

DRAFT

1 **Rollingwood Commercial Corridor Project –Draft**

2
3 **Exhibit A**

4
5 All text which is underlined denotes addition of new text. All text which is ~~stricken through~~
6 denotes removal of existing text. All other text is existing, unchanged text. Any existing text
7 which has been omitted shall be considered unchanged. All text which is both between braces { }
8 and *italicized*, is for document organization and reference only and is not intended to be adopted.
9 The Code of Ordinances of City of Rollingwood, Texas, Part I, Chapter 24 and Part II, Chapters
10 101,103 and 107 are hereby amended as follows:

11
12 *{Revisions to Chapter 24. Signs and Advertising, Article II. Sign Regulations}*

13 **CHAPTER 24 – SIGNS AND ADVERTISING**

14 **ARTICLE II. – SIGN REGULATIONS**

15 **DIVISION I. GENERALLY**

16 **Sec. 24-19. Definitions.**

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

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

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

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

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

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

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

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

DRAFT

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.

DRAFT

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 sign 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.

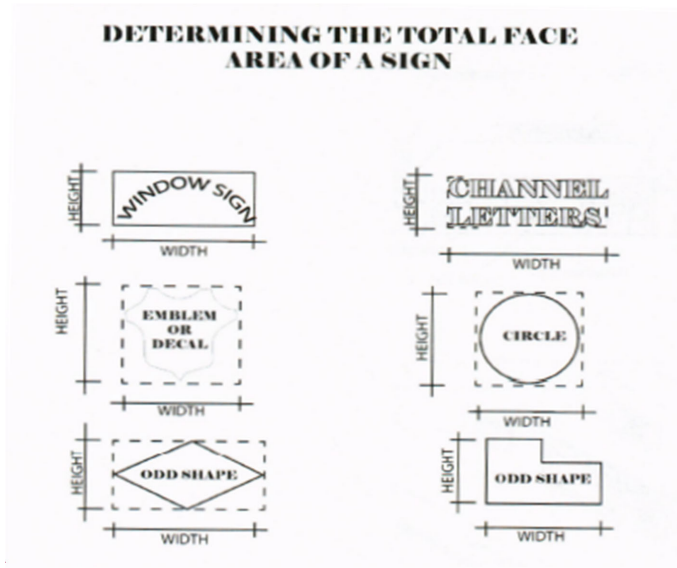
106 *Sign* means the display of any letters, numerals, symbols, images, messages, or anything
107 else that is intended to advertise or promote any establishment, place, goods, services, activities,
108 or events, or provide information to persons viewing the display.

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.

DRAFT

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 in the Commercial Lighting and Signage Manual below for examples of
124 calculating sign area.:



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

127 *UL* means underwriters' laboratory.

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

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

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

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

DRAFT

138 **Sec. 24-20. Administration.**

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

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

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

159 **Sec. 24-22. Appeals.**

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

DRAFT

176 **Sec. 24-23. General requirements.**

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

197 **Sec. 24-24. Prohibited signs.**

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

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

DRAFT

213 (13) Changeable electronic variable message signs.

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

- 215 (a) All signs must be properly maintained in good repair and appearance. The sign and all
216 braces, bolts, supports, frame and fastenings must be free from deterioration, termite
217 infestation, rot, or loosening. The building official is authorized and directed to order the
218 painting, repair, or removal of a sign, or make other improvements as necessary to alleviate
219 a hazard to public health, safety or welfare.
- 220 (b) The provisions of this article will not be construed as relieving or limiting in any way the
221 responsibility or liability of any person erecting or owning any sign from personal injury or
222 property damage resulting from the placing of the sign, or resulting from the negligence or
223 willful acts of such person, or such person's agents, employees or workers, in the design,
224 construction, maintenance, repair or removal of any sign erected in accordance with a
225 permit issued under the provisions of this article. Nor should this article be construed as
226 imposing upon the city or its officers, employees or representatives any responsibility or
227 liability by reason of the approval of any signs, materials, or devices, or taking any other
228 action under the provisions of this article.

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

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

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

250 **Secs. 24-27—24-55. Reserved.**

DRAFT

DIVISION 2. PERMIT

251

252 **Sec. 24-56. Required; expiration.**

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

256 **Sec. 24-57. Application.**

257 (a) *Application requirements.*

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

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

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

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

277 **Sec. 24-58. Approval or denial.**

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

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

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

286 **Secs. 24-59—24-89. Reserved.**

DRAFT

287 DIVISION 3. STANDARDS FOR SPECIFIC TYPES OF SIGNS

288 Sec. 24-90. Monument signs.

289 (a) Monument sign table.

Sign Type	Commercial & Office Building	Office Building	Hospital, Church or Government Building	Residential
Monument sign	Yes	Yes	Yes	Not permitted

290
291 Table legend:

292 "Yes" indicates this sign type is allowable under the conditions outlined below.
293 "Not permitted" indicates this sign type is not allowed.

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

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

- 299 (1) If internally illuminated, the monument sign must:
 - 300 a. Be designed and constructed in accordance with applicable UL specifications and
 - 301 requirements and must exhibit the appropriate UL certification; ~~and:~~
 - 302 b. ~~Use either 30 milliamp neon glass tubing that is 15 millimeters in size and~~
 - 303 ~~Lighting must be white in color 6500 white in color or high output fluorescent~~
 - 304 ~~lamps.~~
- 305 (2) Monument sign materials must be noncorrosive, including, but not limited to, the
- 306 frame, bolts, shields, brackets, paint, vinyl, and aluminum.
- 307 (3) Monument sign faces must be either back-lit channel letters or routed aluminum panel
- 308 faces that are backed with either Plexiglas or up to a maximum one-half inch push-
- 309 through type Plexiglas.
- 310 (4) A monument sign containing a routed aluminum panel face may have an internally lit
- 311 or back-lit lighting application.
- 312 (5) Monument signs must display the building street address number, in four-inch metal
- 313 letters, on all visible sign faces.

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

- 315 (1) For properties with less than 100 lineal feet of right-of-way frontage, the surface area
- 316 of the monument sign may not exceed 24 total square feet.
- 317 (2) For properties with more than 100 lineal feet of right-of-way frontage, the surface area
- 318 of the monument sign may not exceed 48 total square feet.

DRAFT

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

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

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

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

329
330 Table legend:

- 331 "Yes" indicates this sign type is allowable under the conditions outlined below.
- 332 "Not permitted" indicates this sign type is not allowed.
- 333 (b) *Channel letters.* Channel letters must be designed and constructed in accordance with the
- 334 following standards:
- 335 (1) Channel letters:
 - 336 a. If illuminated, must have opaque side walls.
 - 337 b. If illuminated, must be designed and constructed in accordance with applicable
 - 338 UL specifications and requirements and must exhibit the appropriate UL
 - 339 certification.
 - 340 c. If illuminated, ~~lighting must be white in color must use 30 milliamp neon glass~~
 - 341 ~~tubing that is 15 millimeters in size and 6500 white in color.~~
 - 342 d. Must be constructed of aluminum faces that are at least 0.090 inches thick,
 - 343 aluminum returns that are at least 0.063 inches thick and have a depth of at least
 - 344 three inches.
 - 345 e. Must contain clear Lexan backs that are at least 0.019 inches thick.

DRAFT

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

DRAFT

- 382 (d) *Dimensional letters.* Dimensional letters may not be illuminated. Dimensional letters must
383 be designed and constructed in accordance with the following standards:
- 384 (1) Dimensional letters must:
- 385 a. Be constructed of noncorrosive metal, including, but not limited to, the bolts,
386 mounting brackets, and sign faces.
- 387 b. Be mounted using an individual mounting method that has at least a one-quarter
388 inch standoff.
- 389 c. Be painted with two-stage automotive acrylic paint.
- 390 d. Have ultraviolet light-resistant vinyl overlay faces that are designed to resist
391 fading for five years.
- 392 (2) Dimensional letters on a building-mounted sign must be at least one inch deep, but no
393 more than three inches deep.
- 394 (e) *General standards for signs on commercial buildings.* General guidelines and restrictions
395 for building-mounted signs on a commercial building are as follows:
- 396 (1) Channel letter type building-mounted signs may be internally illuminated.
- 397 (2) Dimensional letter type building-mounted signs may not be illuminated.
- 398 (3) Each establishment is limited to one building-mounted sign per building façade with a
399 public entrance and each building-mounted sign may contain only one logo. Buildings
400 with more than 10,000 square feet but less than 25,000 square feet in total gross floor
401 area may have up to two building-mounted signs on the front façade. Buildings with
402 more than 25,000 square feet in total gross floor area may have up to three building-
403 mounted signs on the front façade.
- 404 (4) The width of each building-mounted sign may not exceed 75 percent of the linear
405 width of the front facade of the premises structure. For multi-tenant buildings this shall
406 be calculated based on the width of the façade for the individual tenant space.
- 407 (5) For premises with less than 25,000 square feet in gross floor area, the total surface area
408 of the building-mounted sign, including any logo, may not exceed 60 square feet in
409 area.
- 410 (6) For premises with more than 25,000 square feet, the total surface area of the building-
411 mounted sign, including any logo, may not exceed 80 square feet.
- 412 (f) *General standards for signs on ~~office~~, hospital, church, or government building.* General
413 guidelines and restrictions for building-mounted signs on ~~an office building~~, hospital
414 building, church building or government building are as follows:
- 415 (1) Only dimensional letter type building-mounted signs are allowed.
- 416 (2) Each building-mounted sign may contain only one logo.
- 417 (3) Building-mounted signs may not be illuminated.
- 418 (4) Total surface area of each building-mounted sign, including any logo, may not exceed
419 60 square feet in area.

DRAFT

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

430 **Sec. 24-92. Secondary signs.**

431 (a) *Secondary sign table.*

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

432

433 Table legend:

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

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

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

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

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

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

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

DRAFT

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

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

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

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

464 (d) *Wayfinding signs.* Wayfinding signs must be designed and constructed in accordance with

465 the following standards:

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

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

473 (2) *Dimensions and maximum height.*

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

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

479 (a) *Temporary sign with prior approval table.*

<i>Temporary Sign Type Requiring Prior Approval</i>	<i>Commercial & 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

DRAFT

480

481 Table legend:

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

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

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

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

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

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

496 (a) *Temporary sign table.*

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

497

498 Table legend:

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

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

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

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

DRAFT

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

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

- 513 a. The directional real estate sign does not exceed three feet in height above natural
514 grade;
- 515 b. The directional sign is installed and removed (before 8:00 p.m.) on the day of the
516 event that it is advertising; and
- 517 c. The owner of the directional real estate sign has obtained the prior consent of the
518 owner of the private property or private property adjacent to the public right-of-
519 way on which the directional real estate sign will be located.

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

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

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

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

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

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

DRAFT

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

550 **Secs. 24-96—24-118. Reserved.**

551 *DIVISION 4. VARIANCES*

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

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

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

564 **Sec. 24-120. Application.**

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

568 **Sec. 24-121. Fee.**

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

571 **Sec. 24-122. Hearing.**

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

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

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

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

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

DRAFT

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

598

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

600 **Sec.101-94. Site plan requirements.**

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

606

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

609 **Sec.101-248. ~~Reserved Nonconformity arising from dedication of right-of-way for Bee Cave~~** 610 **~~Road.~~**

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

DRAFT

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

642

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

644 **Sec.103-206 Permit**

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

DRAFT

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

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

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

672
673 {Amendments to Chapter 107 Zoning, Article I. In General, Sec.107-3. Definitions and addition
674 of Sec.107-4. Commercial lighting and signage manual}

675 **Sec. 107-3. Definitions.**

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

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

680

681 **Sec. 107-4. Commercial lighting and signage manual.**

682 The Commercial Lighting and Signage Manual is a supporting document to the applicable
683 lighting and signage regulations contained in this Chapter and the Code of Ordinances of the
684 City of Rollingwood and may contain illustrations, graphical representations, and examples. The
685 Commercial Lighting and Signage Manual may be adopted and updated from time to time by
686 resolution approved by the City Council.

