building complies with the standards set out in section 101-155(a) and (b). Said notice shall inform the responsible party of the date, time and place of the hearing; and
- (6) Be served upon the responsible party as set out in this article.

(Code 1987, ch. 5, subch. H, § 4; Code 1995, § 3.03.004)

Sec. 101-159. Sufficiency of notice.

Notice given pursuant to this article shall be deemed properly served upon the responsible party if a copy thereof is served:

- (1) By personal delivery, by certified mail with return receipt requested, or by delivery by the U.S. Postal Service using signature confirmation service, to the record owners of the affected property, and each holder, etc.; and
- (2) To all unknown owners, by posting a copy of the notice on the front door of each improvement situated on the affected property or as close to the front door as practicable

(Code 1995, § 3.03.005)

Sec. 101-160. Public hearing.

- (a) The purpose of the public hearing is to determine whether or not the building is unsafe in accordance with the standards set forth in section 101-155(a) and (b).
- (b) The matter shall be set for hearing before the city council at the earliest practicable date and notice of the hearing shall be served on the responsible party and the building official not less than ten days prior to date of the hearing. All interested persons shall have the opportunity to be heard and may introduce evidence to the city council for its members' consideration.
- (c) After the public hearing, the city council shall make such findings and orders as it shall deem appropriate.
- (d) After the public hearing, if a building is found in violation of standards set out in section 101-155(a) and (b), the city council may order that the building be vacated, secured, repaired, removed, or demolished by the owner within a reasonable time. The city council also may order that the occupants be relocated within a reasonable time. If the responsible party does not take the ordered action within the allotted time, the city council shall make a diligent effort to discover each mortgagee and lienholder having an interest in the building or in the property on which the building is located. The city secretary shall send to each identified mortgagee and lienholder a notice containing:
 - (1) An identification and address of the building and the property on which it is located;
 - (2) A description of the violation of this Code that is present at the building; and
 - (3) A statement that the municipality will vacate, secure, remove, or demolish the building or relocate the occupants of the building if the ordered action is not taken within a reasonable time.
- (e) As an alternative to the procedure prescribed by subsection (d) of this section, the city council shall make a diligent effort to discover each mortgagee and lienholder before conducting the public hearing and shall give them a notice of and an opportunity to comment at the hearing. If the city proceeds under this subsection, the order issued by the city council shall specify a reasonable time for the building to be vacated, secured, repaired, removed, or demolished by the responsible party or for the occupants to be relocated by the responsible party and an additional reasonable time for the ordered action to be taken by any of the mortgagees or lienholders in the event the responsible party fails to comply with the order within the time provided for action by the responsible party. Under this subsection, the city is not required to furnish any notice to a mortgagee or lienholder other than a copy of the order in the event the responsible party fails to timely take the ordered action.
- (f) If the building is not vacated, secured, repaired, removed, or demolished, or the occupants are not relocated, within the allotted time, the city may vacate, secure, remove, or demolish the building or relocate the occupants at its own expense.

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- (g) If the city incurs expenses under subsection (f) of this section, the city may assess the expenses on and the city has a lien against, unless it is a homestead as protected by the state constitution, the property on which the building was or is located. The lien is extinguished if the property owner or another person having an interest in the legal title to the property reimburses the city for the expenses. The lien arises and attaches to the property at the time the notice of the lien is recorded and indexed in the office of the county clerk. The notice must contain the name and address of the owner if that information can be determined with a reasonable effort, a legal description of the real property on which the building was located, the amount of expenses incurred by the city, and the balance due.
 - (h) If the notice is given and the opportunity to repair, remove, or demolish the building is afforded to each mortgagee and lienholder as authorized by subsections (d) or (e) of this section, the lien is a privileged lien subordinate only to tax liens and all previously recorded bona fide mortgage liens attached to the real property to which the city's lien attaches.

(Code 1987, ch. 5, subch. H, § 6; Code 1995, § 3.03.006)

Sec. 101-161. Assessment of expenses and penalties.

