

- 6) No side yard is specified for non-residential use in the GR, C, CA, LI or HI Districts except where a commercial, retail or industrial or other nonresidential use abuts upon a district boundary line dividing such districts from a residential district in which event a minimum five feet side yard shall be provided on the side adjacent to such residential district.
- 7) The minimum side yard requirements in a Planned Development District shall be established on the site plan or in the amending ordinance in accordance with section 3.14.2.
- 8) Side yard requirements for zero lot lines are as follows: one side must be at least ten feet, and there is no minimum on the other side.

4.4 REAR YARD REGULATIONS

4.4.1 GENERAL

Regulations governing yard requirements, as specified in section 3.12 and section 3.13, shall apply to all lots unless otherwise specified in the ordinance.

4.4.2 SPECIAL REAR YARD REGULATIONS

- 1) In the A, ED, SF-1, SF-2, SF-3, 2F, MF-1, MF-2, NS, GR, C, CA, or LI districts, no main residential building may be constructed nearer than ten feet to the rear property line. The main residential building and all accessory building shall never cover more than 50 percent of that portion of the lot lying to the rear of a line erected joining midpoint on one side lot line with the mid-point of the opposite side lot line. For accessory building standards, see section 4.6.
- 2) In the NS, GR, C, CA, LI, or HI Districts, no rear yard is specified for non-residential uses except where retail, commercial or industrial uses back upon a common district line, whether separated by an alley or not, dividing the district from any residential districts listed herein, a minimum rear yard of ten feet shall be provided.
- 3) Every part of a required rear yard shall be open and unobstructed to the sky from a point 30 inches above the general ground level of the graded lot, except for accessory buildings, landscaping, fences and similar appurtenances and the ordinary projections of window sills, belt courses, cornices and roof overhangs and other architectural features projecting not to exceed four feet into the required rear yard.
- 4) The minimum rear yard in a PD, Planned Development District shall be established on the site plan or by the amending ordinance in accordance with section 3.14.2.
- 5) Where multifamily dwellings exceed three stories in height, a rear yard equal to one foot for each two feet in height shall be provided, except that no such rear yard shall exceed 50 feet as a result of this provision, and except that in the MF-2 and CA Districts, no rear yard exceeding ten feet shall be required where the rear wall of a residential structure contains no opening or windows for light or air.

4.5 HEIGHT REGULATIONS

4.5.1 GENERAL

Regulations governing height limits, as specified in section 3.12 and section 3.13, shall apply to all lots unless otherwise specified in the ordinance.

4.5.2 SPECIAL HEIGHT REGULATIONS

- 1) In all zoning districts and planned developments, water standpipes and tanks, religious facility architectural features, bell towers, domes and spires on school buildings and institutional buildings, the roofs of auditoriums and sanctuaries of one story construction, and public safety structures may be erected to exceed the district's maximum height. Side and rear yards shall be increased by 2 additional feet, and the front yard shall be increased by one additional foot, for each foot that such structures exceed the district's maximum height where adjacent to residential districts. The increase in the required yard shall apply only to the portion of the structure that causes the increased yard requirements.
- 2) Publicly-owned sports lighting, communication antennas or communication structures, utility poles and towers, and water tanks are exempt from height restrictions.

4.6 ACCESSORY BUILDING REGULATIONS

4.6.1 USE OF ACCESSORY BUILDING

- 1) In a residential zoning district, an accessory building may not be used for commercial purposes and may not be rented.
- 2) In a nonresidential zoning district, an accessory structure is a subordinate structure, the use of which is incidental to and used only in conjunction with the main structure.

4.6.2 GARAGE APARTMENT OR GUEST HOUSE

Accessory dwelling units (Garage Apartment or Guest House) shall be allowed as an incidental use on the same lot or tract as the main dwelling unit and used by the same person or persons of the immediate family when the main structure is owner occupied, and meet the following standards.

- 1) **Location**
 - a. A Garage Apartment shall be constructed attached to a garage, either above or adjacent to the garage.
 - b. A Guest House shall be constructed to the rear of the main dwelling, separate from that upon which the main dwelling is constructed.
- 2) **Building Permit Requirement**
An accessory dwelling unit may be constructed only with the issuance of a building permit.

- 3) **Independent Sale and Sublet Prohibited**
An accessory dwelling unit may not be sold separately from sale of the entire property, including the main dwelling unit, and shall not be sublet.
- 4) **Setbacks**
Setback requirements shall be the same as for the main structure.
- 5) **Area Regulations**
 - a. Accessory dwelling units may not exceed a height of 35 feet, and is limited to two stories.
 - b. Accessory dwelling units may not exceed 1,100 total square feet and 550 square feet on the second story, if any. The minimum allowed area of the accessory unit shall be 350 square feet.
 - c. The floor area of any detached accessory structure shall not exceed 50 percent of the floor area of the principal structure. The total combined floor area of all structures shall not exceed the maximum lot coverage for the zoning district in which it is located.
- 6) **Other Regulations**
 - a. An accessory dwelling unit shall not contain more than one bedroom, more than one kitchen, or more than one bathroom.
 - b. Parking areas shall be located behind the front yard.
 - c. In order to maintain the architectural design, style, appearance and character of the main building as a single-family residence, the accessory dwelling unit shall have a roof pitch, exterior facades and window proportions identical to that of the principal residence.

4.6.3 HEIGHT AND YARD REQUIREMENTS

- 1) Where the accessory building is attached to a main building, it shall be subject to, and must conform to, all regulations applicable to the main building except as provided within this section.
- 2) Accessory buildings shall not be erected in any required front yard.
- 3) Carports and detached accessory buildings, except garages, shall not be located closer than 3 feet to any side or rear lot line.
- 4) Detached accessory buildings enclosed on 3 or more sides shall not be located closer than 10 feet to the main building.
- 5) Garages entered from an alley shall be set back from the lot line adjacent to the alley a minimum of 20 feet.
- 6) Accessory buildings may not be placed in the required side yard setback if the side yard lot line abuts a street.
- 7) In no instance shall an accessory building be located within an easement or right-of-way.
- 8) Detached accessory buildings located in a required rear or side yard shall not exceed 10 feet in height. If the detached accessory building is located less than 10 feet from the rear

or side lot line, a 6-foot solid fence or wall shall be built on the rear or side lot line to screen the building. No screening shall be required at the point of entry for a carport.

4.6.4 CARPORTS

- 1) In single-family and two-family developments, a carport shall shelter not more than 3 vehicles and shall not exceed 24 feet on its longest dimension.
- 2) Carports must meet all height and yard setback requirements in section 3.12 and are prohibited within the front yard setback.