687

688 **Secs. 107-45 – 107-24. - Reserved.**

689

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

692 **Sec. 107-25. Districts designated.**

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

- 694 (1) Residential District (R);
- 695 (2) ~~Professional and Business Office District (C-1)~~Commercial District (C);
- 696 ~~(3) Business District (C-2);~~
- 697 ~~(3)(4)~~—Park District (P); ~~and~~

Formatted: Underline, Font color: Red
Formatted: Underline, Font color: Red
Formatted: Underline, Font color: Red
Formatted: Underline, Font color: Red
Formatted: Underline, Font color: Red
Formatted: Underline
Formatted: Font color: Red, Strikethrough
Formatted: Underline, Font color: Red

DRAFT

698 ~~(4)(5)~~ Governmental and Institutional District (GI);

699 ~~(5)(6)~~ Hospital District (H); and

700 ~~(6)(7)~~ Planned Unit Development District (PUD).

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

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

709

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

712 **Sec. 107-36. Driveways.**

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

717 (b) Driveways in C district.

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

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

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

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

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

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

DRAFT

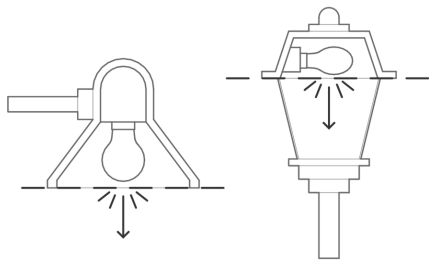
- c. Properties which do not share a common driveway straddling a lot line shall provide cross access easements to facilitate the flow of traffic between adjacent properties. Cross access shall begin at a driveway and extend side to side to adjacent properties.
- d. The easement dedication shall be provided on the final plat when a public easement is used. Alternatively, a private access easement for access via neighboring property, approved by the city administrator or his/her designee, may be filed by separate instrument in the county deed records with a copy forwarded to the city. When a private access easement is used, it shall be filed in the county deed records prior to recordation of the final plat or prior to issuance of a certificate of occupancy, whichever comes first.
- e. The plat or easement instrument shall state that the easement shall be maintained by the property owner or a property owner's association.
- f. The easement shall encompass the entire width of the planned driveway and drive aisles.

{Amendments to Chapter 107 Zoning, Article II, District Regulations, Division 1. Generally, creating Section 107-39 Lighting requirements.}

Sec. 107-39. Lighting requirements.

(a) Definitions: As used herein:

(i) "Shielded" means "installed in such a manner that all light emitted by the fixture, either directly from the bulb or a diffusing element, or indirectly by reflection or refraction from any part of the fixture, is projected below the horizontal plane immediately beneath the fixture's lowest light-emitting part." See exhibit in the Commercial Lighting and Signage Manual for examples of conforming and nonconforming light fixtures.



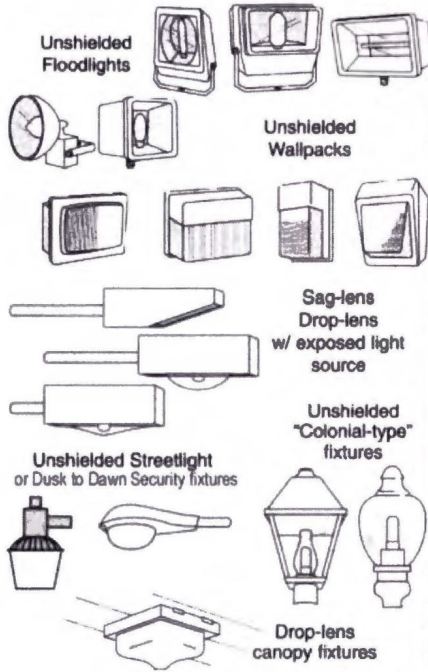
In Figure A (below), the lights on the left are nonconforming. Those on the right can be used in most cases. However, the mounting height and proximity to the property line may cause them to need additional shielding to prevent the luminous elements from being visible from any other property.

DRAFT

UNSHIELDED FIXTURES

Unacceptable / Discouraged

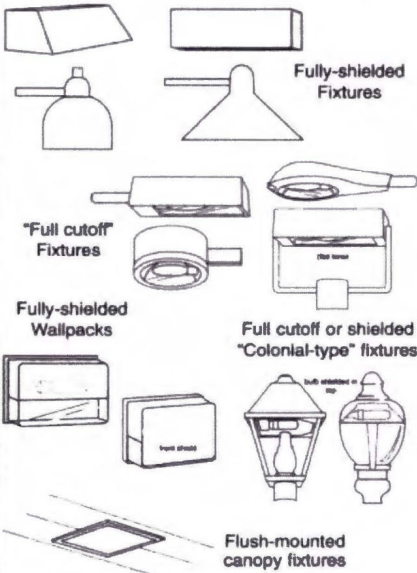
Fixtures that produce glare and light trespass



Full Cutoff and Fully Shielded Fixtures

Acceptable

Fixtures that shield the light source, to reduce glare and light trespass and to facilitate better vision at night.



765

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

768

769 (b) Applicability.

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

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

DRAFT

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

781

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

783 (1) publicly maintained traffic control devices;

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

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

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

788 (5) moving vehicle lights;

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

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

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

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

795

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

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

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

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

805 (4) For properties other than automotive service stations, the maximum allowable intensity of
806 lighting measured at the lot line shall be 0.25 footcandle ~~measured at the lot line.~~

807 ~~(4)(5)~~ For automotive service stations and other fueling facilities, the maximum
808 allowable intensity shall not exceed 10.0 footcandle in the area surrounding pump
809 islands. ~~Canopy lighting shall be recessed into the canopy, and neither canopy lighting~~
810 ~~nor overhead lighting shall trespass onto any other property.~~ The maximum allowable
811 intensity of lighting measured at the lot line shall be 0.25 footcandle.

812 ~~(5)(6)~~ Any lighting to illuminate parking lots, buildings, or other structures shall not
813 exceed the height of such buildings or structures, if attached thereto, or, if pole-mounted,
814 a height of 24 feet to top of fixture. All lighting shall be installed in a manner which
815 directs or shields the light away from nearby dwellings.

DRAFT

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

Commented [BC1]: Planning & Zoning Commission recommendation is to increase to a maximum of 100,000 lumens per acre.

Formatted: Indent: Hanging: 0.31"

DRAFT

857 Section 107-~~3940~~ – 107-66. - Reserved

858

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

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

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

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

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

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

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

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

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

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

884 ~~(3)(1) It is located on a lot or contiguous lots under common or affiliated ownership at~~
885 ~~least ten acres in size;~~

886 ~~(4)(2) It is located on property that was the subject of an application for a preliminary~~
887 ~~plat filed after September 1, 1997, and before March 16, 2000;~~

888 ~~(5)(3) That preliminary plat did not expire during that time nor was a final plat recorded~~
889 ~~for the property during that time; and~~

890 ~~(6)(4) Any final plat includes all public facilities identified on the preliminary plat and~~
891 ~~the final plat is processed or the public facilities are dedicated to the city by July 31,~~
892 ~~2000.~~

DRAFT

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

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

900 **Sec. 107-104. Minimum lot size.**

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

902 **Sec. 107-105. Minimum floor area.**

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

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

- 908 (a) Each application for approval of development plans for commercial buildings shall include
909 the following information, prepared and sealed where applicable by a registered
910 professional engineer or registered professional land surveyor:
- 911 (1) Date, scale, north point, title, name of the owner of the property and the name of the
912 person preparing the plans;
- 913 (2) A legal description of the lot, including a deed reference, a plat reference and, where
914 applicable, a metes and bounds description;
- 915 (3) Drainage plan: The development drainage plan will ensure that for the two-, ten-, 25-,
916 and 100-year frequency storm events, the stormwater runoff peak flow rates shall not
917 be increased above the pre-developed condition and shall not cause increased
918 inundation of any building or roadway surface. The drainage plan shall include, as a
919 minimum: determination of stormwater flows will be according to the drainage criteria
920 manual. Any applicant seeking an increase to impervious cover limits under Section
921 107-115 shall submit the documentation as required by that section to demonstrate
922 compliance with the requirements of that section.
- 923 (4) A topographical survey of the site on two-foot vertical contours showing the
924 centerlines of existing watercourses;
- 925 (5) A comprehensive grading plan shall be included with the development plan.
- 926 a. The grading plan shall be designed to ensure all lots will adequately drain upon
927 completion of the development improvements.
- 928 b. The engineer will set the elevation of lot corners in conjunction with preparation
929 of the drainage plan. Lot corner elevations shall be shown on the grading plan.

DRAFT

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

DRAFT

- 972 (8) The shape, size, location, height and floor area of all existing and proposed buildings
973 and structures;
- 974 (9) The location and size of existing and proposed streets, private or shared drives,
975 driveways and parking spaces; and
- 976 (10) The size and location of all existing and proposed public and private utilities.

977 (11) Any impervious cover and design features as proposed under Sections 107-115 and
978 107-116.

- 979 (b) Each application for approval of development plans shall first be submitted to the building
980 official commission, and shall be subject to all of the notice, hearing and other procedures
981 provided under this article for proposed changes in zoning.

982 **Sec. 107-107. Reserved.**

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

- 984 (a) No building may be closer than 75 feet from any area within a residential district.
- 985 (b) No building may be closer than 20 feet from any public street or right-of-way.
- 986 (c) Notwithstanding subsection (b),
- 987 i. No building may be closer than 30 feet from Rollingwood Drive.
- 988 ii. A building may be closer than 20 feet, but no closer than 5 feet, from a
989 property line adjacent to Bee Cave Road if the property owner has been
990 approved to implement a landscape plan in conformance with Sections 107-
991 116(d).
- 992 (d) As necessary to implement this chapter, the building official may designate the front or
993 side lot lines.
- 994 ~~(a) No building may be located closer than 20 feet from the front lot line nor closer than 30~~
995 ~~feet from the rear lot line.~~
- 996 ~~(b) There is no setback requirement with respect to side lot lines.~~
- 997 ~~(c) No building may be constructed or extended into an area that is closer than 100 feet~~
998 ~~from any lot line of a lot within a residential district.~~
- 999 ~~(d) If there is a question as to which lot line is the front lot line, the building official shall~~
1000 ~~designate the front lot line.~~

1001

1002

1003 **Sec. 107-109. Buffers between abutting commercial and residential lots.**

- 1004 (a) In addition to the setback provided for in Section 107-108, Any lot in the Commercial
1005 District (C) a commercial district which that abuts a lot in a residential district shall be
1006 developed in accordance with the following requirements:

DRAFT

- 1007 (1) A ~~10075~~-foot greenbelt, measured horizontally, shall be provided between the boundary
1008 of a residential district and the impervious cover, including parking and buildings, on
1009 every lot located in the Commercial District (C) ~~a professional and business office~~
1010 ~~district (C-1) or a business district (C-2)~~. Vegetation within the 40075-foot greenbelt
1011 shall be left in its undisturbed natural state or shall be landscaped as required by the city
1012 council. Clear cutting of native vegetation is prohibited within the 75-foot greenbelt.
1013 Notwithstanding anything contained herein to the contrary, the building official will,
1014 upon application by the owner thereof, issue a permit for repair, remodeling or
1015 reconstruction of the building or structure and its related parking, provided that the use
1016 (as defined in the zoning ordinance) of such building or structure will not be changed
1017 and the repair, remodeling or reconstruction conforms with the construction materials
1018 standards set forth in section 107-107. A nonconforming building or structure and its
1019 related parking may not be enlarged or otherwise altered in a manner that increases the
1020 square footage of the building or structure or the square footage of the building or
1021 structure's parking or the extent of their nonconformity.
- 1022 (2) In areas where the natural vegetation, terrain and other features do not provide a visual
1023 screen between a lot in a commercial district and an abutting lot in a residential district,
1024 landscaping shall be planted and maintained in accordance with the following
1025 specifications: terrain and other features do not provide a visual screen between a lot in a
1026 commercial district and an abutting lot in a residential district, screening shall be
1027 provided by a cedar or redwood privacy fence at least eight feet high, with its smooth
1028 side facing the residential lot. If the building official determines that the privacy
1029 afforded by such fencing does not meet the minimum reasonable expectations of a
1030 typical residential occupant, he may then require, in addition to the privacy fencing, that
1031 landscaping be planted and maintained in accordance with specifications prescribed by
1032 the city council.
- 1033 a. A minimum of one native species shade tree shall be planted for each 25 linear feet of
1034 landscape buffer.
- 1035 b. A minimum of ten native species large shrubs (of a size of at least 5 gallons) shall be
1036 planted for each 50 linear feet of landscape buffer. Three small shrubs (of a size of at
1037 least one-gallon) may be planted for up to two required large shrubs.
- 1038 c. Existing preserved trees and shrubs located within the greenbelt may be credited
1039 toward these requirements.
- 1040 d. All plantings shall be supported by irrigation necessary to sustain growth and good
1041 health of the trees and shrubs.
- 1042 e. All required landscape screening shall be, or shall achieve, at least six feet (6') in
1043 height and at least ninety percent (90%) opacity within two (2) years of initial
1044 installation.
- 1045 (3) No ~~fences or~~ landscaping required under this section shall be ~~constructed installed~~
1046 without prior approval of the ~~landscaping construction~~ plans by the city ~~council~~ and the
1047 ~~installation construction~~ shall ~~be in compliance comply~~ with such approval and with all
1048 other applicable requirements of the city.

DRAFT

1049 (4) No building shall be constructed with windows, porches or other features which provide
1050 a view from the building into a dwelling located on an abutting lot.

1051 (5) Any lighting to illuminate parking lots, buildings or other structures shall not exceed the
1052 height of such buildings or structures, and shall be installed in a manner consistent with
1053 the lighting standards of this Division and which directs or shields the light downward
1054 and away from nearby dwellings.

1055

1056 Sec. 107-110. Parking spaces.

1057 (a) Except as otherwise provided in ~~section 107-317~~this chapter, off-street parking shall be
1058 provided in the following ratios: ~~of not less than one parking space~~:

1059 (1) When the front face of the building is separated from the front lot line by a drive isle or
1060 parking lot, one parking space for each 250 square feet of gross floor area in the
1061 particular building shall be provided.

1062 (2) When the front face of the building is located on the front lot line or separated by only
1063 a sidewalk and or landscaped area from the front lot line, one parking space for each
1064 500 square feet of gross floor area in the particular building shall be provided.

1065 ~~(1) For each 250 square feet of gross floor area in the particular building in a C-1 district;~~
1066 ~~and~~

1067 ~~(2) For each 200 square feet of gross floor area in the particular building in a C-2 district.~~

1068 (b) Where possible, shared parking is encouraged. Parking areas which are adjacent to a
1069 residential district or a required greenbelt buffer shall be limited to a maximum of one drive
1070 isle with one row of parking on each side.

1071 (c) Parking requirement reduction. The building official may reduce the amount of required
1072 parking by a maximum of 40 percent upon a written request from the property owner
1073 demonstrating that if the reduction is granted:

1074 (1) The reduced parking is sufficient for the proposed use;

1075 (2) The granting of the reduction will not result in increased on-street parking in adjoining
1076 neighborhoods;

1077 (2) There will not be a detrimental impact to adjacent properties; and

1078 (3) The reduction in available parking will not create traffic congestion or public safety
1079 hazards.

1080 (4) Trail Incentives for property on the north side of Bee Cave Road abutting Eanes Creek.
1081 Property located north of Bee Cave Road adjacent to Eanes Creek where land or a
1082 trail/pedestrian easement has been dedicated to and accepted by the City for the Eanes
1083 Creek trail may claim a 10% reduction in minimum parking requirements.

1084 ~~(d)~~(b) Required parking spaces shall be located on the same lot as the building for which the
1085 parking spaces are required or within 300 feet of such building. Where required parking
1086 spaces are located at a place other than the lot on which the building to which the space
1087 pertains is located, there must be a valid, binding written commitment that such property

DRAFT

1088 shall be used to fulfill the parking requirement in a form acceptable to the city council. Such
1089 commitment shall be made enforceable by the city council.

1090 **Sec. 107-111. Signs.**

1091 Except as otherwise provided under this article, signs shall be governed by the regulations
1092 of the city sign ordinance.

1093 **Sec. 107-112. Other requirements.**

1094 Each permitted use shall:

1095 (1) Be conducted wholly within an enclosed building appropriate to such use (except in the
1096 case of a personal wireless telephone service facility for which a special use permit is
1097 issued); and

1098 (2) Where a special use permit is granted for cafes, cafeterias, or restaurants, such permit
1099 may also authorize outdoor dining.

1100 ~~(2) Provide for the temporary storage of solid waste in an unobtrusive manner approved by~~
1101 ~~the building official.~~

1102 **Sec. 107-113. Reserved. Prohibitions.**

1103 ~~The following are specifically prohibited:~~

1104 ~~(1) Accessory or temporary buildings;~~

1105 ~~(2) The manufacture of any product for sale;~~

1106 ~~(3) Activities involving the conduct of major automobile repairs, body repair or painting,~~
1107 ~~welding, storage of dismantled or nonoperational vehicles, sale of used automobile~~
1108 ~~parts, or the sale of new or used motor vehicles;~~

1109 ~~(4) The use of parking lots or front yards for the display, sale or storage of merchandise,~~
1110 ~~motor vehicles, equipment, containers or waste material;~~

1111 ~~(5) The wholesale processing of food;~~

1112 ~~(6) Activities which create odors, excessive light, electronic interference, smoke, dust, dirt,~~
1113 ~~noise, fumes, glare, vibration, the presence of vermin or rodents, or other undesirable~~
1114 ~~or hazardous conditions; or~~

1115 ~~(7) The provision of personal services, or the display, sale or advertisement of any product~~
1116 ~~that adversely affects the health, safety, or general welfare of the city; or~~

1117 ~~(8) Retail establishments, other than restaurants, may not be open to the public between~~
1118 ~~the hours of 10:00 p.m. and 7:00 a.m. the following day. These restrictions do not~~
1119 ~~apply to automated retail services, including, but not limited to, automated teller~~
1120 ~~machines and gasoline pumps. Restaurants will be subject to hours of operation as set~~
1121 ~~forth in the special use permit.~~

DRAFT

1122 **Sec. 107-114. ~~Reserved. Use and buildings.~~**

1123 ~~Notwithstanding any provision in this division, any use that would be permitted in a~~
1124 ~~residential district, but which is conducted in a commercial district, shall comply only with the~~
1125 ~~regulations that would be applicable to the use if it were conducted in the residential district, to~~
1126 ~~the extent applicable.~~

1127 **Sec. 107-115. Impervious cover.**

1128 (a) Impervious cover shall not exceed 50 percent of the total area of any lot in the Commercial
1129 District (C) ~~a commercial district~~ except as provided in subsection (b).

1130 (b) Exceptions:

1131 (1) A total of 55% of the total area of any lot in the C district may be impervious cover if the
1132 increase in impervious cover does not create any increase in stormwater runoff (either
1133 volume or rate of flow of runoff).

1134 (2) A total of 60% of the total area of any lot in a commercial district may be impervious
1135 cover upon the following conditions: (i) if the site plan includes permanent low impact
1136 development (LID) stormwater practices (such as rainwater harvesting, green roofs, bio-
1137 retention, rain gardens, infiltration/filter strips, and conservation landscaping using native
1138 plants and trees that promote the area's natural habitat, and natural area preservation)
1139 above and beyond any required preservation of natural areas that reduce stormwater
1140 discharge such that the increase in impervious cover does not create any increase in
1141 stormwater runoff either volume or rate of flow of runoff; (ii) the site plan meets all
1142 TCEQ best management practices for water quality, and (iii) the site plan meets the
1143 design criteria specified in Sections 107-39, 107-109, 107-116.

1144 (c) An application under subsection (b) shall include a drainage plan certified by a registered
1145 professional engineer as consistent with city requirements and all permanent low impact
1146 development (LID) stormwater practices required under subsection (b)(1) or (2), as
1147 applicable, along with a proposed plan describing the manner in which the LID practices and
1148 facilities and design criteria specified in Sections 107-39, 107-109, 107-116 will be
1149 implemented and maintained for throughout the useful life of the project.

1150 (d) Prior to the issuance of a Certificate of Occupancy in connection with such a permit, the
1151 applicant shall submit a letter of certification from a registered professional engineer stating
1152 that the site's stormwater management and drainage facilities as built meet all impervious
1153 cover, city and LID stormwater management and water quality requirements, and were
1154 constructed in accordance with the approved permit.

1155 ~~(bc)~~ Grass-crete set in sand shall be deemed to be 50 percent impervious cover; paving stones,
1156 ungrouted, set in sand, are deemed to be 75 percent impervious cover. Revisions to these
1157 materials and other materials and applications may be reviewed by the city council and their
1158 appropriate impervious cover assigned by the council. City Council may establish a list of
1159 materials and corresponding impervious cover values. This list may be reviewed and revised
1160 by City Council from time to time. An approved and current list of such revisions shall be on
1161 file with the city.

DRAFT

1162 (f) No variance may be granted to exceed the maximum impervious cover limitations of this
1163 section

1164

1165 **Sec. 107-116. Compatibility standards.**

1166 (a) Screening of storage and mechanical equipment. All storage areas and mechanical equipment
1167 must be screened from view from any adjacent residential district lot and any public street.
1168 Ground level facilities and equipment may be screened with wood fencing (with a smooth
1169 side of the fencing facing the residential district lot or public right-of-way), or brick,
1170 limestone, or other native stone walls. All mechanical equipment (including AC units, vents,
1171 and wireless facilities) must be located in the following manner:

1172 (1) Under the roof;

1173 (2) Contained within the building;

1174 (3) On the ground and screened from view from any adjacent residential district lot and any
1175 public street by wood fencing (with a smooth side of the fencing facing the residential
1176 district or public right-of-way), or materials compatible with the exterior of the building
1177 as may be approved by the building official; or

1178 (4) On the roof and shielded from view from any adjacent property and any public street with
1179 an enclosure constructed of the same exterior materials as the building.

1180 (5) The permit application shall include an exhibit demonstrating compliance with these
1181 screening requirements and adjacent sightlines.

1182 (b) Roof design. Except for buildings with a ground floor area of 8,000 square feet or more, all
1183 roofs of buildings must be of pitched-type construction (hip or gable-type roofs with a
1184 minimum pitch of 3:12). For buildings with a ground floor area of 8,000 square feet or more,
1185 all roofs of buildings must be of pitched-type construction (hip or gable-type roofs with a
1186 minimum pitch of 3:12) or have architectural elements that give the appearance of pitched-
1187 roof construction. Roofs generally must be a combination of pitched, gabled, or sloped
1188 elements. Pitched and "flat" roof areas must be designed and arranged to provide maximum
1189 aesthetic appeal and provide screening of equipment, AC units, vents, wireless facilities, and
1190 accessories from any view from a lot in a residential district of the city and any view from
1191 Bee Cave Road. Roof mounted solar panels shall be designed so as to be consistent in pitch
1192 or slope with the roof or masked in such a manner as to be unobtrusive when viewed from
1193 any adjacent lot.