- (a) If the city council has held a hearing pursuant to section 101-160(b) and the time allotted for the repair, removal or demolition of a building under section 101-160(d) or 101-160(e) has expired, then the city council may, in addition to the authority granted under V.T.C.A., Local Government Code § 214.001, and section 101-160:
 - (1) Order the repair of the building at the city's expense and assess the expenses on the land on which the building stands or to which it is attached; or
 - (2) Assess a civil penalty against the responsible party for failure to repair, remove, or demolish the building.

The city's building official shall invite at least two or more building contractors to make estimates pertaining to the needed repair, removal or demolition of a building. The building official shall cause to be made an assessment of expenses or civil penalty based on such estimates. The building official shall endeavor to minimize the expenses of any building repairs, removal or demolition ordered pursuant to this article.

- (b) The city may repair a building under subsection (a) of this section only to the extent necessary to bring the building into compliance with the minimum standards of the city and only if the building is a residential building with ten or fewer dwelling units. The repairs may not improve the building to the extent that the building exceeds minimum standards prescribed by the city.
- (c) The city shall impose a lien against the land on which the building stands or stood, unless it is a homestead as protected by the state constitution, to secure the payment of the repair, removal, or demolition expenses or the civil penalty. Promptly after the imposition of the lien, the city shall file for record, in recordable form in the office of the county clerk, a written notice of the imposition of the lien. The notice shall contain a legal description of the land.
- (d) Except as provided by section 101-160, the city's lien to secure the payment of a civil penalty or the costs of repairs, removal, or demolition is inferior to any previously recorded bona fide mortgage lien attached to the real property to which the city's lien attaches if the mortgage lien was filed for record in the office of the county clerk before the date the civil penalty is assessed or the repair, removal, or demolition is begun by the city. The city's lien is superior to all other previously recorded judgment liens.
- (e) Any civil penalty or other assessment imposed under this section accrues interest at the rate of ten percent per year from the date of the assessment until paid in full.

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- (f) In any judicial proceeding regarding enforcement of municipalities under this section, the prevailing party is entitled to recover reasonable attorney's fees from the nonprevailing party.
- (g) A lien acquired under this section by the city for repair expenses may not be foreclosed if the property on which the repairs were made is occupied as a residential homestead by a person 65 years of age or older.
- (Code 1987, ch. 5, subch. H, § 7; Code 1995, § 3.03.007)

Sec. 101-162. Posting of warnings.

- (a) In the event the city council makes a determination after the public hearing that the building is deemed to be an unsafe building, the building official shall cause to be posted at each entrance to such building a notice to read:
- DANGEROUS, DO NOT ENTER, UNSAFE TO OCCUPY, Building Official of the City of Rollingwood.
- (b) Such notice shall remain posted until required repairs, demolition, or removal is completed and such premises have been rendered safe. Such notice shall not be removed without written permission of the building official, and no person shall enter the building except for making inspections or required repairs or to demolish such building.
- (Code 1987, ch. 5, subch. H, § 8; Code 1995, § 3.03.008)

Secs. 101-163—101-192. Reserved.

ARTICLE V. ANTENNAS

DIVISION 1. GENERALLY

Sec. 101-193. 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:

Antenna means the arrangement of wires or metal rods used for sending or receiving electromagnetic waves.

Antenna height means the overall vertical length of an antenna support structure abovegrade, or, if such system is located on a building, then the overall vertical length includes the height of the building upon which the structure is mounted.

Antenna support structure means any structure, mast, pole, tripod, or tower utilized for the purpose of supporting an antenna or antennas for the purpose of transmission or reception of electromagnetic waves by federally licensed amateur radio or citizens band radio operators.

Grade means the native natural ground surface of the land upon which is placed the base or foundation of the antenna support structure.

(Code 1987, ch. 5, subch. J, § 1; Code 1995, § 3.07.001)

Sec. 101-194. Commercial radio and television antennas; television dish antennas.

- (a) Nothing herein shall authorize the erection of television or commercial radio antennas in violation of the terms of existing Code provisions.
- (b) Television dish antennas are permitted within the city, provided that:
 - (1) The foundations for such antennas are affixed to the ground;
 - (2) Such antennas do not exceed 12 feet in diameter; and
 - (3) Such antennas are located within setback lines, are painted earth tone colors to blend in with existing natural landscapes, and are not visible from any public street.