4.7 EXTERIOR CONSTRUCTION STANDARDS FOR STRUCTURES

4.7.1 RESIDENTIAL STRUCTURES

- 1) Exterior wall construction for residential structures shall consist of a minimum of seventy-five (75) percent of the following masonry materials on the first floor and fifty (50) percent of stories other than the first story. This coverage calculation does not include doors, windows, recessed entries, chimneys, dormers, window box-outs, bay windows that do not extend to the foundation, or any other exterior wall that does not bear on the foundation.
 - a. Stone or brick laid up unit by unit and set in mortar,
 - b. Cultured stone, or
 - c. 3-step stucco, or
 - d. An equivalent, permanent architecturally finished material with a minimum 30-year warranty period is also acceptable.
- 2) Exterior walls of chimneys, dormers, window box-outs, bay windows that do not extend to the foundation, or any other exterior wall that does not bear on the foundation, shall be constructed of masonry materials or any other sustainable material with a minimum 30-year warranty period, such as: fiber cement siding, seamless steel siding, vinyl siding with a flat or low gloss embossed finish and at least 0.04-inch thick, three-coat stucco, or EIFS. Fascia may be constructed of sustainable materials with a minimum 20-year warranty period covering the product and its coating, such as: fiber cement siding, aluminum coil with vinyl coating, cedar wood, redwood, treated engineered wood, or treated dimensional lumber. Prohibited materials include wood (except as noted above), plywood, hardwood, and untreated engineered/manufactured wood.
- 3) All main structures within the Multifamily Residential districts must have a minimum of eighty (80) percent masonry on the first and second floors and fifty (50) percent on all other floors.
- 4) The City Manager is authorized to grant a waiver to these requirements if necessary to result in a higher quality development and/or to carry out the recommendations of the Comprehensive Plan.

4.7.2 NON-RESIDENTIAL STRUCTURES

- 1) Except for the LI and HI districts, and as otherwise regulated by this ordinance, exterior wall construction for nonresidential structures shall consist of a minimum of 75 percent masonry, 3-step stucco, glass, or combination of these materials, with no single wall face of any structure containing less than 50 percent of its exposed surface of masonry construction. A maximum of 10 percent of any exposed exterior wall may consist of EIFS.
- 2) No more than 80 percent of the ground floor of any exterior wall (to the first plate) shall be comprised of windows or glass. No more than 50 percent of any exterior wall above the ground floor shall be comprised of windows or glass. Glass walls shall include glass curtain walls or glass block construction. Glass curtain wall shall be defined as an exterior wall which carries no structural loads, and which may consist of the combination of metal, glass, or other surfacing material supported in a metal framework.
- 3) Reflective glass with an exterior reflectance in excess of 27 percent shall not be permitted.
- 4) Exterior Construction Standards for Central Area (CA), Neighborhood Service (NS), General Retail (GR), and Commercial (C) Districts
 - a. All non-residential buildings shall be architecturally finished on all 4 sides with the same materials and detailing (e.g., tiles, moldings, cornices, wainscoting, etc.).
 - b. The rear facade of a building, which is not adjacent to or does not face a public right-of-way, park or residential district, shall not be required to comply with the above requirement.
 - c. All entrances of a building along any street shall incorporate arcades, roofs, alcoves, porticoes and awnings that protect pedestrians from the sun and weather. Minimum awning size shall be four feet by four feet.
 - d. All buildings facing a public right-of-way, park, or residential zoning district shall meet the following articulation requirements:
 - i. Facade articulation of at least three (3) feet in depth or offset shall be required for every thirty (30) feet in horizontal surface length.
 - ii. Buildings greater than two stories or taller than 20 feet shall be designed to reduce apparent mass by including a clearly identifiable base, middle, and top, with horizontal elements separating these components.
 - iii. A well-defined cornice or fascia shall be located at the top of the storefront and at the roofline.
- 5) All buildings and structures in the Central Area (CA) District shall be of exterior fire resistant construction, having 100 percent of the total exterior walls, excluding doors and windows, be constructed of brick, stone, or brick veneer.
- 6) In Industrial Districts (LI and HI) any exterior wall visible from a public thoroughfare or residential zoning district must be of 100 percent masonry, exclusive of doors and windows.
 - a. Up to 100 percent of any exposed exterior wall may consist of metal if the exterior wall is not visible from a public thoroughfare or residential zoning district.

- 7) Procedure for Determining Alternative Exterior Materials
 - a. Exceptions to the material requirements may be permitted on a case by case basis.
 - i. All requests for alternative exterior building materials shall be noted and described on a Site Plan with elevation drawings to be submitted to the Planning and Zoning Commission for approval.
 - b. The Planning and Zoning Commission may approve an alternative exterior material if it is determined it is equivalent or better than masonry according to the criteria listed in Section 4.7.2.
 - c. Consideration for exceptions to the above requirements shall be based only on the following:
 - i. Architectural design and creativity;
 - ii. Compatibility with surrounding developed properties.

4.7.3 ACCESSORY STRUCTURES

- 1) Exterior Façades

Any accessory building or storage building that is greater than 200 square feet in floor area which is allowed under this chapter shall be of like appearance to the primary building.
- 2) Exceptions to Exterior Facades
 - a. Any accessory building or storage building that is 200 square feet or less in area, which is allowed under this chapter, may be constructed of materials having a different appearance from the primary building provided that the building shall be the same color as the primary building.
 - b. Fiber cement siding may be used to fulfill masonry requirements for an accessory structure or structure of two hundred (200) square feet or less in a single family or two family district.
 - c. Metal or wood may be used as an exterior construction material for an accessory structure or structure of one hundred twenty (120) square feet or less in a single family or two family district.
 - d. Fiber cement siding may be used to fulfill masonry requirements for structures accessory to an existing structure constructed entirely of wood or vinyl siding.
 - e. In nonresidential districts, accessory structures with pervious roofs (e.g., pergola) may be constructed of Cedar, Douglas Fir, or other material impervious to rotting, provided masonry, matching the material of the primary building or structure, wraps around the base of each column for a minimum three (3) feet above grade.
- 3) Foundation Requirements
 - a. Attached accessory buildings shall conform to the regulations applicable to the main building to which they are attached. Attached buildings are defined as any building sharing a common roof with the primary structure.

- b. Foundation requirements for detached accessory buildings (except barns) are as follows:
- i. Buildings two hundred (200) square feet and less – The building may be placed on the ground without a foundation provided that the building is anchored to the ground. This must be done to resist wind loads.
 - ii. Buildings greater than 200 square feet – The building shall have a permanent foundation in accordance with the current City of Farmersville Building Codes, the plans for which shall be prepared and sealed by a professional engineer licensed by the state. Foundations higher than 12 inches above ground level shall be required to have a foundation fascia consisting of the same material that covers the exterior wall directly above the foundation, so that no more than 12 inches of the foundation is exposed.

4.7.4 PROHIBITED EXTERIOR MATERIALS

The following materials and products shall not be used for exterior walls or exterior accents, unless otherwise permitted by this article: metal panels, wood siding, Masonite, particle board, stucco foam insulation systems, and aluminum siding.

4.7.5 ROOFING REQUIREMENTS

- 1) The implied visible purpose of the roof form is to perform those functions associated with a roof. That is to provide sunshade or shed water. A roof, which exists only to conceal mechanical equipment, is not allowed. The guidelines for roofs are as follows:
- 2) **Roof Massing**
Roofs (pitched or flat) shall be massed with an orderly sequence of subordinate roofs extending from a dominant roof mass. Where more complex building design creates multiple roof forms, there shall be a logical relationship of the roof composition. Single roof forms, other than flat roofs, which articulate the entire plate size of the structure, are not allowed. It is the intent of this guideline to encourage roof forms (other than flat roofs) with compositional components rather than the entire mass of the structure itself. When pitched roof forms are used in conformance with these guidelines, roof forms must be simple hipped or gable roofs. This guideline is not meant to limit the use of flat roofs in subordinate mass situations and where such a roof is necessary to attain an appropriate perception of span. A flat roof shall be concealed behind a parapet (or an extension of the wall plane).
- 3) **Roof Projections**
No plumbing stacks, venting stacks or roof mounted attic ventilators (except gable and or dormer vents) shall penetrate the roof surfaces facing the street. Roof projections must be mounted straight and perpendicular to the ground plane and be painted to blend with the roof color. Roof projections and HVAC equipment mounted on the roof shall be

screened from view and shall not be visible from any streets abutting or adjacent to the structure.