1194 (c) Screening of trash receptacles. All trash receptacles shall be screened from public view and
1195 neighboring property view with wood fencing (with the smooth side of the fencing facing the
1196 residential district or public right-of-way), or brick, limestone, or other native stone walls.
1197 The enclosure shall be a minimum of eight feet (8') in height with gates. Gates shall be of a
1198 solid sight obscuring material and shall be closed at all times except when loading or
1199 unloading.

1200 (d) Landscaping buffers. The following landscaping and buffers are required:

1201 (1) Along public rights-of-way. A landscaping buffer is required along any public right-of-
1202 way. The landscape buffer along public rights-of-way shall be located between the lot

DRAFT

- 1203 line adjacent to the right-of-way and any impervious cover on the lot, including parking,
1204 and along any rear lot pedestrian paths or trail along Eanes Creek. The landscaping
1205 buffer shall consist of trees with a mature height of at least six feet planted at a ratio of 1
1206 tree per 25 feet of linear frontage along the public right-of-way to shade adjacent
1207 sidewalks and any pedestrian path and may include shrubs with a mature height of at
1208 least three feet. The grouping or clustering of trees as necessary to accommodate
1209 driveway spacing, utilities, drainage facilities, or similar site features is permitted.
- 1210 (2) Parking area landscaping. Parking areas shall be screened from any adjacent public right-
1211 of-way with a ten-foot deep landscaping buffer.
- 1212 a. The landscaping buffer shall be planted with trees planted at a ratio of 1 tree per 25
1213 feet of linear frontage along the right of way, and with shrubs and other landscaping
1214 with a mature height of at least three (3) feet, planted at sufficient density to disrupt
1215 sightline into the parking area and screen vehicular headlights.
- 1216 b. One tree is required for every six parking spaces and may be located in landscaped
1217 islands, peninsulas, or medians. Tree preservation is encouraged, thus preservation of
1218 an existing protected tree shall be provided credit in accordance with Section 107-
1219 121(c)(3).
- 1220 c. No parking space shall be located further than 50 feet from a tree.
- 1221 d. Impervious paving over the critical root zone of any existing tree is prohibited, and
1222 any approved paving shall be porous pavement to allow water and air exchange, or
1223 other acceptable means to preserve the health of the tree.
- 1224 e. All required tree plantings shall be installed prior to the occupancy or use of property.
1225 Where compliance is not practicable due to the season of the year, the building
1226 official or his/her designee may grant a temporary certificate of occupancy. Any
1227 temporary certificate of occupancy may be revoked, after 30 days' written notice to
1228 the occupant and the owner of the affected property, if tree plantings are not
1229 undertaken as required under this article.
- 1230 (3) Each required tree shall be at least 12 feet high when planted and shall be maintained in a
1231 healthy condition. Said trees shall not be pruned except either to remove dead wood, or to
1232 prevent growth or to remove existing growth lower than 15 feet above the ground.
1233 Existing trees having a height of at least 11 feet may be counted as required trees,
1234 provided that the ground beneath the canopy remains unimproved. Any species of tree
1235 which does not normally grow to a height of 15 feet in the city, as determined by the city
1236 arborist or other competent person designated by the city administrator, shall not qualify
1237 as a required tree under this section. Any required buffer areas or trees required to be
1238 planted by this chapter shall be counted toward satisfying this requirement. All
1239 landscaping and buffering required by this section must be maintained by the property
1240 owner. If at any time after the issuance of a Certificate of Occupancy, the approved
1241 landscaping is found to be in nonconformance with standards and criteria of this section,
1242 notice by the City may be issued to the owner, citing the violation and imposing a fine
1243 pending compliance with this section.
- 1244 (4) An exception to the requirements of this subsection (d) may be approved by the building
1245 official for the location of a driveway in required landscaped areas.

DRAFT

- 1246 (c) Removal of vegetation from the city right-of-way. Any excavation, grading, or site clearance
1247 of a lot that involves the removal of vegetation from the city's right-of-way is prohibited
1248 without prior approval of the city building official.
- 1249 (a) Trash disposal, storage and mechanical equipment. All trash disposal areas, storage areas and
1250 mechanical equipment must be screened from view from any residential district and any
1251 public street by wood fencing (with a smooth side of the fencing facing the residential district
1252 or public right of way), or brick, limestone, or other native stone walls for ground level
1253 facilities, and an enclosure constructed of the same exterior materials as the building for any
1254 mechanical equipment located on the roof.
- 1255 (b) Roof design. Except for buildings with a ground floor area of 8,000 square feet or more, all
1256 roofs of buildings must be of pitched type construction (hip or gable type roofs with a
1257 minimum pitch of 3:12). For buildings with a ground floor area of 8,000 square feet or more,
1258 all roofs of buildings must be of pitched type construction (hip or gable type roofs with a
1259 minimum pitch of 3:12) or have architectural elements that give the appearance of pitched-
1260 roof construction. Roofs generally must be a combination of pitched, gabled or sloped
1261 elements, and the materials used must be compatible and complementary to the masonry.
1262 These pitched areas may be metal with nonreflective finishes or nonmetallic clay or concrete
1263 tile. Except for buildings less than 8,000 square feet of floor space, composition or wood
1264 shakes and shingles may not be utilized. Exposed metal roof decks that reflect light in a
1265 glaring manner, such as galvanized steel sheets, are specifically prohibited. Pitched and "flat"
1266 roof areas must be designed and arranged to provide maximum aesthetic appeal and provide
1267 screening of undesirable roof surfaces, equipment and accessories from any view from a lot
1268 in a residential district of the city and any view from Bee Cave Road. All mechanical
1269 equipment must be located in the following manner: under the roof; contained within the
1270 building; on the ground; or shielded from view as approved by the city council.
- 1271 (c) Lighting. Lighting fixtures installed to illuminate parking lots, buildings or other structures
1272 may not exceed the height of the buildings or structures, if attached thereto, or, if pole-
1273 mounted, a height of 24 feet. All exterior lighting must be shielded and down turned to direct
1274 light away from nearby dwellings and to concentrate the light within the lot. Exterior
1275 lightbulbs may not exceed 400 watts.
- 1276 (d) Landscaping buffers. A ten foot landscaping buffer is required between buildings on separate
1277 lots in a professional and business office district (C-1) or the business district (C-2) with a
1278 minimum of five feet of such buffer located on each such lot, as well as between all parking
1279 lots in a commercial district and any public right of way. The landscaping buffer must
1280 consist of shrubs or trees with a mature height of at least six feet planted at sufficient density
1281 to visually disrupt the outlines of buildings, pavement, and other structures; provided,
1282 however, that plant material located at the front of a site or between buildings (as determined
1283 by the building official) may consist of shrubs or trees with a mature height of at least three
1284 feet.

1285

1286 **Sec. 107-117. Permitted uses.**

- 1287 (a) No area, building, or structure within the land may be used, constructed, or altered, except as
1288 follows:

DRAFT

- 1289 (1) Uses permitted in the residential district, excluding dwelling uses or subdivision sales
1290 offices;
- 1291 (2) Administrative, professional, and business offices and services, including account,
1292 architecture, attorney, computer services (including research and design) engineer,
1293 physician, veterinary services, broker, consultant, insurance agent, property
1294 management, investment, personnel, travel, secretarial, telephone answering,
1295 photocopy and reproduction, real estate agent, or similar administrative, professional,
1296 and business offices-;
- 1297 (3) Accessory structures, other than buildings, and uses customarily incidental to these
1298 administrative, professional, or business offices-;
- 1299 (4) Retail bakeries;
- 1300 (5) Barbershops or beauty shops;
- 1301 (6) Craft or hobby shops;
- 1302 (7) Department, sporting goods, novelty, variety, or toy stores;
- 1303 (8) Drugstores;
- 1304 (9) Laundry pickup and dry cleaning pickup stations;
- 1305 (10) Florist shops;
- 1306 (11) Antique stores;
- 1307 (12) Household or office furniture, furnishings, or appliance stores;
- 1308 (13) Jewelry or optical goods stores;
- 1309 (14) Shoe repair shops;
- 1310 (15) Variety stores;
- 1311 (16) Wearing apparel shops;
- 1312 (17) Health & wellness / fitness center;
- 1313 (18) Camera or photography supply stores;
- 1314 (19) Art and photography studios; and
- 1315 (20) Retail uses which supply the everyday shopping needs of residents of the city.

1316

Sec. 107-118. Special uses.

- 1318 (a) Subject to approval by the city council, the following special uses may be permitted in the C
1319 district:
- 1320 (1) Facilities for assembling of and testing electronics components;
- 1321 (2) Child day care facilities, provided this is the only use on the particular lot;
- 1322 (3) Banks or savings and loan associations, including automated teller machines (ATMs);

DRAFT

- 1323 (4) Parking garages, provided that the garage is an accessory to the primary use on the
- 1324 same lot or an adjacent commercial lot;
- 1325 (5) For lots with frontage on Bee Caves Road, a personal wireless telephone service
- 1326 facility;
- 1327 (6) Research laboratories;
- 1328 (7) Cafes, cafeterias, or restaurants without outdoor dining;
- 1329 (8) Cafes, cafeterias, or restaurants with outdoor dining;
- 1330 (9) Convenience stores;
- 1331 (10) Grocery or food specialty stores;
- 1332 (11) Package liquor stores;
- 1333 (12) Automotive service stations;
- 1334 (13) Parking garages, provided that the garage is an accessory to the primary use on the
- 1335 same lot or an adjacent commercial lot;
- 1336 (14) Camera or photography supply stores;
- 1337 (14~~5~~) Clinics without overnight facilities;
- 1338 (15~~6~~) Hardware stores; and
- 1339 (17) Art and photography studios; and
- 1340 (16~~8~~) Facilities for assembling computer software products.

1341

1342 **Sec. 107-119. Prohibited uses.**

- 1343 (a) All uses not specifically permitted under section 107-117 and section 107-118 are prohibited,
- 1344 including, but not limited to, the following:
- 1345 (1) Accessory and Temporary buildings;
 - 1346 (2) The manufacture of any product for sale;
 - 1347 (3) Activities involving the conduct of major automobile repairs, body repair or
 - 1348 painting, welding, storage of dismantled or nonoperational vehicles, sale of used
 - 1349 automobile parts, or the sale or rental of new or used motor vehicles;
 - 1350 (4) The use of parking lots or front yards for the display, sale, or storage of merchandise,
 - 1351 motor vehicles, equipment, containers, or waste material;
 - 1352 (5) The wholesale processing of food;
 - 1353 (6) Activities which create odors, excessive light, electronic interference, smoke, dust,
 - 1354 dirt, noise, fumes, glare, vibration, the presence of vermin or rodents, or other
 - 1355 undesirable or hazardous conditions;
 - 1356 (7) ~~Veterinarian services and k~~Kennel services;

DRAFT

- 1357 (8) The repair, sale, resale, manufacture, refurbishment, or storage of boats, trailers,
- 1358 mobile homes, or recreational or sport vehicles;
- 1359 (9) Laundries or dry cleaning plants;
- 1360 (10) Music studios;
- 1361 (11) Monument sales or funeral homes and related services;
- 1362 (12) Warehouses or the rental of storage space for personal or commercial property;
- 1363 (13) Junkyards;
- 1364 (14) Painting sales or service, except to the extent incidental to an otherwise permissible
- 1365 use;
- 1366 (15) Assisted living, retirement, nursing home, or convalescent services or facilities;
- 1367 (16) Tire retread facilities;
- 1368 (17) Sexually oriented businesses, including, but not limited to, modeling studios and
- 1369 dating or escort services businesses;
- 1370 (18) Hotel and motel; and
- 1371 (19) Dwelling uses or subdivision sales offices.