(Code 1987, ch. 5, subch. J, § 9; Code 1995, § 3.07.002)

Secs. 101-195—101-211. Reserved.

DIVISION 2. AMATEUR RADIO ANTENNAS

Sec. 101-212. Permit required; exceptions.

- (a) It is unlawful for any person to install, construct or increase the height of any antenna support structure without first obtaining a building permit, except that no permit shall be required:
 - (1) For any antenna support structure which is less than 12 feet in height (excluding the height of any building to which the antenna support structure is attached); or
 - (2) For any installation which is erected on the ground and is less than 30 feet in height.
- (b) Antenna permits provided for herein shall be issued only for the purpose of allowing the erection of radio antennas to facilitate the activities of amateur radio communications conducted in accordance with the Federal Communications Commission's rules and regulations.

(Code 1987, ch. 5, subch. J, § 2; Code 1995, § 3.07.041)

Sec. 101-213. Application for permit.

An application for a building permit required in section 101-212 shall be made upon a form prescribed by the building official and shall have attached thereto the following items:

- (1) A location plan for the antenna support structure;
- (2) Manufacturer's specifications for the antenna support structure and details of footings, guys and braces. In cases where the manufacturer's specifications and drawings are unavailable, detailed sketches may be substituted to show pertinent structural details;
- (3) A copy of the applicant's homeowner's liability or renter's insurance policy showing a minimum of \$200,000.00 general liability insurance coverage;
- (4) A permit fee as specified in the fee schedule on file with the city; and
- (5) A copy of the applicant's amateur radio operator's license issued by the federal communications commission.

(Code 1987, ch. 5, subch. J, § 3; Code 1995, § 3.07.042)

Sec. 101-214. Height limitation.

No antenna support structure shall be installed, constructed, or increased to exceed 70 feet abovegrade. In no event shall the antenna support structure together with the length of the antenna exceed the height of 80 feet above grade.

(Code 1987, ch. 5, subch. J, § 4; Code 1995, § 3.07.043)

Sec. 101-215. Location on property.

The base of the antenna support structure shall be in compliance with all setback requirements of chapter 107 and shall not be closer than one foot to an easement. Beam (array) type of antennas shall not extend closer than five feet to an official right-of-way line or closer than one foot to an easement. In no case shall any part of an antenna structure, antenna component or element protrude over adjoining property without written permission of the adjoining property owner. No antenna shall protrude over the public right-of-way (mobile and handheld antennas excluded). The base of ground-mounted antenna structures shall not be located in the front yard, and on corner lots such antenna structures shall not be on the side yard of the applicant's lot.

(Code 1987, ch. 5, subch. J, § 5; Code 1995, § 3.07.044)

Sec. 101-216. Construction requirements.

- (a) *Materials generally; mounting.* Antenna support structures shall be constructed of the following materials: aluminum, galvanized steel, or equally weather-resistant steel. All ground-mounted antenna support structures exceeding 35 feet in height shall be mounted or securely affixed to a concrete base, and erected in such a manner so as to be able to withstand a wind velocity of 80 miles per hour (impact pressure of 25 pounds per square foot).
- (b) *Steel and tubing.* The thickness of steel used in nontubular antenna support structures shall be not less than one-eighth inch when galvanized. If not galvanized, steel shall be not less than one-fourth inch in thickness when used structurally. Where antenna support structures are constructed of tubing, the minimum wall thickness of the tubing shall be not less than one-sixteenth inch, and such tubing, if steel, shall be galvanized on the exterior.

(Code 1987, ch. 5, subch. J, § 6; Code 1995, § 3.07.045)

Sec. 101-217. Electrical regulations; grounding; clearance from electrical wires.