4) Roof Span

Care must be taken in the design of new development to create (or give the illusion of) spans that are compatible with pedestrian scaled development and residential uses. Roof spans should not be larger than 45 feet unless a dominant span (larger in size) is made more complex and obscured by subordinate roof masses extending from it.

5) Flat Roofs

Flat roofs shall include parapets that adhere to articulation requirements for the main face of the structure. The average height of the parapet shall not exceed 15 percent of the height of the supporting wall, unless rooftop equipment cannot be sufficiently screened. A three-dimensional cornice treatment is encouraged for parapets. Parapets shall look complete from all sides if visible at any distance from the ground. Parapets shall be constructed of the same material as the primary façade.

6) Roof Pitch

Pitched roofs shall have a minimum pitch of 6:12 for all structures. This requirement excludes roofs for entries and dormers.

7) Sloped Roof Materials

Sloped roof materials shall be one of the following:

- a. Metal R panel;
- b. Natural slate;
- c. High quality clay or concrete tile (including such slate like products as Hardislate or equal) in warm darker gray or dark earth tone color range;
- d. High quality composition shingle with a 30-year warranty with a gray, dark chocolate, or weathered blend color or other dark color;
- e. All roof colors shall be limited to a Verde, dark bronze or naturally weathered or earth tone color.

8) Flat roofs may be constructed of any industry-standard material, unless prohibited by this section.

9) Wood shingles, corrugated metal, tar paper, and brightly colored asphalt shingle roof materials are prohibited on all roof types. Corrugated metal roofs on non-residential structures within the Downtown Historical Area of Farmersville shall be allowed.

10) A pitched roof with a minimum 6-to-12 pitch shall be required on at least 75 percent of the roof of each single-family and two-family dwelling.

11) All single-family and two-family dwellings erected after the adoption of the ordinance from which this section is derived shall be required to have a pitched roof with a minimum 6-to-12 pitch on at least 75 percent of the roof.

12) Detached garages, sheds, porticos and accessory structures on the same lot as a single-family or two-family dwelling shall have a minimum 4-to-12 pitched roof.

4.7.6 FOUNDATION REQUIREMENTS

- 1) All single-family and two-family dwellings shall have a permanent foundation the plans for which shall be prepared and sealed by a professional engineer licensed by the state. Foundations higher than 12 inches above ground level shall be required to have a foundation fascia consisting of the same material that covers the exterior wall directly above the foundation, so that no more than 12 inches of the foundation is exposed.

4.7.7 LIMITED WAIVERS FOR EXPANSION OR RECONSTRUCTION OF EXISTING BUILDINGS'

The planning and zoning commission may, upon request by the applicant, authorize a waiver from specific requirements for exterior materials set out in section 4.7, if:

- 1) Strict compliance with these standards would result in significantly inconsistent appearance between existing and proposed sections of the building; or,
- 2) If the proposed expansion or reconstruction has been mandated as a condition to the applicant's ability to continue operating a franchise, or license, to conduct business in the existing building; and
- 3) The expansion or reconstruction does not increase the square footage of the existing building by more than 50 percent; and
- 4) The applicant proposes the use of high quality materials in the expansion or reconstruction of the existing building that significantly improve the quality and appearance of the existing building.
- 5) The applicant shall submit detailed information to the city manager as required in subsection 4.7.7 regarding meritorious exceptions. The city manager shall review the application, prepare a report of findings and refer the request for a waiver to the planning and zoning commission for a decision according to procedures outlined in subsection 4.7.7. The applicant may appeal the decision of the planning and zoning commission to the city council according to the procedures outlined in subsection 4.7.7 regarding meritorious exceptions.

4.7.8 MERITORIOUS EXCEPTION

It is not the intent of this section to discourage innovation. An architectural and site design that does not conform with the specific requirements of this section, but which has merit by making a positive contribution to the visual environment and which is appropriate to the site and use, may be submitted for consideration as a meritorious exception. Such proposals shall be fairly and seriously considered by the planning and zoning commission through the approval process outlined in this section.

- 1) An applicant for a meritorious exception shall submit:
 - a. All items required for the review of required architectural and site standards;
 - b. A written description of the nature of the meritorious exception and the compelling reasons that prevent the applicant from meeting the minimum standards set forth herein; and

- c. Color renderings of all elevations.
- 2) The application for a meritorious exception shall be reviewed by the city manager and a report of findings shall be prepared and submitted to the planning and zoning commission. If the applicant is not in agreement with the decision of the planning and zoning commission, the applicant may, within 21 days of the planning and zoning commission action, request in writing to the city manager that the meritorious exception be appealed to the city council. Prior to consideration of an application for a meritorious exception, the planning and zoning commission shall hold a public hearing, with notice given according to the procedure for a change in a zoning district location or boundary. In considering the request, the planning and zoning commission shall consider the following factors in determining the extent of any exception granted:
- a. The extent to which the application meets other specific standards of this article;
 - b. The extent to which the application meets the spirit and intent of this article through the use of building materials, colors, and facade design to create a building of exceptional quality and appearance;
 - c. The positive or negative impact of the proposed project on surrounding property use and property values, in comparison to the expected impact of a project, which could be built in conformance with the standards of this article; and
 - d. The extent to which the proposed project accomplishes city goals as stated in the comprehensive plan or other approved document.
 - e. A meritorious exception shall not be granted to serve solely as a convenience to the applicant, or for reasons related solely to economic hardship.

4.7.9 VARIANCES

When a property owner can show that a strict application of the terms of this article relating to architectural or site standards will impose upon him unusual and practical difficulties or particular hardship, including instances where an applicant has previously built in strict conformance with approved architectural and site standards plans and such approval was erroneously granted by the city manager or his designee, a variance from the strict application of this section may be granted by the board of adjustment; provided that:

- 1) The variance requested is in harmony with the general purpose and intent of this section;
- 2) The board of adjustment is satisfied that a granting of such variance will not merely serve as a convenience to the applicant, but will alleviate a demonstrable and unusual hardship or difficulty; and
- 3) The board of adjustment is satisfied that there will be no adverse impact on surrounding property.

4.8 OPEN STORAGE

4.8.1 ALLOWED ZONING DISTRICTS

- 1) Open storage is permitted as a primary use only in the LI and HI districts.
- 2) Open storage and outside display are permitted as accessory uses to a primary use on the same lot in the A, NS, GR, C, CA, LI, and HI districts.
- 3) Open storage and outside display are prohibited in all residential districts.