1372 (b) Retail establishments, other than restaurants, may not be open to the public between
1373 the hours of 10:00 p.m. and 7:00 a.m. the following day. These restrictions do not
1374 apply to automated retail services, including, but not limited to, automated teller
1375 machines and gasoline pumps. Restaurants will be subject to hours of operation as set
1376 forth in the special use permit ~~Sec. 107-120 Tree Canopy Management within the~~
1377 ~~Commercial District (C).~~

1378 Definitions. For purposes of this section,

1379 A "protected tree" shall be a tree of a "protected species" tree as defined in Part II, Land
1380 Development Code, Chapter 107, Division 10, Subdivision 2 (Sections 107-369
1381 through 107-396) having a trunk with a diameter not less than 12 inches nor more than
1382 24 inches, measured 4 1/2 feet above natural grade, as measured by an arborist.

1383 "Heritage tree" means a tree of a "protected species" as defined in Part II, Land
1384 Development Code, Chapter 107, Division 10, Subdivision 2 (Sections 107-369
1385 through 107-396) having a diameter of 24 inches or more, measured 4 1/2 feet above
1386 natural grade, or a tree cluster, as measured by an arborist.

1387 "Diameter at breast height" or (DBH) means the diameter of a tree at a height of 4 1/2 feet
1388 above natural grade.

1389 "Critical root zone" means "the area around and under a tree having a radius of one foot per
1390 inch of DBH from the trunk of the tree outwards and twenty-four inches inn depth. For
1391 example, for a tree having a 10 inch DBH, the critical root zone is 10 feet out from the
1392 trunk and twenty-four inches deep.

1393 "Tree Cluster" means a cluster of three or more trees of a "protected species" located less
1394 than ten feet apart having a combined total diameter of 24 inches or more.

DRAFT

~~Part II, Land Development Code, Chapter 107, Division 10, Subdivision 2 (Sections 107-369 through 107-396) addressing protection of protected trees, shall apply to any property within any zoning district other than the residential zoning district. To the extent of any conflict between Part II, Land Development Code, Chapter 107, Division 10, Subdivision 2 (Sections 107-369 through 107-396) and this Section, this Section shall control.~~

~~In addition to the requirements of subsection (b), the following requirements for the preservation and protection of protected and heritage trees shall apply to any property, including any property within the city's rights of way, within any zoning district other than the residential zoning district.~~

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

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

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

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

~~*Credit factor provides tree credits per tree preserved.~~

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

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

DRAFT

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

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

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

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

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

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

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

DRAFT

~~on a condition caused by the method or design chosen by the applicant to develop the property.~~

~~Pre- and post-construction tree protection plan. A pre- and post-construction tree protection plan shall be submitted with the tree permit and shall include the following:~~

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

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

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

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

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

~~Violations/Penalties.~~

~~It shall be an offense for a person:~~

~~To fail to perform an act required by the provisions of this section:~~

~~To fail to timely comply with any term of a permit issued pursuant to this section, including terms regarding the preservation of heritage trees and the planting and maintenance of required replacement trees;~~

~~To hire, engage, or permit any person engaged in the business of tree planting, maintenance, or removal to perform such services on property in the city without a permit issued by the city pursuant to this Code;~~

DRAFT

~~Except as expressly allowed pursuant to this subdivision, to remove or to cause the removal of a heritage or protected tree without first obtaining a permit therefor;~~

~~To transfer property subject to obligations arising from a permit issued pursuant to this section if all obligations with respect to such permit are not then fulfilled unless the transferee of the property agrees in writing submitted to the city secretary to assume such permit and all obligations with respect to the protection of heritage trees and the planting and maintenance of required replacement trees; or~~

~~To fail to submit an application for a permit as required by this section.~~

~~An offense shall constitute a Class C misdemeanor punishable by a fine not to exceed \$1,000.00. An offense committed intentionally, knowingly, recklessly, or with criminal negligence shall be punishable by a fine not to exceed \$2000.00 per offense. Each tree damaged or removed in violation of this division shall constitute a separate offense. A failure to plant and maintain a required replacement tree shall constitute a separate offense. Each day a violation continues shall constitute a separate offense. The owner or tenant of any building, structure, or premises and any designer, builder, contractor, agent or other person who knowingly commits, participates in, assists in or maintains such violation may each be found guilty of a separate offense and subject to the penalties as provided herein.~~

~~The City Arborist, City Council, or other duly authorized city official may issue a stop work order in connection with site clearing, site preparation, any permitted development of the property from which a heritage tree is removed without authorization or upon the occurrence of any other violation of this subdivision or of any term of a permit issued pursuant to this subdivision. Any person, including a workman on the site, who fails to comply with a stop work order shall be guilty of a misdemeanor punishable as provided for in the penalty section hereof. It shall be unlawful for any person to do any work on the site covered by the stop work order unless and until a new permit, application, or site plan has been filed and processed in accordance with the provisions of this chapter and the City Council has granted approval to a new permit, application, or site plan which corrects the violations covered in the stop work order and all fees and fines have been paid.~~

~~No certificate of occupancy shall be issued for a building or other structure that is not then in compliance with any permit issued pursuant to this subdivision. No certificate of occupancy shall be issued for a building or other structure that is not then in compliance with any permit issued pursuant to this subdivision for removal of a protected tree.~~

~~Any temporary occupancy permit issued pending any completion of any required planting due to seasonal suitability of planting shall state the day by which planting shall be completed or an extension requested, and shall be revoked if the required planting is not completed or an extension granted by the stated date.~~

~~Injunction and other remedies. Any tree removal or other work done contrary to any of the provisions of this Section or to any of the details contained in any final site plan approved by the City or to any of the conditions imposed in connection with the granting of any application required by this Section is hereby declared to be unlawful~~

DRAFT

~~and shall constitute a violation of this Section. The City Council may direct the City Attorney to initiate injunction, mandamus, abatement, or any other action available in law or equity to prevent, enjoin, abate, or correct unlawful tree removal or other work.~~

~~To the extent of conflict with another section of the Code, this section controls.~~

Secs. 107-~~1201417~~—107-145. Reserved.

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

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

~~Sec. 107-146. Applicability.~~

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

~~Sec. 107-147. Purpose.~~

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

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

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

- ~~(1) Uses permitted in a residential district, excluding dwelling uses or subdivision sales offices;~~
- ~~(2) Administrative, professional and business offices and services, including account, architecture, attorney, computer services (including research and design) engineer, physician, veterinary services, broker, consultant, insurance agent, property management, investment, personnel, travel, secretarial, telephone answering, photocopy and reproduction, real estate agent, or similar administrative, professional business offices.~~
- ~~(3) Accessory structures, other than buildings, and uses customarily incidental to these administrative, professional or business offices.~~

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

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

- ~~(1) Facilities for assembling of and testing electronics components;~~
- ~~(2) Child day care facilities, provided this is the only use on the particular lot;~~
- ~~(3) Banks or savings and loan associations;~~

DRAFT

- 1591 ~~(4) Parking garages, provided that the garage is an accessory to the primary use on the~~
1592 ~~same lot or an adjacent commercial lot; and~~
1593 ~~(5) For lots with frontage on Bee Caves Road, a personal wireless telephone service~~
1594 ~~facility.~~

1595 **Secs. 107-~~15046~~—107-166. Reserved.**

1596
1597 *{Amendments to Chapter 107 Zoning, Article II. District Regulations, Division 5. Reserved}*

1598
1599 *DIVISION 5. ~~RESERVED. BUSINESS ZONING DISTRICT (C-2)~~*

1600 **~~Sec. 107-167. Applicability.~~**

1601 ~~The regulations set forth in this division shall apply to all land, buildings and structures in a~~
1602 ~~business district (C-2).~~

1603 **~~Sec. 107-168. Permitted uses.~~**

1604 ~~No area, building or structure may be used, constructed or altered, except as follows:~~

- 1605 ~~(1) Uses permitted in a C-1 zoning district;~~
1606 ~~(2) Retail bakeries;~~
1607 ~~(3) Barbershops or beauty shops;~~
1608 ~~(4) Craft or hobby shops;~~
1609 ~~(5) Department, sporting goods, novelty, variety or toy stores;~~
1610 ~~(6) Drugstores;~~
1611 ~~(7) Laundry pickup and dry cleaning pickup stations;~~
1612 ~~(8) Florist shops;~~
1613 ~~(9) Antique stores;~~
1614 ~~(10) Household or office furniture, furnishings, or appliance stores;~~
1615 ~~(11) Jewelry or optical goods stores;~~
1616 ~~(12) Shoe repair shops;~~
1617 ~~(13) Variety stores;~~
1618 ~~(14) Wearing apparel shops; and~~
1619 ~~(15) Retail uses which supply the everyday shopping needs of residents of the city.~~

DRAFT

1620 **Sec. 107-169. Special uses.**

1621 Subject to approval by the city council, the following special uses may be permitted in a C-2
1622 district:

- 1623 (1) ~~Research laboratories;~~
1624 (2) ~~Other special uses that meet the criteria set forth in this article;~~
1625 (3) ~~Cafes, cafeterias or restaurants;~~
1626 (4) ~~Convenience stores;~~
1627 (5) ~~Grocery or food specialty stores;~~
1628 (6) ~~Package liquor stores;~~
1629 (7) ~~Automotive service stations;~~
1630 (8) ~~Parking garages, provided that the garage is an accessory to the primary use on the~~
1631 ~~same lot or an adjacent commercial lot;~~
1632 (9) ~~Camera or photography supply stores;~~
1633 (10) ~~Clinics without overnight facilities;~~
1634 (11) ~~Hardware stores;~~
1635 (12) ~~Art and photography studios;~~
1636 (13) ~~Facilities for assembling computer software products; and~~
1637 (14) ~~For lots with frontage on Bee Caves Road, a personal wireless telephone service~~
1638 ~~facility.~~

1639 **Sec. 107-170. Prohibited uses.**

1640 All uses not specifically permitted under section 107-168 or 107-169 are prohibited,
1641 including, but not limited to, the following:

- 1642 (1) ~~Temporary buildings;~~
1643 (2) ~~The manufacture of any product for sale;~~
1644 (3) ~~Activities involving the conduct of major automobile repairs, body repair or painting,~~
1645 ~~welding, storage of dismantled or nonoperational vehicles, sale of used automobile~~
1646 ~~parts, or the sale of new or used motor vehicles;~~
1647 (4) ~~The use of parking lots or other outdoor areas for the display, sale or storage of~~
1648 ~~merchandise, motor vehicles, equipment, containers or waste material;~~
1649 (5) ~~The wholesale processing of food;~~
1650 (6) ~~Activities which create a nuisance;~~
1651 (7) ~~Veterinarian services and kennel services;~~
1652 (8) ~~The repair, sale, resale, manufacture, refurbishment or storage of boats, trailers, mobile~~
1653 ~~homes or recreational or sport vehicles;~~

DRAFT

- 1654 ~~(9) Laundries or dry cleaning plants;~~
- 1655 ~~(10) Music studios;~~
- 1656 ~~(11) Monument sales or funeral homes and related services;~~
- 1657 ~~(12) Warehouses or the rental of storage space for personal or commercial property;~~
- 1658 ~~(13) Pawnshops;~~
- 1659 ~~(14) Junkyards;~~
- 1660 ~~(15) Painting sales or service, except to the extent incidental to an otherwise permissible~~
- 1661 ~~use;~~
- 1662 ~~(16) Assisted living, retirement, nursing home or convalescent services or facilities;~~
- 1663 ~~(17) Tire retread facilities;~~
- 1664 ~~(18) Sexually oriented businesses, including, but not limited to, modeling studios and dating~~
- 1665 ~~or escort services businesses;~~
- 1666 ~~(19) The display, sale or advertisement of any product that adversely affects the health,~~
- 1667 ~~safety, or general welfare of the residents of the city;~~
- 1668 ~~(20) Hotel and motel; and~~
- 1669 ~~(21) Dwelling uses or subdivision sales offices.~~

1670 **Secs. 107-~~174~~67—107-193. Reserved.**

1671
1672 *{Amendments to Chapter 107 Zoning, Article II. District Regulations, Division 9. Planned Unit*
1673 *Developments, Sections 107-313 & 107-314}*

1674 *DIVISION 9. Planned Unit Developments*

1675 **Sec. 107-313. Purpose.**

1676 A planned unit development (PUD) is a permitted use within the ~~C-1~~ district ~~or the C-2~~
1677 ~~district~~, the purpose of which is to encourage planned developments as a means of creating a
1678 superior community environment through unified planning and building operations; to provide
1679 adequate community facilities well located with respect to needs; to protect the natural beauty of
1680 the landscape; to encourage the preservation and more efficient use of open space; and to offer
1681 an opportunity for greater flexibility and, consequently, more creative and imaginative design for
1682 the development of the city than is generally possible under the zoning regulations established
1683 elsewhere in this article.