- (a) All antenna installations shall conform to the requirements of the National Electrical Code and FCC regulations governing amateur radio services. The installation shall maintain a minimum of eight feet clearance from:
 - (1) Power lines over 250 volts; and
 - (2) All high voltage primary lines, including the beam elements or any part thereof.
- (b) All antenna support structures, whether ground or roof mounted, shall be grounded in accordance with the provisions of the National Electrical Code. Ground-mounted towers shall consist of a minimum of one ground rod at least five-eighths inch in diameter and eight feet in length. Where specific conditions do not support the installation of a single rod of this length, multiple shorter rods may be located about the periphery of the

base. The grounding system will be joined to the support structure with a ground conductor which shall be a minimum of #10 gauge copper or equivalent. In no case shall the ground conductor or rod be poured in a structural concrete base.

(Code 1987, ch. 5, subch. J, § 7; Code 1995, § 3.07.046)

Sec. 101-218. Applicability to existing structures.

This division shall not affect any existing antenna support structure, utilized by federally licensed amateur radio operators, which has been constructed and which is in place prior to the date of the passage of this division; provided, however, that such antenna support structures must comply with the grounding requirements of section 101-217(b); and further provided that owners of existing antenna support structures submit to the building department, within 90 days of the date of this division, the documentation required by section 101-213, less the required fee.

(Code 1987, ch. 5, subch. J, § 8; Code 1995, § 3.07.047)

Secs. 101-219—101-244. Reserved.

ARTICLE VI. MANNER OF CONDUCTING CONSTRUCTION RESTRICTED

Sec. 101-245. Copy of plans and specifications to be kept at job site.

A set of plans and specifications, stamped or otherwise marked as approved by the building official, shall be kept on the job site at all times. No change or alteration shall be made in any plans or specifications without approval of the building official or his designee. The building official's approval of any plans or specifications shall not be held to permit or approve a violation of any city ordinance or state law.

(Code 1987, ch. 11, subch. A, § 10; Code 1995, § 3.02.010)

Sec. 101-246. Job trailer use on construction site.

During construction or remodeling of a building in the city, a job trailer may be located on the lot. A valid building permit must be in force before the job trailer is delivered. The job trailer may be removed at any time but must be removed within ten days of the expiration of the building permit. A job trailer may not exceed ten feet in height nor 120 square feet in area.

(Code 1995, § 14.02.129)

Sec. 101-247. Conduct of construction restricted.

- (a) *Declaration of nuisances.* Except as permitted or excepted from regulation pursuant to this section, construction and demolition activities, and the use and maintenance of portable toilets and receptacles described in this section are hereby declared to be a nuisance.
- (b) *Prohibited days and hours/signage.* Except as provided in subsection (f) of this section, construction or demolition activities shall not be permitted on weekends or city holidays, or between the hours of 7:00 p.m. and the following 7:00 a.m. on weekdays. Except in connection with activity excepted by subsection (f) of this section, the building permit holder shall post on the affected site a sign prescribed by the building official or

other designee of the city council site providing notice of the restrictions provided in this subsection. At the permit holder's election, the building official may provide the prescribed sign to be posted and may charge a reasonable fee therefor, based on the cost of production to the city, to be added to the building permit fee.