4.8.2 ALLOWED LOCATIONS FOR OPEN STORAGE AND OUTSIDE DISPLAY

Open storage and outside display of goods, materials, merchandise, or equipment shall:

- 1) Be screened as required in Section 4.9, unless placed in accordance with Section 4.8.3.
- 2) Not be located within any required front, side, or rear yard setback.
- 3) Not be located within parking spaces, fire lanes, maneuvering aisles, or customer pick-up lanes.
- 4) Not obstruct visibility or interfere with pedestrian or vehicular circulation. If the items are placed on a sidewalk or other pedestrian area, a 6-foot wide pedestrian path shall be maintained through or adjacent to the outside display area. The pedestrian path must be concrete or asphalt and may not be located within off-street parking areas, including parking spaces, fire lanes, maneuvering aisles, and customer pick-up lanes.
- 5) Nothing in this article shall prohibit temporary open storage of merchandise for display and sale during a sidewalk sale. A 4-foot wide clearance shall be provided along the public sidewalk and a 6-foot wide clearance shall be provided on the sidewalk around the building.
- 6) Be placed on an asphalt or concrete surface. In an industrial zoned district, open storage items, except vehicles, may be placed on a gravel surface. For freestanding garden center uses, when developed as the primary use of a lot, open storage items may be placed on a gravel or other permeable surface.
- 7) Be immediately adjacent to the building when in an A, NS, GR, C, or CA district.
- 8) Not be located on the roof of any structure.
- 9) Not exceed 5 percent of the lot area or 20 percent of the main building gross floor area, whichever is more restrictive, in the NS, GR, C, CA districts. For freestanding garden center uses, when developed as the primary use of a lot, the area for open storage may be increased to a maximum of 50 percent of the lot area.

4.8.3 EXCEPTIONS TO SCREENING REQUIREMENTS

- 1) No screening is required for open storage and outside display of goods, materials, merchandise, or equipment as an accessory use if placed in an area not more than 5 feet from the front building face, as designated by the main entrance and not stacked to exceed 4 feet in height.

- 2) Screening is not required for items placed on a gasoline pump island that do not exceed 3 feet in height.
- 3) Parked self-propelled vehicles or trailers shall not constitute open storage or outside display, except when staged, parked, or stored at collision, towing, auto storage, mini-warehouse, auto repair, or wrecker service.
- 4) The Planning & Zoning Commission may waive these requirements if no public purpose would be served by the construction of a required screen, or natural features (i.e. vegetation or topography) exist that sufficiently screen the open storage.

4.9 SCREENING, FENCE AND WALL REGULATIONS

4.9.1 SCREENING WALLS OR VISUAL BARRIERS

- 1) In the event that a nonresidential or multi-family district sides or backs upon a single- or two-family residential district, or in the event that any nonresidential district sides or backs to a multifamily district, a solid screening wall or fence of not less than six nor more than eight feet in height shall be erected along the entire property line separating these districts, except where visibility triangles or easements are required. The purpose of the screening wall or fence is to provide a visual barrier between the properties. The owner of such property shall be responsible for and shall build the required wall or fence along the entire property line dividing his property from the residential district. In cases where the Planning & Zoning Commission finds this requirement to be impractical for immediate construction, it may grant a temporary or permanent waiver of the required screening wall or fence until such time as the screening wall or fence may be deemed necessary by the City Council. In cases where the Planning & Zoning Commission finds this requirement to be better met by an irrigated living screen, the same may be substituted for the screening wall. Evergreen shrubs used for a landscape screen shall be placed so as to create at least a 6-foot tall solid screen within 2 years of their installation. All landscaping shall be irrigated with an automatic sprinkler system and maintained in a healthy and growing condition.
- 2) Any screening wall or fence authorized by or required under the provisions of this section shall be constructed of:
 - a. Brick masonry, stone masonry, or other architectural masonry finish;
 - b. Tubular steel (primed and painted) or wrought iron fence with masonry columns spaced a maximum of 20 feet on center with structural supports spaced every ten feet, and with sufficient evergreen landscaping to create a screening effect;
 - c. Alternate equivalent screening, upon approval by the planning and zoning commission and/or city council, depending on which body has the final approval authority as indicated through the site plan process; or
 - d. A six-foot-tall living plant screen, upon approval by the planning and zoning commission and/or city council, depending on which body has the final approval

- authority as indicated through the site plan process and which living plant screen meets the following requirements:
- i. The plant material shall be evergreen shrubs of a density that will not permit through-passage;
 - ii. The plant material shall be acceptable for a six-foot-tall living plant screen;
 - iii. The plant material shall be a minimum of three feet in height when measured immediately after planting and shall be planted no further apart than three feet on center, unless otherwise approved by the City Manager;
 - iv. The plant material shall be maintained so as to form a continuous, unbroken, solid visual screen that exhibits the same year-round screening characteristics as a solid brick/masonry screening wall; and
 - v. The plant material shall be at least six feet tall within two years after time of planting.
- 3) No fence, screen, wall, or other visual barrier shall be so located or placed that it obstructs the vision of a motor vehicle driver approaching any street or drive intersection.
 - 4) Where an alley intersects with a street, no fence or plant taller than 30 inches may be placed within a sight visibility triangle defined by measuring eight feet to a point along the property lines and joining said points to form the hypotenuse of the triangle.
 - 5) All required screening walls shall be equally finished on both sides of the wall.
 - 6) All openings in the surface for passage shall be equipped with gates equal in height and screening characteristics to the fence or wall.
 - 7) Prior to the issuance of an occupancy permit, all approved screening devices must be in place.
 - 8) All screening devices shall be permanently and continually maintained in a neat and orderly manner as a condition of use. The occupancy permit may be revoked by the City Manager for failure to adequately maintain such screening device.
 - 9) Screening devices shall be placed and maintained in the following locations:
 - a. All wrecking yards, junkyards, or salvage yards shall be fenced on all sides and shall be screened from view from the public right-of-way and from adjacent residential property.
 - b. Loading docks or structures, bays, and bay doors shall be screened from view from the public right-of-way, from adjacent residential property, and from adjacent non-residential property, other than industrial. The required screening device adjacent to a non-residential property, other than industrial, may be waived with site plan approval if it is determined that the location of the proposed loading docks, bays or bay doors in relation to the adjacent development's site layout is not detrimental. Bays in any retail district or retail PD district shall be oriented away from the street frontage.

- c. Display of new vehicles, or used vehicles not defined as junked vehicles under this chapter, need not be screened if they are, in the opinion of the City Manager, maintained in a neat and orderly manner.
- d. At motor vehicle service or repair facilities or automotive paint and body repair shops, vehicles awaiting repair for more than 24 hours or after the close of business shall be screened from view from public right-of-way and from adjacent residential property. Parking spaces used for the overnight storage of vehicles awaiting repair must be screened in accordance with the requirements of this section.
- e. Parking lots shall meet the screening requirements of this section.
- f. The foregoing requirements shall be in addition to all other screening requirements set out in this chapter.

4.9.2 GENERAL FENCE AND WALL REGULATIONS

In any zoning district where a wall, fence, or screening separation is erected and is not required under the provision of Section 4.9.1, the following standards shall apply:

- 1) The maximum height of a fence or wall in a required front yard shall not exceed 40 inches and shall be at least 50 percent open in construction. Combinations of berms and fences shall not exceed 40 inches in height. Allowed exceptions to the height limitations in this section are as follows:
 - a. For public and parochial schools, private and primary schools, and day care centers, fences and berms may be a combined maximum height of 60 inches above grade, provided that the fence material is wrought iron or chain link.
 - b. A wall or fence not more than 8 feet in height may be erected in the front yard setback of multifamily, independent living facility, assisted living facility, long-term care facility, or continuing care facility. The wall or fence construction must be at least 50 percent open.
 - c. For all uses within the LI and HI districts, a wall or fence not more than 8 feet in height may be erected in the front yard setback.
- 2) Any fence or wall located to the rear of the front yard setback shall not exceed 8 feet in height above the grade of the adjacent property or 8 feet when placed on a retaining wall. Walls that screen loading docks, loading spaces, and ground-mounted mechanical units may exceed 8 feet in height if necessary for adequate visual screening.
- 3) No fence, screening wall, or other visual barrier shall be located or placed so that it obstructs the vision of a motor vehicle driver approaching any street, alley or drive intersection. At all street intersections clear vision shall be maintained across the lot for a distance of at least 15 feet back from the property corner along both streets.
- 4) A fence or screening device is required for residential property abutting a minor thoroughfare or local street.