1684 **Sec. 107-314. General regulations.**

1685 Regulations that apply in a ~~C-1~~ district ~~or a C-2 district~~ shall apply to planned unit
1686 developments except as otherwise provided in this division.

1687

1688 {Amendments to Chapter 107 Zoning, Article II. District Regulations, Division 9. Planned Unit
1689 Developments, Sections 107-316 & 107-317}

1690 **Sec. 107-316. Permitted uses.**

1691 Except for uses permitted in a residential district, all uses permitted in a C-1 district ~~or a C-2~~
1692 ~~district~~ shall be permitted in a PUD, and all special uses permitted in a C-1 district ~~or a C-2~~
1693 ~~district~~, subject to the procedures for application and approval, and any restrictions provided
1694 therefor, shall be permitted in a PUD.

1695 **Sec. 107-317. Parking adjustment for storage and warehouse areas. Mixed use zoning.**

1696 ~~Limited C-2 zoning may be granted for specified areas within the buildings or structures~~
1697 ~~located in C-1 zoning. A property owner unable to comply with parking requirements may~~
1698 ~~designate one or more specific areas within the buildings or structures for storage or warehouse~~
1699 ~~purposes. Such areas~~ Areas within a building designated as storage or warehouse areas shall have
1700 parking spaces allocated in a ratio of one parking space for each 1,000 feet of storage or
1701 warehouse area.

1702
1703 {Amendments to Chapter 107 Zoning, Article II. District Regulations, Division 10. Landscaping,
1704 Subdivision 1. Non-Residential Regulations}

1705

1706

DIVISION 10. LANDSCAPING

1707 **Subdivision 1. Landscaping Non-Residential Regulations for zones other than Residential**
1708 **District (R) and Commercial District (C)**

1709 **~~Sec. 107-340. Removal of vegetation from right-of-way.~~**

1710 ~~Any excavation, grading or site clearance of a lot zoned for commercial use, including~~
1711 ~~planned unit development, which involves the removal of vegetation from the city's right of way~~
1712 ~~is prohibited without prior written approval of the city building official. Damaged, destroyed or~~
1713 ~~removed trees having a height of 11 feet or more shall be restored in accordance with the~~
1714 ~~landscape provisions of section 107-341 of this division.~~

1715 **Sec. 107-340~~1~~. Landscape requirements.**

1716 (a) This subdivision is applicable to every lot in the city zoned for a use other than Residential
1717 District (R) or Commercial District (C), including a Planned Unit Development, with
1718 respect to which a building permit for any new structure or enlargement of any existing
1719 structure is issued. The provisions of this section are applicable to every lot zoned for a use
1720 other than residential, with respect to which a building permit for any new structure or
1721 enlargement of any existing structure is issued.

Created: 2022-12-03 11:22:49 [EST]

(Supp. No. 6)

DRAFT

- 1722 (b) Any excavation, grading, or site clearance of a lot that involves the removal of vegetation
1723 from the city's right-of-way is prohibited without prior written approval of the city building
1724 official. Damaged, destroyed, or removed trees having a height of 11 feet or more shall be
1725 restored.
- 1726 (cb) Twenty (20) percent of the total area of each lot shall be devoted to landscaped open space,
1727 with one tree being required for each 2,000 square feet of area, or fraction thereof, of each
1728 lot. Each required tree shall be at least 12 feet high when planted and shall be maintained in
1729 a healthy condition. Said trees shall not be pruned except either to remove dead wood, or to
1730 prevent growth or to remove existing growth lower than 15 feet above the ground. Existing
1731 trees having a height of at least 11 feet may be counted as required trees, provided that the
1732 ground beneath the canopy remains unimproved. Any species of tree which does not
1733 normally grow to a height of 15 feet in the city, as determined by the city arborist or other
1734 competent person designated by the city administrator, shall not qualify as a required tree
1735 under this section. Any required buffer areas or trees required to be planted by this chapter
1736 shall be counted toward satisfying this requirement.
- 1737 (de) When off-street parking for ten or more vehicles is provided, there shall be landscaped open
1738 space within the perimeter of the parking area or areas, in the minimum amount of 18
1739 square feet for each parking space. Said landscaped open space need not be contiguous, but
1740 there shall be at least one tree in each separate area. Said trees shall be included in
1741 computing the number of trees required in subsection (b) of this section.
- 1742 (ed) All required tree plantings shall be installed prior to the occupancy or use of property.
1743 Where compliance is not practicable due to the season of the year, the building official may
1744 grant a temporary certificate of occupancy providing an appropriate delay period in the
1745 installation of the required plantings shall grant an appropriate delay. Any temporary
1746 certificate of occupancy may be revoked, after 30 days' written notice to the occupant and
1747 the owner of the affected property, if tree plantings are not undertaken or maintained as
1748 required under this article.
- 1749 (f) All landscaping and buffering required by this section must be maintained by the property
1750 owner. If at any time after the issuance of a Certificate of Occupancy, the approved
1751 landscaping is found to be in nonconformance with standards and criteria of this section,
1752 notice by the City may be issued to the owner, citing the violation and imposing a fine
1753 pending compliance with this section.
- 1754 (eg) A nonresidential lot to which this Section applies that is adjacent to a public street or right-
1755 of-way or that is adjacent to a residential property line shall have a landscaped greenbelt at
1756 least 20 feet in width measured from the property line parallel with and adjacent to each
1757 such street, right-of-way or residential property line. An exception may be approved by the
1758 city council for the location of a driveway in such required landscaped greenbelt if the city
1759 council finds that special traffic conditions affect the property, and that the interest of safety
1760 of the driving public and pedestrians would better be protected by the location of a
1761 driveway in the area of the required greenbelt. Such greenbelt shall contain a minimum of
1762 one tree, not less than 12 feet in height, for every 500 square feet of greenbelt.

1763 **Secs. 107-3432 - 107-35968. Reserved.**

1764

DRAFT

Subdivision 2. FEMA Floodplain Management in Zones Other Than Residential

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

- (a) This section applies to all zoning districts other than Residential District (R).
- (b) Within a floodplain or special flood hazard area as identified by the Federal Emergency Management Agency, the removal of native vegetation is prohibited.
- (c) This section does not prohibit:
 - a. trimming or other ordinary maintenance of vegetation,
 - b. removing dangerous, diseased, damaged, dead, or dying vegetation, or
 - c. removing, trimming, or maintaining vegetation as necessary to protect public health and safety.
- (d) An offense shall constitute a Class C misdemeanor punishable by a fine not to exceed \$1,000.00. An offense committed intentionally, knowingly, recklessly, or with criminal negligence shall be punishable by a fine not to exceed \$2000.00 per offense. Each tree damaged or removed in violation of this division shall constitute a separate offense. Each day a violation continues shall constitute a separate offense.
- (e) The City Arborist, City Council, or other duly authorized city official may issue a stop work order in connection with site clearing, site preparation, or any permitted development of the property upon the occurrence of any other violation of this subdivision. It shall be unlawful for any person to do any work on the site covered by the stop work order unless and until a new permit, application, or site plan has been filed and processed in accordance with the provisions of this chapter and the City Council has granted approval to a new permit, application, or site plan which corrects the violations covered in the stop work order.
- (f) Injunction and other remedies. Any vegetation removal or other work done contrary to any of the provisions of this Section is hereby declared to be unlawful and shall constitute a violation of this Section. The City Council may direct the City Attorney to initiate injunction, mandamus, abatement or any other action available in law or equity to prevent, enjoin, abate or correct unlawful tree removal or other work.

Secs. 107-361 - 107-368. Reserved.

Sec. 107-343. Variances.

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

DRAFT

- 1803 ~~(1) The applicant for the variance must present to the city council a set of plans setting out~~
- 1804 ~~the applicant's proposal and the nature of the proposed variance.~~
- 1805 ~~(2) The proposed variance may not substantially adversely affect any adjoining property or~~
- 1806 ~~the general welfare of the community.~~
- 1807 ~~(3) The city council must find that the granting of the variance will not merely serve as a~~
- 1808 ~~convenience to the applicant but will serve to alleviate some demonstrable and unusual~~
- 1809 ~~hardship or difficulty based on the condition of the affected property or surrounding~~
- 1810 ~~areas.~~

1811 ~~Secs. 107-343 – 107-368. Reserved.~~

1812
1813 *{Amendments to numbering of Chapter 107 Zoning, Article II. District Regulations, Division 10.*
1814 *Landscaping, Subdivision 2. Residential Tree Canopy Management}*

1815 **Subdivision ~~2~~3. Residential Tree Canopy Management**

1816
1817 ~~**Secs. 107-381 - 107-385**96. Reserved.~~

1818
1819 *{Addition of Chapter 107 Zoning, Article II. District Regulations, Division 10. Landscaping,*
1820 *Subdivision 4. Non-Residential Tree Canopy Management}*

1821
1822 **Subdivision 4. Non-residential Tree Canopy Management**

1823 ~~**Sec. 107-386**20 **Non-residential Tree Canopy Management within the Commercial**~~
1824 ~~**District (C).**~~

- 1825 (a) Definitions. For purposes of this section,
- 1826 (1) A "protected tree" shall be a tree of a "protected species" tree as defined in -Part II, Land
 - 1827 Development Code, Chapter 107, Division 10, Subdivision 23 (Sections 107-369 through
 - 1828 107-39685) having a trunk with a diameter not less than 12 inches nor more than 24
 - 1829 inches, measured 4 1/2 feet above natural grade, as measured by an arborist.
 - 1830 (2) "Heritage tree" means a tree of a "protected species" as defined in Part II, Land
 - 1831 Development Code, Chapter 107, Division 10, Subdivision 23 (Sections 107-369 through
 - 1832 107-39685) having a diameter of 24 inches or more, measured 4½ feet above natural
 - 1833 grade, or a tree cluster, as measured by an arborist.
 - 1834 (3) "Diameter at breast height" or (DBH) means the diameter of a tree at a height of 4 1/2
 - 1835 feet above natural grade.
 - 1836 (4) "Critical root zone" means "the area around and under a tree having a radius of one foot
 - 1837 per inch of DBH from the trunk of the tree outwards and twenty-four inches in depth.