- (c) *Prohibited receptacles.* The location or maintenance of the following receptacles on any part of a property that is visible from a public street or another property is prohibited unless expressly allowed pursuant to subsection (e) of this section:
- (1) Any movable receptacle (other than a permitted storage shed or other outbuilding) commonly used or actually used for storage of materials or personal property, such as receptacles used for moving and temporarily storing furnishings and personal property in connection with a move of residency or temporary vacation of a residence during a renovation project; and
 - (2) Any movable receptacle commonly or actually used for disposal or storage of construction waste, such as roll-off containers and dumpsters.
- (d) *Prohibited portable toilets.* The location or maintenance of a portable toilet on any property is prohibited unless expressly allowed pursuant to subsection (e) of this section.
- (e) *Exceptions applicable to prohibited receptacles and portable toilets.* A receptacle or portable toilet is permitted:
- (1) During the pendency of a building permit affecting the property but not longer than a period of ten days after active and progressing construction work pursuant to such building permit for such property ceases. Construction work shall be deemed not to be active and progressing if such work ceases or no substantial progress is made for more than four consecutive weeks; and
 - (2) During the pendency, not to exceed 90 days, of construction, renovation or landscaping activity for which no building permit is required pursuant to the terms of this Code, if the owner of the affected property first submits a registration to the city secretary on a form promulgated by the building official indicating the nature of the work and the number of receptacles or portable toilets to be used and the commencement date for their use.
- (f) *Exceptions to prohibited days and hours of construction and demolition.*
- (1) *Minor construction.* Minor construction and demolition activities include maintenance and repair work normally associated with home or business ownership and occupancy, landscaping, mowing, fencing, or painting, provided that no such activity creates a nuisance condition related to noise, traffic, odor, dust, or other conditions and is not in violation of any other city ordinance.
 - (2) *Interior construction activities.* Between the hours of 10:00 a.m. and 4:00 p.m. on Saturdays, interior construction activities are permitted provided the activities:
 - a. Take place wholly within a dried-in structure (i.e., for which exterior veneer and roof are substantially complete);
 - b. Do not require large equipment such as cement trucks, dozers, cranes or dump trucks;
 - c. Do not create a nuisance condition related to noise, traffic, odor, dust, or other conditions and are not in violation of any other city ordinance.
 - (3) *Emergency work or work on public utilities.* Emergency work or work on public service utilities or work in the interest of public safety, as may be approved by the city administrator or his designee, is permitted.
- (g) *Variance.* The city council is authorized, upon written application, to grant a variance from the requirements of this section as will not be contrary to the public interest, where, due to special conditions or circumstances, literal enforcement of the requirements of this section will result in unnecessary hardship, or

a variance therefrom will result a diminished inconvenience to the public and occupants of surrounding properties, and so that the spirit of this section shall be observed and substantial justice done. The city council must be satisfied that the grant of the variance will not merely serve as a convenience to the applicant but will serve to alleviate some demonstrable and unusual hardship or difficulty or will result in a tangible diminishment of inconvenience to the public and occupants of surrounding properties.

- (h) *Enforcement.* If the building official or the police department determines that there is a violation of this section, such building official or police officer may issue a ticket or citation.
- (i) *Penal.* A violation of this section shall constitute a class C misdemeanor that, upon conviction, may result in a fine not exceeding \$500.00 per violation. Each day that such violation continues shall constitute a separate offense.

(Code 1995, § 3.01.001; Ord. No. 2013-03-20, 3-20-2013; Ord. No. 2014-05-21(C), 5-21-2014; Ord. No. 2016-05-18(A), § 2, 5-18-2016; Ord. No. 2019-12-18-29 , § 1, 12-18-2019)

Sec. 101-248. Nonconformity arising from dedication of right-of-way for Bee Cave Road.

- (a) *Continuation of existing use, structure, or lot.* A lawful use, building, structure, or lot existing prior to a dedication of right-of-way that is rendered nonconforming due to a voluntary dedication of right-of-way for Bee Cave Road may be continued after the dedication as if the dedication had not occurred.
- (b) *Completion of approved development.* A proposed use, building, structure, or lot for which a preliminary plat, building permit, site plan, certificate of occupancy or other similar application for development approval was approved prior to a voluntary dedication of right-of-way for Bee Cave Road may be completed in accordance with the approved plan or application as if the dedication had not occurred.
- (c) *Calculation of impervious cover.* If a property owner voluntarily dedicates right-of-way for Bee Cave Road, the property owner will be entitled to calculate impervious cover based upon the property owned prior to the dedication, as if the dedication had not occurred.
- (d) *Adjustment of setbacks, parking requirements, etc.* If a property owner voluntarily dedicates right-of-way for Bee Cave Road, the property owner will be entitled to reduced setbacks and reduced parking requirements and other adjustments approved by the city council in order, to the extent possible, to place the property owner in the same position as if the dedication had not occurred. These reduced setbacks, parking requirements and other adjustments may be approved by the city council upon a finding that they are necessary in order to place the property owner in the same position as if the dedication had not occurred.
- (e) *Repair or reconstruction.* If a building or structure rendered nonconforming due to voluntary dedication of right-of-way for Bee Cave Road is destroyed by fire or other means, the owner may repair or reconstruct the building or structure regardless of the extent of the damage, but may not increase the degree of nonconformity beyond that existing immediately prior to the destruction. The owner must obtain a building permit before initiating repair or reconstruction.
- (f) *Conflicting regulations.* In the event of a conflict between this section and any other provision of chapters 105, 107 or this chapter, this section will control to the extent of the conflict.
- (g) *Applicability.* This section will only apply to right-of-way necessary for the widening of Bee Cave Road (RM 2244) and which is accepted by the city and the state department of transportation.