- 5) A fence or screening device is required for residential property abutting a major thoroughfare or arterial highway. This screening fence must be fabricated of masonry or tubular steel.
- 6) Privacy Fences on Single-Family and Two-Family Residential Lots
- a. This section applies to replacement of residential fences or construction of new fences. A fence permit is required when more than 50 percent of the length of the fence along a property line is being replaced.
 - b. Height shall not exceed eight feet as measured from the highest adjacent grade within ten feet of the fence.
 - c. Approved materials:
 - i. Masonry (brick, stone, reinforced cement concrete) or any other sustainable material with more than a 30-year life expectancy;
 - ii. Ornamental metal rail fencing;
 - iii. Cedar and redwood;
 - iv. Composite fencing;
 - v. Vinyl fencing in flat white or flat natural tone colors such as rust or tan; and,
 - vi. Other wooden picket fences, only if constructed with metal posts, metal brackets, and metal caps. Chemically pre-treated wooden horizontal members shall be at least 2" X 4".
 - d. Prohibited materials:
 - i. Chain link;
 - ii. Sheet, roll, or corrugated metal; and,
 - iii. Cast off, secondhand, or other items not originally intended to be used for constructing or maintaining a fence.
 - e. An existing chain link fence may be replaced with a new chain link fence or be replaced with an approved material. If the existing fence is not chain link, the fence may be repaired with the existing material or an approved material.
 - f. When any stockade fence or other screening device, whether required or not, is located on a lot adjacent to a public street, said fence or screening device shall orient the side with exposed posts or rails away from view from the adjacent public street.
 - g. Where a corner lot has 2 front yards as required by this ordinance, and a house is constructed facing one of the front yards, the second front yard may be fenced in the same manner as any other side yard adjacent to a street. The fence shall have a corner clip on an angle beginning at the intersection of the front yard setback with the lot line and ending at a point on the street right-of-way located a minimum of 15 feet from the lot line.
- 7) Fences in Front Yard Setback on Single-Family and Two-Family Residential Lots
- a. Up to four-foot open design fence consisting of wrought-iron, tubular steel, picket or similar type material designed for fencing (excluding chain link) that does not obscure visibility and is no greater than 50 percent in density may be erected on property

within the minimum required front yard, platted front yard, established front yard projected front yard of one-family and two-family residential dwellings.

- b. No solid fences and walls are permitted in the required front yard, projected front yard or platted yard of one-family and two-family residential dwellings.
- 8) Fence arms and barbed wire are only allowed in the LI and HI districts and may not extend over property lines. Barbed wire, if used, must be attached to the fence arms.
- 9) Wire fences are prohibited in the front yard setback in all districts, except when the fence is used to enclose pastures, cropland, and other areas used for agricultural activities.
- 10) All fences, walls, screening walls, and other visual barriers require permits.

4.9.3 MECHANICAL SCREENING REQUIREMENTS

- 1) Mechanical and heating and air conditioning equipment in nonresidential and multifamily uses shall be screened from view from the public right-of-way and from adjacent residential property.
- 2) In all nonresidential developments, roof-mounted mechanical units shall be screened from view at a point of 5.5 feet above the property line with a parapet wall, mansard roof, or alternative architectural element. The height of the screening element shall be equal to or greater than the height of the mechanical unit provided that the element shall not extend more than 5 feet above the roof on a one or two-story building or more than 13 feet above the roof on a building of 3 or more stories. A mechanical unit which is taller than the maximum permitted height of the screening feature shall be set back from the screen 5 feet plus 2 feet for each foot it exceeds the height of the screen. Screening for mechanical units shall apply to new building construction only.

4.9.4 REQUIREMENTS FOR REFUSE AND RECYCLING CONTAINERS AND COMPACTORS

- 1) Garbage, trash, sanitation, refuse, or recycling containers including, but not limited to, dumpsters and trash compactors (collectively "dumpsters") shall be screened on all sides. Screening materials shall be masonry and the same color as the exterior walls of the main structure. A solid metal gate shall be provided. Dumpsters shall not be located in front of the main building unless no other option is available. Gates shall be kept closed except when in use for access.
- 2) Dumpster container enclosures shall be subject to the following design specifications.
 - a. Single container enclosures shall be a minimum of 12 feet wide by 12 feet deep, as measured from the inside of the enclosure's walls.
 - b. Double container enclosures shall be a minimum of 25.5 feet wide by 12 feet deep, as measured from the inside of the enclosure's walls.
 - c. Trash compactor enclosures and all other enclosure types shall be constructed to the minimum specifications provided by the city's official garbage and refuse contractor.
 - d. All enclosure types shall be required to provide a minimum of 40 feet of straight backing, as measured from the front gates of the enclosure, to accommodate a

sanitation truck's maneuverability. If special circumstances prevent straight backing from being provided, the City Manager shall have the authority in consultation with the city's official garbage and refuse contractor to approve angled or alternative backing movements.

- e. All enclosure types shall be required to provide a 24-foot vertical clear zone, unless otherwise approved by the City Manager.
- 3) Refuse, recycling, and compactor enclosures or area allocated for future refuse and recycling enclosures shall be identified on preliminary site plans and site plans. Refuse containers, recycling containers, and/or compactors shall not be added to existing sites and/or to site plans approved for future development without submittal and approval of a revised site plan.
- 4) Compactors, where provided, shall be enclosed on 3 sides with masonry wall construction finished to match the main building. Compactors shall not be screened by concealed placement. The minimum height of the enclosure shall be 8 feet. Metal swinging gates of a height equal to the enclosure height shall be provided for the truck collection side of the compactor enclosure. The interior dimensions of the compactor enclosure shall provide for 3 feet of clearance between the compactor and enclosure walls or gates.

4.10 OFF-STREET PARKING, STACKING AND LOADING

4.10.1 GENERAL

- 1) Except as otherwise provided for in this article, off-street parking shall be provided as follows:
 - a. In all districts except CA, in connection with every business, institution, recreational, residential, manufacturing, research laboratory, public building, or any other use, there shall be provided, at the time any building or structure is erected or is enlarged or increased in capacity, off-street parking spaces, in accordance with the requirements set forth in Section 4.10.3.
 - b. In all districts except CA, there shall be provided, at the time any use is changed, off-street parking spaces in accordance with the requirements set forth in Section 4.10.3.
- 2) Off-Street loading shall be provided in accordance with Section 4.10.6.
- 3) Following are parking requirements for new or unlisted uses:
 - a. Where questions arise concerning the minimum off-street parking requirements for any use not specifically listed, the requirements may be interpreted as those of a similar listed use.
 - b. Where a determination of the minimum parking requirements cannot be readily ascertained for new or unlisted uses according to section 4.10.8, or where uncertainty exists, the minimum off-street parking requirements shall be established by the same process as provided in section 3.7 for classifying new and unlisted uses.

4.10.2 OFFSITE PARKING

Offsite, off-street parking space may be permitted with site plan approval in any district subject to all of the following requirements:

- 1) That a permanent and irrevocable easement of the parking facilities in favor of the premises to be benefited thereby shall be dedicated and recorded as a condition of such use.
- 2) That the nearest point of the premises utilized for such parking spaces shall be not more than 300 feet in a straight line from the nearest point of the premises to be benefited thereby.
- 3) No such parking space may be located on the same lot as a residential dwelling.