Formatted: Underline, Font color: Red

Formatted: Font color: Red, Strikethrough

Formatted: Heading 5

DRAFT

For example, for a tree having a 10-inch DBH, the critical root zone is 10 feet out from the trunk and twenty-four inches deep.

(5) "Tree Cluster" means a cluster of ~~three~~two or more trees of a "protected species" located less than ten feet apart having a combined total diameter of 24 inches or more.

(b) Part II, Land Development Code, Chapter 107, Division 10, Subdivision ~~23~~ (Sections 107-369 through 107-396~~85~~) addressing protection of protected trees, shall apply to any property within any zoning district other than the residential zoning district. To the extent of any conflict between Part II, Land Development Code, Chapter 107, Division 10, Subdivision ~~23~~ (Sections 107-369 through 107-396~~85~~) and this Section, this Section shall control.

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

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

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

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

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

*Credit factor provides tree credits per tree preserved.

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

DRAFT

1873 Example: Preservation of one 10-inch diameter protected species tree produces a credit
1874 equal to 1.5 trees of required planting.

1875 (4) Mitigation. Any protected or heritage trees that are removed as a result of approval of a
1876 Tree Removal Permit must be mitigated by planting of a tree of the same species on the
1877 same property in the following ratios:

1878 a. for each protected tree removed, one new tree of a protected species having a similar
1879 mature canopy spread as the removed tree, with a DBH of at least four inches and
1880 fourteen feet in height.

1881 b. for each heritage tree removed, three new trees of a protected species having a similar
1882 mature canopy spread as the removed tree, with a DBH of at least four inches and
1883 fourteen feet in height.

1884 An exception to the mitigation requirements may be granted by the Building Official,
1885 with the approval of the City Arborist, if the applicant demonstrates: (1) the existing tree
1886 canopy would prohibit the growth of the replacement tree(s); or (2) the required
1887 replacement trees to be installed would be planted under the canopy of an existing tree.
1888 A permit authorizing the removal of a protected or heritage tree shall require mitigation
1889 as specified above.

1890 (5) Prohibition on removal of heritage trees. Removal of a heritage tree is prohibited unless a
1891 Heritage Tree Removal Special Exception is granted under Subsection (6) or a certified
1892 arborist confirms that the heritage tree is either: (i) dead; (ii) is an imminent hazard to life
1893 or property, and the hazard cannot reasonably be mitigated without removing the tree, in
1894 whole or in part; or (iii) is diseased and restoration to sound condition is not practicable
1895 or the disease may be transmitted to other trees and endanger their health. The city
1896 administrator shall have the authority to determine whether such documentation is in
1897 order and may consider specific safety situations in light of potential hazards to life or
1898 property. In the case of an imminent hazard to life or property under subsection (ii),
1899 documentation may be submitted within 72 hours after the action is taken.

1900 (6) Heritage Tree Removal Special Exception. Except as provided in subsection (5), removal
1901 of a heritage tree is prohibited unless a Heritage Tree Removal Special Exception is
1902 granted by the Board of Adjustment upon a finding that: (i) all reasonable efforts have
1903 been made to avoid removing the tree, (ii) the location of the tree precludes all reasonable
1904 access to the property or all reasonable use of the property, and (iii) removal of the tree is
1905 not based on a condition caused by the method or design chosen by the applicant to
1906 develop the property.

1907 (7) Limitation on removal of a protected tree. A protected tree may be removed upon the
1908 determination of the City Arborist and approval of the Building Official if: (i) the tree is
1909 damaged by natural causes or is diseased beyond the point of recovery, (ii) the tree is in
1910 danger of falling, or (iii) the tree is dead. Any application to remove a protected tree shall
1911 be supported by certification by a certified arborist that one or more of these conditions
1912 exists and such conditions shall be reviewed by the City Arborist. In addition, removal
1913 may be approved upon the grant of a special exception by the Board of Adjustment upon
1914 a finding that (i) all reasonable efforts have been made to avoid removing the tree, (ii) the
1915 location of the tree precludes all reasonable access to the property or all reasonable use of

DRAFT

1916 the property, and (iii) removal of the tree is not based on a condition caused by the
1917 method or design chosen by the applicant to develop the property.

1918 (d) Pre- and post-construction tree protection plan. A pre- and post-construction tree protection
1919 plan shall be submitted with the tree permit and shall include the following:

1920 (1) Irrigation and fertilization are required for any protected or heritage tree that will be or
1921 have been disturbed by construction activities, including disturbance of the critical root
1922 zone. Fertilizers must be phosphate-free. The tree protection plan shall describe the plan
1923 for irrigation and fertilization during the construction period until final installation of all
1924 landscaping.

1925 (2) The tree protection plan shall describe all measures to be taken during construction to
1926 protect any protected and heritage trees from damage during construction, including rigid
1927 fencing, shielding, and signage, as necessary. Tree protection shall include rigid fencing
1928 placed with a radius of at least ten feet from the trunk or at the critical root zone,
1929 whichever is greater, unless property lines or other features prohibit a complete radius.
1930 Rigid fencing shall consist of chain link or wood fencing not less than four feet high at
1931 the drip line of the tree. Stakes shall be no more than six feet apart and at least 1½ deep
1932 into the ground. Rigid fencing shall be at least three feet in height. Tree protection shall
1933 remain in place until final landscaping installation is approved by the city administrator
1934 or designee.

1935 (3) Protection of critical root zone. Construction within or impervious paving over the
1936 critical root zone of any protected or heritage tree is prohibited. A minimum of 50% of
1937 the critical root zone of any protected tree or heritage tree must be preserved at natural
1938 grade and with natural ground cover. No cut or fill nor any deposit or stockpiling of
1939 earthen materials in their natural state greater than four inches will be located closer to
1940 the tree trunk than one-half the CRZ radial distance. No grade changes, excavation or
1941 trenching shall be permitted within the limits of the critical root zone unless adequate
1942 construction methods are approved by the city arborist.

1943 (4) Parking or storing of vehicles, equipment or materials allowed within the critical root
1944 zone or any protected or heritage tree is prohibited. The plan shall designate where all
1945 construction equipment and materials will be stored outside the critical root zone.

1946 (5) Activities requiring approval of the city arborist shall be identified in the tree protection
1947 plan and shall be submitted for review and comment to the city arborist, along with such
1948 fees as are required by the city to cover all costs of the review process.

1949 (e) Violations/Penalties.

1950 (1) It shall be an offense for a person:

1951 a. To fail to perform an act required by the provisions of this section;

1952 b. To fail to timely comply with any term of a permit issued pursuant to this section,
1953 including terms regarding the preservation of heritage trees and the planting and
1954 maintenance of required replacement trees;

1955 c. To hire, engage, or permit any person engaged in the business of tree planting,
1956 maintenance, or removal to perform such services on property in the city without a
1957 permit issued by the city pursuant to this Code;

DRAFT

1958 d. Except as expressly allowed pursuant to this subdivision, to remove or to cause the
1959 removal of a heritage or protected tree without first obtaining a permit therefor;

1960 e. To transfer property subject to obligations arising from a permit issued pursuant to
1961 this section if all obligations with respect to such permit are not then fulfilled unless
1962 the transferee of the property agrees in writing submitted to the city secretary to
1963 assume such permit and all obligations with respect to the protection of heritage trees
1964 and the planting and maintenance of required replacement trees; or

1965 f. To fail to submit an application for a permit as required by this section.

1966 (2) An offense shall constitute a Class C misdemeanor punishable by a fine not to exceed
1967 \$1,000.00. An offense committed intentionally, knowingly, recklessly, or with criminal
1968 negligence shall be punishable by a fine not to exceed \$2000.00 per offense. Each tree
1969 damaged or removed in violation of this division shall constitute a separate offense. A
1970 failure to plant and maintain a required replacement tree shall constitute a separate
1971 offense. Each day a violation continues shall constitute a separate offense. The owner or
1972 tenant of any building, structure, or premises and any designer, builder, contractor, agent
1973 or other person who knowingly commits, participates in, assists in or maintains such
1974 violation may each be found guilty of a separate offense and subject to the penalties as
1975 provided herein.

1976 (3) The City Arborist, City Council, or other duly authorized city official may issue a stop
1977 work order in connection with site clearing, site preparation, any permitted development
1978 of the property from which a heritage tree is removed without authorization or upon the
1979 occurrence of any other violation of this subdivision or of any term of a permit issued
1980 pursuant to this subdivision. Any person, including a workman on the site, who fails to
1981 comply with a stop work order shall be guilty of a misdemeanor punishable as provided
1982 for in the penalty section hereof. It shall be unlawful for any person to do any work on
1983 the site covered by the stop work order unless and until a new permit, application, or site
1984 plan has been filed and processed in accordance with the provisions of this chapter and
1985 the City Council has granted approval to a new permit, application, or site plan which
1986 corrects the violations covered in the stop work order and all fees and fines have been
1987 paid.

1988 (4) No certificate of occupancy shall be issued for a building or other structure that is not
1989 then in compliance with any permit issued pursuant to this subdivision. No certificate of
1990 occupancy shall be issued for a building or other structure that is not then in compliance
1991 with any permit issued pursuant to this subdivision for removal of a protected tree.

1992 (5) Any temporary occupancy permit issued pending any completion of any required
1993 planting due to seasonal suitability of planting shall state the day by which planting shall
1994 be completed or an extension requested, and shall be revoked if the required planting is
1995 not completed or an extension granted by the stated date.

1996 (6) Injunction and other remedies. Any tree removal or other work done contrary to any of
1997 the provisions of this Section or to any of the details contained in any final site plan
1998 approved by the City or to any of the conditions imposed in connection with the granting
1999 of any application required by this Section is hereby declared to be unlawful and shall
2000 constitute a violation of this Section. The City Council may direct the City Attorney to

DRAFT

initiate injunction, mandamus, abatement, or any other action available in law or equity to prevent, enjoin, abate, or correct unlawful tree removal or other work.

(f) To the extent of conflict with another section of the Code, this section controls.

Secs. 107-387 - 107-396. Reserved.

Formatted: Underline, Font color: Red

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

ARTICLE III. – SPECIAL USES

Sec. 107-397. Applicability.