(Code 1987, ch. 11, subch. I, §§ 1—7; Code 1995, § 3.01.002)

Sec. 101-249. Designated routes for construction vehicles.

- (a) At the time of issuance of a building permit, the building official or other designee authorized by the city council shall prescribe in writing the routes on streets or parts of streets in the city to be used by all regulated vehicles in connection with the improvement of property authorized by such building permit, which written prescription shall constitute a term of the building permit. The building official or authorized designee shall determine the streets to be used based on the condition of affected streets, the minimization of traffic congestion, other anticipated or regular uses of city streets, and the efficiency and convenience of travel to and from the worksite.
- (b) As used in this section, the term "regulated vehicles" means:
 - (1) Commercial motor vehicles, semitrailers, and trailers as those terms are defined in V.T.C.A., Transportation Code § 621.001;
 - (2) Ready-mixed concrete trucks as defined in V.T.C.A., Transportation Code § 622.011; and
 - (3) Any heavy construction vehicles (including, but not limited to, tractors, dump trucks, graders, bulldozers, and container trucks for removal of fill or rock), and vehicles used to transport heavy equipment, such as drilling and other vehicular equipment. The term "regulated vehicles" shall not include passenger cars or pickup trucks.
- (c) At or before the time of issuance of a building permit, the applicant shall submit a written designation of responsible person for overseeing compliance with routes of travel designated pursuant to this section (the "designated responsible person"). Such designation shall be signed by the designated responsible person (which person may be an agent of the applicant's contractor, architect or other person overseeing the construction work). The designated responsible person shall be responsible to ensure compliance with the designated routes by all regulated vehicles performing work or providing materials or equipment in connection with the improvement of property pursuant to the building permit.
- (d) A designated responsible person commits an offense if any regulated vehicle performing services or delivering materials or equipment in connection with the building permit travels to or from the site on a street in the city that is not part of a route authorized by the building official or authorized designee. The building official or any peace officer of the city may issue a ticket or citation to the permit holder for a violation of this section.
- (e) A violation of this section shall constitute a class C misdemeanor that, upon conviction, may result in a fine not exceeding \$500.00 per violation. Each day that such violation continues shall constitute a separate offense.
- (f) Signage alerting the public to the restriction on regulated vehicles may be installed in such locations determined by the police chief and director of public works in consultation with the mayor.

(Code 1995, § 3.01.003; Ord. No. 2017-04-19(A), 4-19-2017)

Sec. 101-250. Storage of dirt, gravel and other pervious materials.

The holder of a building permit, or the owner of a property for projects where permit is not required, shall enclose with a silt fence or securely cover with a water-resistant tarp or other material any dirt, fill, gravel or other pervious material stored on the site for a period in excess of eight hours. All landscaping by which soil disruption may, in the building official's discretion, result in unreasonable silt discharge off the subject property is required to be enclosed by silt fencing or similar protection for the project duration and until sod, turf, or other site stabilizing material has been installed.

(Code 1995, § 3.01.004; Ord. No. 2016-05-18(A), 5-18-2016; Ord. No. 2018-08-15 , § 2, 8-15-2018; Ord. No. 2021-10-20-05 , § 2, 10-20-2021)

Sec. 101-251. Designation of responsible person for compliance.