4.10.3 OFF-STREET PARKING SCHEDULE

- 1) The minimum required number of off-street parking spaces shall be in accordance with the parking schedules and ratios that follow this section. Where calculation in accordance with following results in requiring a fractional space, any fraction less than 0.5 shall be disregarded, and any fraction of 0.5 or more shall require one space.
- 2) Parking Space Schedule for Residential Uses

Zoning Districts or Uses	Minimum Required Off-Street Parking or Spaces for Residential Uses
Agricultural	2 spaces for each dwelling unit
Estate Development	2 spaces for each dwelling unit
Single-Family or Two-Family Dwellings	2 spaces for each dwelling unit
Single-Family Attached	2.25 spaces for each dwelling unit
Multifamily Dwelling	1 per studio; 1.5 per 1 bedroom; 2.0 per 2 bedroom; 2.5 per 3 bedroom; 2.5 + .5 for each bedroom more than 3
HUD-Code manufactured home/Mobile home	2 spaces for each dwelling unit

- 3) Parking Space Schedule for Nonresidential Uses

Zoning Districts or Uses	Minimum Required Off-Street Parking or Spaces for Residential Uses
Bank, savings and loan or similar financial establishment	One space for each 300 square feet of floor area
Banquet/meeting hall	Ten spaces for each 1,000 square feet of gross floor area not including the kitchen or restrooms. Said gross floor area should be equal to the event floor area.
Bed and breakfast inn	One space for owner/operator and one for each guest bedroom
Bowling alley	Six spaces for each lane
Clinic or doctors' offices	One space for each 200 square feet of floor area (minimum of five spaces)
Churches	One space for each three seats in the main sanctuary
College or university	One space for each 2 students, plus one space for each classroom, laboratory, or instruction area
Commercial indoor amusement (other than listed)	One space for each 3 persons accommodated (design capacity)
Commercial outdoor amusement	30 spaces plus one space for each 100 square feet of floor area over 2,000 square feet
Convalescent home or assisted living facility	One space for every 2 rooms or beds, whichever is greater
Day Care, Day Nursery, or Kindergarten School	One space per 5 pupils (design capacity); Parking for this use will not be required when such facilities are located within a single-user structure as an accessory use as a service to its employees
Fueling Station, automobile	Minimum of six spaces
Garden center/nursery	One space for each 300 square feet of floor area plus one space for each 5,000 square feet of exterior sales area
Golf course	5 spaces for each green
Hardware store	One space per 200 square feet of floor area
Hospitals	One space for every two beds
Hotel or motel	One space for each room, unit, or guest accommodation of a hotel/motel with no restaurant, private club, meeting facilities, and/or recreational facility other than a swimming pool; 1.25 spaces for each room, unit, or guest accommodation of a hotel/motel with restaurant,

Zoning Districts or Uses	Minimum Required Off-Street Parking or Spaces for Residential Uses
	private club, meeting facilities, and/or recreational facility other than a swimming pool
Independent living facility	One space per dwelling unit
Institutions of a philanthropic nature	Ten spaces, plus one space for each employee
Library or museum	Ten spaces, plus one space for each 300 square feet of floor area
Long-term care facility	One space for each 2 rooms or beds, whichever is greater
Manufacturing, processing or repairing	One space for each two employees or one space for each 1,000 square feet of floor area, whichever is greater
Mini-warehouse	One space for each 20 storage cubicles plus required parking for the office and caretaker's quarters. Parking spaces to be rented shall not be included in this requirement.
Mortuary	One space for each 2 persons normally accommodated in services or one space per 200 square feet, whichever is greater
Offices, general	One space for each 300 square feet of floor area (minimum five spaces)
Offices, medical	One space for each 250 square feet of floor area
Recreational area or building, private or commercial (other than listed)	One space for every two persons to be normally accommodated in the establishment
Residential amenity center	Minimum ten (10) spaces
Restaurant or cafeterias	One space for every 100 square feet of floor area, except as noted for Retail or Shopping Center
Restaurant or food shop, take-out and delivery	One space for every 300 square feet of floor area
Retail or shopping center	<ul style="list-style-type: none"> • Retail uses or shopping centers 50,000 square feet in area or less - One space per 200 square feet • Retail uses or shopping centers greater than 50,000 square feet - One space per 250 square feet • Restaurants, cafeterias, and private clubs that are inline lease spaces and do not exceed 10 percent of the shopping center floor area (excluding single occupant, free-standing buildings) may utilize the required minimum parking ratio

Zoning Districts or Uses	Minimum Required Off-Street Parking or Spaces for Residential Uses
Schools, elementary or junior high	Two per classroom
Schools, high school	Six per classroom and one per 300 square feet of administrative office space
Service retail	One space for each 200 square feet of retail sales area plus one space for each 400 square feet of service area
Storage or warehousing	One space for each two employees or one space for each 1,000 square feet of floor area, whichever is greater
Theaters, meeting rooms and places of public assembly	One space for every three seats
Vehicle repair garage	3 spaces per service bay, plus one space per employee (maximum shift), plus one space per tow truck or other service vehicle

4) Parking Space Schedule for Other Nonresidential Uses not Listed in Section 4.10.3(4)

Zoning Districts or Uses	Minimum Required Off-Street Parking or Spaces for Residential Uses
Accessory and Incidental Uses	One space per employee
Automobile and Related Uses	One space per employee plus one space per stored vehicle
Commercial and Professional Uses	One space per 400 square feet of gross floor area
Educational, Institutional, and Public Uses	One space per employee
Entertainment and Recreational Uses	Same as Commercial Indoor and Commercial Outdoor Amusement, above
Industrial and Wholesale Uses	Same as Manufacturing, processing or repairing/ Storage or warehousing, above
Retail and Service Uses	Same as Retail or Shopping Center, above
Transportation, Utility, and Communications Uses	One space per employee plus one space per stored vehicle

- 5) In addition to the required off-street parking identified in this section, accessible parking shall be provided for multi-family and all non-residential uses in accordance with the Americans with Disabilities Act and the Texas Accessibility Standards.

4.10.4 SPECIAL OFF-STREET PARKING REGULATIONS

The following special off-street parking regulations shall apply:

- 1) In computing the parking requirements for any building or development, the total parking requirements shall be the sum of the specific parking space requirements for each class of use included in the building for development.
- 2) In the ED, SF-1, SF-2, SF-3, 2F, MF-1, MF-2, and NS Districts, no parking space, garage, or carport or other automobile storage space or structure shall be used for the storage of any truck, truck trailer, or vans except for panel and pickup trucks not exceeding a one-ton capacity.
- 3) Floor area of a structure devoted to off-street parking of vehicles shall be excluded in computing the off-street parking requirements of any use.
- 4) No off-street parking space shall be located so as to permit any part of a parked vehicle to extend across the property line nor shall any portion of a parked vehicle be located so as to be nearer than ten feet to any street curb. Physical barriers shall be installed on all off-street parking areas to ensure that the above dimensions are maintained.
- 5) In the NS, GR, C, CA, LI, and HI Districts, parking areas and driveways will be six inch minimum reinforced concrete, 3,600 PSI. Loading docks will be six inch concrete with No. 4 rebar, 3,600 PSI. The Zoning Administrator may approve the use of a porous paving system or other materials.
- 6) All permanent parking areas and loading berths, whether required or provided in addition to the requirements of this section, shall have an all-weather surface, and shall be connected by an all-weather surfaced driveway to a street or alley.