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

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

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

- (a) Alcoholic beverages sold in a restaurant for on-premises consumption. A proposal to sell alcoholic beverages in a restaurant for on-premises consumption must comply with the following specific criteria and conditions, as well as the general criteria prescribed under section 107-400:
 - (1) The restaurant where alcoholic beverages are proposed to be sold is not located within 300 feet of a church or school;
 - (2) The restaurant where alcoholic beverages are proposed to be sold is not located on property, two or more sides of which abut property in a residential district;
 - (3) The gross receipts derived from the sale of alcoholic beverages shall not exceed the gross receipts derived from the sale of food; and
 - (4) The permit shall be reviewed annually by the city secretary and if reissued, reissued at the end of the city's fiscal year.
- (b) Alcoholic beverages sold in grocery stores for off-premises consumption.
 - (1) The grocery store where the alcoholic beverages are proposed to be sold is not located within 300 feet of a church or school;
 - (2) The grocery store where the alcoholic beverages are proposed to be sold is not located on property, two or more sides of which abut property in a residential district;

DRAFT

- 2036 (3) The permit shall be reviewed annually by the city secretary and if reissued, reissued at
2037 the end of the city's fiscal year;
- 2038 (4) Additional fees are to be collected after three years' operation in accordance with
2039 alcoholic beverage commission permit rules; and
- 2040 (5) A permit shall only be granted if:
- 2041 a. The applicant agrees that all litter associated with off-premises consumption of
2042 alcoholic beverages within 200 feet of the applicant's premises is presumed to be
2043 the applicant's; and
- 2044 b. The applicant agrees to collect and dispose of all litter within 200 feet of the
2045 boundary line of the premises from which alcoholic beverages are sold.
- 2046 (c) Banks/savings and loan associations in ~~C-1~~ districts. A proposed bank or savings and loan
2047 association in a ~~C-1~~ district must comply with the following specific criteria and conditions,
2048 as well as the general criteria prescribed under section 107-400:
- 2049 (1) The site plan must provide adequate stack space for motor vehicles;
- 2050 (2) The site shall be designed and developed in a manner that will not impede the flow of
2051 traffic in the vicinity of the bank or savings and loan association;
- 2052 (3) The site plan shall provide for adequate landscaping and the maintenance of
2053 landscaped areas shall be governed by the provisions of restrictive covenants
2054 enforceable by the city; and
- 2055 (4) There shall be no more than one curb cut for access to the office complex unless
2056 otherwise approved by the city council.
- 2057 (d) Personal wireless telephone service facility in certain parts of a ~~C-1, C-2~~, and H district, and
2058 a PUD. A proposed personal wireless telephone service facility on a lot with frontage on
2059 Bee Caves Road in a ~~C-1, C-2~~ or H district or in a PUD must comply with the following
2060 specific criteria and conditions as well as the general criteria prescribed under section 107-
2061 400:
- 2062 (1) The facility shall have a design and appearance that mimics other uses and ancillary
2063 structures in the vicinity, such as a flagpole, tree trunk or other object compatible with
2064 surrounding buildings and uses, or, in lieu thereof, the lower 15 feet of a freestanding
2065 facility shall be screened by vegetation;
- 2066 (2) The use or operation of the facility shall not be attended by noise or light that is
2067 incompatible with surrounding uses, or other attributes constituting a nuisance to
2068 surrounding uses;
- 2069 (3) The facility will at all times be operated in compliance with applicable federal and state
2070 law, including law regulating radio frequencies, microwaves, and other electronic or
2071 magnetic emissions or transmissions; and
- 2072 (4) No auxiliary generator or power source producing excessive noise or polluting
2073 emissions shall be included.
- 2074 (e) Cafes, cafeterias, restaurants, and bakeries. A proposed café, cafeteria, restaurant, or
2075 bakery must comply with the general criteria prescribed under section 107-400 and must provide

DRAFT

2076 adequate exhaust air filtration systems as needed to control and capture smells created by the use
2077 prior to release to the outside atmosphere.

2078
2079 *{Amendments to Chapter 107 Zoning, Article IV. Nonconforming Structures and Uses, Section*
2080 *107-422 Nonconforming buildings, structures}*

2081 **ARTICLE IV. – NONCONFORMING STRUCTURES AND USES**

2082 **Sec. 107-422. Nonconforming buildings, structures.**

2083 Any nonconforming building or structure may, so long as it remains otherwise lawful, be
2084 continued subject to the following requirements and limitations:

- 2085 (1) Except as otherwise required by ordinance or law, a nonconforming building or
2086 structure may not be altered in a manner that increases the extent of its nonconformity.
- 2087 (2) Except as otherwise required by ordinance or law, a nonconforming building or
2088 structure must be brought into conformity if:
- 2089 a. Fifty percent of the square footage of the building or structure is demolished,
2090 excluding a permit for interior construction or remodeling only; or
- 2091 b. If the nonconforming building or structure is moved, it shall conform to the
2092 regulations for the district within or into which it is moved.
- 2093 (3) The provisions of subsection (2)a of this section do not apply to the demolition of the
2094 roof of a building or structure.
- 2095 (4) If the nonconforming building or structure, other than a dwelling, is damaged or
2096 destroyed by fire or other accident or natural means, the building official shall, upon
2097 application by the owner thereof, issue a permit for repair or reconstruction of the
2098 building or structure, provided that the repair or reconstruction conforms with the
2099 construction materials standards set forth in section 107-107, the compatibility
2100 standards set forth in section 107-116, and will not increase the extent of the
2101 nonconformity of the building or structure.
- 2102 (5) If the nonconforming building or structure that is a dwelling is damaged or destroyed
2103 by fire or other accidental or natural means, the building official shall, upon application
2104 by the owner thereof, issue a permit for repair or reconstruction of the building or
2105 structure if the repair or reconstruction will not increase the extent of the
2106 nonconformity of the building or structure.
- 2107 (6) Nothing in this article shall be deemed to:
- 2108 a. Prevent ordinary repairs to nonconforming buildings or structures;
- 2109 b. Prevent alterations of or extensions to nonconforming building or structures as
2110 required by law or ordinance; or
- 2111 c. Prevent the restoration to a safe condition of any nonconforming building or
2112 structure, or portion thereof, declared to be unsafe by the building official or other
2113 duly authorized official.

DRAFT

2115 {Amendments to Chapter 107 Zoning, Article V. Administration and Enforcement, Division 1.
2116 Generally}

2117 **ARTICLE V. ADMINISTRATION AND ENFORCEMENT**

2118 **DIVISION 1. GENERALLY**

2119 **Sec. 107-442. Penalty for violation.**

2120 (a) If any building or structure is constructed or altered, or if any premises are used in violation
2121 of the provisions of Chapter 107 or any permit this article, the building official is authorized
2122 and directed to institute any appropriate action to put an end to such violation.

2123 (b) ~~Any person who violates or fails to comply with any of the requirements of this article shall~~
2124 ~~be guilty of a misdemeanor and shall be liable to a fine not to exceed \$2,000.00. Each day~~
2125 ~~any such violation occurs shall constitute a separate offense. Any person, firm, or~~
2126 ~~corporation who violates any of the provisions of this Chapter or any permit, or fails to~~
2127 ~~comply therewith, or who shall violate or fail to comply with any order or regulation made~~
2128 ~~hereunder, or who shall build any project or facility in violation of any detailed statement of~~
2129 ~~specification or plans submitted and approved hereunder, or any certificate or permit issued~~
2130 ~~hereunder, shall, for each and every violation and noncompliance respectively be deemed~~
2131 ~~guilty of a misdemeanor and upon conviction thereof shall be fined a sum not to exceed~~
2132 ~~\$2,000 or the appropriate legal maximum as determined by statute. Each and every day that~~
2133 ~~such violation and/or noncompliance shall exist shall be deemed a separate offense. In case~~
2134 ~~any person, firm, or corporation violates any of the provisions of this Chapter or any permit~~
2135 ~~or fails to comply therewith, the city, in addition to imposing the penalties above provided~~
2136 ~~may institute any appropriate action or proceedings in court to prevent, restrain, correct, or~~
2137 ~~abate or to prevent any illegal act, conduct, business, or use in or about any land, and the~~
2138 ~~definition of any violation of the terms of this eChapter or any permit as a misdemeanor,~~
2139 ~~shall not preclude the city from invoking the civil remedies given it by law in such cases,~~
2140 ~~but same shall be cumulative of and in addition to the penalties prescribed for such~~
2141 ~~violation.~~

2142 (c) The owner or owners of any land, building or structure, or part thereof, where anything in
2143 violation of this ~~article~~ Chapter or any permit shall be placed or shall exist, and any person
2144 employed in connection therewith and who assists in the commission of such violation,
2145 shall be guilty of a misdemeanor and shall be liable to a fine not to exceed \$2,000.00.

2146 (d) Nothing herein contained shall prevent the city from taking such other lawful action as
2147 necessary to prevent or remedy any violation of this ~~article~~ Chapter or any permit.

2148

2149 **Secs. 107-443—107-459. Reserved.**

2150

DRAFT

2151 {Amendments to Chapter 107 Zoning, Article V. Administration and Enforcement, Division 3.
2152 Board of Adjustment, Sec.107-491 Special Exception to add a special exception for 75-greenbelt
2153 reduction}

2154 DIVISION 3. BOARD OF ADJUSTMENT

2155 Sec. 107-491.- Special exceptions

2156 (a) The board of adjustment may, in a specific case, where the board of adjustment makes the
2157 findings required under subsection (c) herein, grant the following special exceptions from the
2158 requirements of this division:

2159 (1) Permit the reconstruction of a nonconforming building or structure that has been
2160 damaged by fire or other cause;

2161 (2) Permit the enlargement or extension of a nonconforming use or nonconforming building
2162 upon the lot occupied by such use or building at the time of the passage of this division;

2163 (3) In undeveloped sections of the city, grant temporary and conditional permits for not more
2164 than two years, provided that the grant of a temporary or conditional permit shall not be
2165 reason or cause for extension of such permit;

2166 (4) Permit such modifications of yard, open space, lot area, or lot width regulations as may
2167 be necessary to improve a parcel of land, if the parcel is of such restricted size that it
2168 cannot be appropriately improved without such modification; or

2169 (5) Permit a public utility or public service building of a ground area or height at variance
2170 with those provided for the district in which such public utility or public service building
2171 is permitted to be located, when found reasonably necessary for the public health,
2172 convenience, safety or general welfare.

2173 (6) Permit a reduction or modification in the 75-foot setback requirements of Section 107-
2174 108(a) and/or the 75-foot greenbelt requirements of Section 107-109(a), provided that:

2175 a. In addition to the notice and hearing required under Subsection 107-494(a), the board
2176 of adjustment shall conduct a public hearing on the application to consider public
2177 comment and any alternative to the proposed application. The public hearing required
2178 by this subsection shall be held no less than 30 days prior to the date of any hearing at
2179 which the board of adjustment will consider action on the application. Upon the
2180 decision of the board of adjustment or upon request of the applicant, the board of
2181 adjustment may recess such public hearing, from time to time, to consider any
2182 alternative proposal. In the event the Applicant requests the board of adjustment to
2183 consider an alternative proposal, notice of the alternative proposal shall be given in
2184 the manner required by Subsection 107-491(a), and the hearing on the alternative
2185 proposal shall be set no less than 30-days prior to the date notice is given; and

2186 b. The board of adjustment finds all of the following:

2187 (i) The lot to be developed has no existing 75-foot greenbelt or the existing greenbelt
2188 is less than the required 75-feet;

DRAFT

- 2189 (ii) The proposed alternative, as compared to the existing development, mitigates the
2190 impact of the existing development upon adjacent residential properties and/or
2191 improves to the greatest extent practicable the buffering of the adjacent residential
2192 properties, and preserves or enhances existing landscaping to the greatest
2193 reasonable extent;
- 2194 (iii) The proposed alternative, as compared to the existing development, is consistent
2195 with and promotes the recommendations and policies within the city's
2196 comprehensive plan;
- 2197 (iv) The proposed alternative enhances the site, as compared to the existing
2198 development, without detriment to the adjacent residential properties, and
2199 therefore, the overall environment of the city; and
- 2200 (v) The proposed alternative if granted will not have a detrimental impact on any
2201 adjacent properties.
- 2202 (b) The board of adjustment may grant such other special exceptions as may be provided for
2203 elsewhere in this division, subject to the terms and conditions therein set out.
- 2204 (c) Prior to granting a special exception, the board shall make a finding that it is empowered
2205 under this chapter to grant the special exception, that the public convenience and welfare will
2206 not be substantially or permanently injured in the granting of the special exception, and that
2207 the grant of the special exception will not adversely affect the public health, convenience,
2208 safety or general welfare.
- 2209 (d) In granting a special exception, the board of adjustment may prescribe appropriate conditions
2210 and safeguards in conformity with this division.
- 2211 (e) The board of adjustment shall prescribe a time limit within which the action for which the
2212 special exception is required shall be begun or completed, or both. Failure to comply with the
2213 time limits set by the board shall void the special exception.