- (a) When an applicant for a building permit is a corporation, partnership, limited liability company, or other entity, the applicant shall include in its application for a building permit a written designation of the responsible person for overseeing compliance with applicable regulations and terms and conditions of the building permit throughout the construction of the improvements authorized by the building permit. Such designation shall be signed by the designated responsible person (which person may be an agent of the applicant's contractor, architect or other person overseeing the construction work). The designated responsible person shall be responsible to ensure compliance with applicable regulations in connection with the improvement of property pursuant to the building permit.
- (b) A holder of a building permit may, subject to approval by the building official, substitute another person for the designated responsible person. In reviewing a proposed substitution, the building official shall consider whether the proposed substituted person is an owner of the affected property or a person directly and materially involved in overseeing the completion of the improvements pursuant to the building permit. A designation of a substituted responsible person shall be signed by the substituted responsible person and by an authorized agent of the permit holder.
- (c) A designated responsible person commits an offense if, in connection with the construction of improvements pursuant to the building permit, a violation of a regulation provided in chapters 101 and 107. Such offense shall be punishable by fine as provided in this Code for the applicable violation. Each day that such a violation continues shall constitute a separate offense. Nothing in this subsection (c) of this section shall be construed to relieve any other person, including a building permit holder, of responsibility or culpability for an offense occurring in connection with the construction of improvements pursuant to a building permit.

(Ord. No. 2018-08-15 , § 1, 8-15-2018; Ord. No. 2018-09-19(B) , § 1, 9-19-2018)

Sec. 101-252. Storage of job site materials and equipment.

Building materials and equipment may only be stored on the property and within view of the public or an adjoining property as long as the building permit has not expired and construction work is active and progressing. If active construction work ceases or no substantial progress is made for more than four consecutive weeks, all building materials and equipment stored on the property must be removed from the property within ten days after the end of such four-week period. The penalty for violating this subsection may not exceed \$100.00 per day that the materials or equipment remain on the property.

(Code 1987, ch. 11, subch. G, art. XV, § 2; Code 1995, § 14.02.852(d); Ord. No. 2017-01-18, 1-18-2017)

Sec. 101-253. Construction sites to be kept clean.

- (a) All construction sites must be kept clean. Trash and debris associated with any construction may not be allowed to migrate to other lots, properties, or rights-of-way. Each construction site or lot must have a solid-sided trash container of sufficient size to contain the trash and debris generated on the site. The trash container must be located on the site, unless otherwise allowed in writing by the city. The trash in the container must be removed and properly disposed of without allowing the container to be overfilled. All trash or debris that drifts or spills onto the site, other lots, properties or rights-of-way must be picked up and securely placed in the trash container or otherwise properly disposed of on a daily basis.

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- (b) All building materials, equipment and fill must be stored and accessed from staging areas that are clearly marked on the site plan. These areas shall be designated in places on the lot that are outside the canopy and drip zone of existing trees that are six inches in diameter and greater. If compliance with this requirement is not possible due to the location or size of trees on the property or the size or configuration of the property, the building official will designate the staging areas on the property.
 - (c) At least 24 hours prior to commencement of any properly permitted demolition and new construction or construction in which the footprint of an existing building or structure on a property or the roof plan of an existing building or structure on a property will increase, the permit holder shall post a notice of permit, in a form prescribed by the city, in a location five feet behind the curb on the subject property. Such notice of permit shall remain in place until completion of the permitted demolition or construction. Such notice of permit shall be provided, as a courtesy only, in an effort to promote good will and an understanding of activity in the neighborhood.

(Code 1987, ch. 11, subch. G, art. XV, § 2; Code 1995, § 14.02.852(e)—(g); Ord. No. 2017-01-18, 1-18-2017)

Sec. 101-254. Citations to be reported to contractor; effect of multiple violations.

Citations issued to professional contractors or subcontractors for violations of this provision will be reported to the general contractor responsible for the worksite. If a general contractor receives more than three citations on different calendar days, or two on the same day, for violations of this provision in any 90-day period, the city council may direct the building official to refrain from issuing any additional building permits to such general contractor or to the person for whom the contractor is working for a period of up to 180 days.

(Code 1987, ch. 11, subch. G, art. XV, § 2; Code 1995, § 14.02.852(j); Ord. No. 2017-01-18, 1-18-2017)