7) Residential Parking Standards

- a. An enclosed two-car garage is required for all single-family detached, single-family attached, and duplex dwellings. The garage must be a minimum of 390 square feet in area.
- b. Only 1 carport may be allowed as long as it falls within the building setback lines for garages and within the impervious surface requirements for the respective zoning district and sit on a concrete pad sized for the area. A building permit is required to install the carport.
- c. Required parking must be paved concrete. The Zoning Administrator may approve the use of a porous paving system or other materials.

4.10.5 STACKING REQUIREMENTS FOR DRIVE-THROUGH FACILITIES

The following standards shall apply to businesses that contain a drive-through establishment, regardless if the drive-through is part of another use (e.g., restaurant or financial institution) or if it is a stand-alone use (e.g., automatic teller machine).

- 1) Location of Stacking Lanes and Use of Audible Electronic Devices
 - a. Stacking lanes shall not be located between the building and the street rights-of-way.

- b. Audible electronic devices such as loudspeakers, automobile service order devices, and similar instruments shall not be audible beyond the property line of the site.
- c. No service shall be rendered, deliveries made, or sales conducted within the required front yard or corner side yard; customers served in vehicles shall be parked to the sides and/or rear of the principal building.
- d. All drive-through areas, including but not limited to menu boards, stacking lanes, trash receptacles, loudspeakers, drive up windows, and other objects associated with the drive-through area shall be located in the side or rear yard of a property to the maximum extent feasible, and shall not cross, interfere with, or impede any public right-of-way.

2) Stacking Space and Lane Requirements

- a. A stacking space shall be a minimum of nine (9) feet in width and twenty (20) feet in length and shall not be located within or interfere with any other circulation driveway, parking space, fire lane, or maneuvering area.
- b. The number of required stacking spaces shall be as provided in accordance with the following schedule:

Activity	Minimum Stacking Spaces
Bank, Financial Institution, or Automated Teller Machine (ATM)	5 per window, service lane, or ATM lane
Automobile oil change and similar establishments	3 per bay
Car wash, full service	3 per bay
Car wash, self-service	3 per bay (automated); 2 per bay (open bay)
Child-care, kindergartens, day schools, and similar child training and care establishments	1 per 20 students on a through “circular” drive
Dry cleaning	3 per lane from the the first service window, order board, or other stopping point
Restaurant with drive-through	5 per lane from closest of the first service window, order board, or other stopping point

- c. A single stacking space shall be provided after the final window, order board, or stopping point to allow vehicles to pull clear of the transaction area prior to entering an intersecting on-site driveway or maneuvering aisle.
- d. An escape lane shall be provided for any use containing a drive-through facility.
 - i. An escape lane shall be nine (9) feet in width and shall provide access around the drive-through facility.
 - ii. An escape lane may be part of a circulation aisle.

4.10.6 OFF-STREET LOADING

- 1) Except in the CA District, all structures for retail, commercial, industrial and service establishments shall provide and maintain off-street facilities for receiving and loading merchandise, supplies and materials within a building or on the lot or tract. Such off-street loading space may be adjacent to a public alley or private service drive or may consist of a truck berth within the structure. Such off-street loading space or truck berth shall consist of a minimum area of ten feet by 45 feet, and such spaces or berths shall be provided in accordance with the following schedule:

Square Feet of Gross Floor Area In Structure	Minimum Required Spaces or Berths
0 to 5,000	None
5,000 to 15,000	1
15,000 to 40,000	2
40,000 to 65,000	3
65,000 to 100,000	4
Each additional 50,000	1 additional

- 2) For hotels, office buildings, restaurants and similar establishments, off-street loading facilities shall be provided in accordance with the following schedule:

Square Feet of Gross Floor Area In Structure	Minimum Required Spaces or Berths
0 to 10,000	None
10,000 to 50,000	1
50,000 to 100,000	2
100,000 to 200,000	3
Each additional 200,000	1 additional

- 3) Trucks may not be parked on public streets, alleys, or adjacent private property for the purpose of receiving or loading merchandise, supplies or materials to or from a business entity.
- 4) Loading docks must be located on the side or at the rear of a building.

4.11 LANDSCAPING REQUIREMENTS

4.11.1 PURPOSE

It is the purpose of this section to establish certain regulations pertaining to landscaping within the city. These regulations provide standards and criteria for new landscaping which are intended to promote the value of property, enhance the welfare, and improve the physical appearance of the city.

4.11.2 SCOPE

The standards and criteria contained within this section are deemed to be minimum standards and shall apply to all new construction or any existing development, which is altered by increasing the floor area by 30 percent or more of the originally approved floor area, either by a single expansion or by the cumulative effect of a series of expansions.

- 1) All existing structures, which are a conversion or change in use requiring the expansion of or significant improvements to meet parking standards shall upgrade landscaping on the site and meet these requirements to the extent practical. The planning and zoning commission shall have the ability to waive landscape requirements on a case-by-case basis if unique circumstances exist on the property that makes application of these regulations unduly burdensome on the applicant. Requested waivers of specific portions of these regulations may be granted only if there will be no adverse impact on current or future development and will have no adverse impact on the public health, safety, and general welfare.
- 2) Uses within the downtown CA—Central Area District shall be exempt from the landscape requirements set forth herein, unless it is determined by the City Manager that these standards are achievable and would contribute to the historic appearance and/or qualities that are inherent to the district.

4.11.3 ENFORCEMENT

The provisions of this section shall be administered and enforced by the City Manager or his designee.

- 1) If, at any time after the issuance of a certificate of occupancy, the approved landscaping is found to be in nonconformance to the standards and criteria as approved on the landscape plan, the City Manager shall issue notice to the owner, citing the violation and describing what action is required to comply with this section.

- 2) The owner, tenant, or agent shall make reasonable progress within the first 30 days from the date of said notice to restore the landscaping as required and shall have a total of 90 days to completely restore the landscaping as required.
- 3) Two 30-day extensions may be granted by the City Manager upon the applicant's request if a hardship due to extreme seasonal conditions can be demonstrated by the owner, tenant, and/or agent.
- 4) If the landscaping is not restored within the allotted time, such person shall be in violation of this section.

4.11.4 PERMITS

- 1) No permits shall be issued for building, paving, grading or construction until a landscape plan is submitted and approved by the City Manager or his designee. In the event that the proposed development requires an approved subdivision plat, site plan, or development plan, no final approval shall be granted unless a landscape plan is submitted and approved.
- 2) Prior to the issuance of a certificate of occupancy for any building or structure, all screening and landscaping shall be in place in accordance with the landscape plan and a digital copy of the landscaping as installed shall be provided to the planning department for permanent record.
- 3) In any case in which a certificate of occupancy is sought at a season of the year in which the City Manager determines that it would be impractical to plant trees, shrubs, or grass, or to lay turf, a certificate of occupancy may be issued notwithstanding the fact that the landscaping required by the landscape plan has not been completed, provided the applicant deposits cash in an escrow account with the city in the amount equal to 120 percent of the estimated cost of installing such landscaping which escrow will remain in effect until the landscape plan is installed and accepted or approved by the city. Such escrow deposit shall be conditioned upon the installation of all landscaping required by the plan within six months of the date of the application and shall give the applicant the right to draw upon the escrow deposit to complete the said landscaping.
- 4) Failure to timely install the landscaping required by the landscape plan within six months of the date of the application shall be deemed a violation of this chapter and the certificate of occupancy may be revoked without liability to the city. The City Manager shall have the right to determine the landscaping required at the time the certificate of occupancy is issued.

4.11.5 LANDSCAPE PLANS

Prior to the issuance of a building, paving, grading or construction permit for any use other than uses within the downtown CA—Central Area District, a landscape plan shall be submitted to the city for approval. The City Manager or a designee shall review such plans and shall approve same if the plans are in accordance with the criteria of these regulations. If the plans are not in accord, they shall be

disapproved and shall be accompanied by a written statement setting forth the changes necessary for compliance.

Landscape plans shall be prepared by a landscape architect or landscape contractor who belongs to a bona fide nurseryman's association. Landscape plans shall, at a minimum, contain the following information:

- 1) Minimum scale of one-inch equals fifty feet or the same scale as the associated site plan;
- 2) The location, size, and species of all trees to be preserved and planted — tree stamps shall not be used unless they indicate the true size and location of trees;
- 3) The location of all plant and landscaping material to be used including plants, paving, benches, screens, fountains, statues, earthen berms, ponds (to include depth of water), or other landscape features;
- 4) The species, size, spacing and quantities of all plant material to be used in a tabular form;
- 5) An affidavit on the plan stating that all required landscape areas shall be provided with an automatic underground irrigation system with rain and freeze sensors and evapotranspiration (ET) weather based controllers and said irrigation system shall be designed by a qualified professional and installed by an irrigator licensed by the state;
- 6) Layout and description of irrigation, sprinkler or water systems including placement of water sources;
- 7) Description of maintenance provisions for the landscape plan;
- 8) The person responsible for the preparation of the landscape plan, including affidavit of their qualifications to prepare said plan;
- 9) The mark indicating north;
- 10) The date of the landscape plan, including any revision dates;
- 11) The planting details percentage of total site in permanent landscaping;
- 12) The percentage of street yard in permanent landscaping;
- 13) The dimensions of all landscape areas;
- 14) The number of required trees and number of trees provided;
- 15) The location of all existing and planned overhead and underground utilities shall be shown on the landscape plan or on an accompanying utility plan drawn at the same scale, if necessary for clarity; and
- 16) Additional information as deemed necessary to adequately evaluate the landscape plan.

4.11.6 MAINTENANCE

The owner, tenant and his or their agent, if any, shall be jointly and severally responsible for the maintenance of all landscaping. All required landscaping shall be maintained in a neat and orderly manner at all times. This shall include mowing of grass six inches or higher, edging, pruning, fertilizing, watering, weeding, and other such activities common to the maintenance of landscaping. Landscaped areas shall be kept free of trash, litter, weeds and other such material or plants not a part of the landscaping. All plant materials shall be maintained in a healthy and growing condition as is appropriate

for the season of the year. Plant materials which die shall be replaced with plant material of similar variety and size within the time period provided by subsection 4.11.3.

4.11.7 GENERAL STANDARDS

- 1) The following criteria and standards shall apply to landscape materials and installation. For the purposes of this section, the term caliper shall be defined as the diameter measurement of a tree trunk.
 - a. **Quality.** Plant materials used in conformance with the provisions of this section shall conform to the standards of the American Standards for Nursery Stock, or their equal. Grass seed, sod and other material shall be clean and free of weeds and noxious pests and insects.
 - b. **Ornamental trees.** Trees referred to in this section shall be chosen from the approved plant palette located in Table 1. Trees shall have an average spread or crown of greater than 15 feet at maturity. Trees having lesser average mature crown of 15 feet may be substituted by grouping the same so as to create the equivalent of 15 feet of crown width. At time of planting, ornamental trees shall be approximately two inches in caliper, measured six inches above the ground, and a minimum of six feet in height.
 - c. **Canopy trees.** Canopy trees shall have a minimum spread of crown of 25 feet at maturity. Canopy trees shall be a minimum of two inches in caliper as measured six inches above the ground and eight feet in height at the time of planting.
 - d. **Shrubs.** Shrubs not of the dwarf variety shall be a minimum of one-foot in height when measured immediately after planting and shall be chosen from the approved plant palette located in Table 1. Shrubs acceptable for six foot screening, when installed, shall be a minimum of three feet in height when measured immediately after planting and shall be planted no further apart than three feet on center unless otherwise approved by the City Manager, and maintained so as to form a continuous, unbroken, solid visual screen which will be six feet high within two years after time of planting.
 - e. **Hedges.** Hedges when installed for buffering or screening purposes shall be planted and maintained so as to form a continuous, unbroken, solid visual screen which will be three feet high within one year after time of planting.
 - f. **Evergreen vines.** Evergreen vines not intended as ground cover shall be a minimum of two feet in height immediately after planting and may be used in conjunction with fences, screens, or walls to meet screening requirements as specified herein and as approved by the City Manager. Vine material shall be chosen from the approved plant palette located in Table 1.
 - g. **Ground cover.** Ground cover used in lieu of grass, in whole or in part, shall be planted in such a manner as to present a finished appearance and reasonably complete coverage within one year of planting. Groundcover material shall be chosen from the approved plant palette located in Table 1.

- h. Lawn grass. Grass areas may be sodded, plugged, sprigged, hydro-mulched, or seeded except that solid sod shall be used in swales, berms, or other areas subject to erosion. Grass areas shall be established with 100 percent coverage and 70 percent density with an approved perennial grass prior to the issuance of a certificate of occupancy.
 - i. Credit for existing trees. Any trees preserved on a site meeting the specifications herein shall be credited toward meeting the tree requirement of any landscaping provision of this section. Trees of exceptional quality due to size, large canopy cover, trunk diameter, rareness, age or species may, at the discretion of the City Manager, be credited as two trees to meet the minimum requirement.
- 2) All required landscape areas shall be provided with an automatic underground irrigation system, except for required landscaping in single-family or two-family developments. Any new irrigation system installed on or after September 1, 2007, must be equipped with rain and freeze sensors and an evapotranspiration (ET) weather based controller. Said irrigation system shall be designed by a qualified professional and installed by a licensed irrigator after receiving a permit, as may be required under the construction code. Irrigation systems shall comply with the city's water conservation ordinance as it exists or may be amended.
 - 3) Earthen berms shall have side slopes not to exceed three feet of horizontal distance for each one foot of height. All berms shall contain necessary drainage provisions, as may be required by the City Manager.
 - 4) No tree shall be planted closer than four feet to a right-of-way line nor closer than eight feet to a public utility line (water or sewer), unless no other alternative is available. Further, a landscape area in which trees are to be provided shall not conflict with a utility easement, unless no alternative is available.
 - 5) No tree that has a mature height of 25 feet or greater shall be planted beneath an existing or proposed overhead utility line. Where canopy trees are required adjacent to or underneath overhead utility lines, ornamental trees (approximately two inches in caliper as measured six inches above the ground) shall be provided instead of the required canopy trees.
 - 6) All landscape areas shall be protected by a monolithic curb or wheel stops and remain free of trash, litter, and car bumper overhangs.

4.11.8 MINIMUM LANDSCAPING REQUIREMENTS

- 1) For all non-residential and multiple family parcels, at least 15 percent of the street yard shall be permanent landscape area. The term street yard shall be defined as the area between the front property line and the minimum front set back line.
- 2) For all non-residential and multiple family parcels located at the intersection of two dedicated public streets (rights-of-way), a 30-foot corner clip shall be provided adjacent and parallel to the right-of-way dedication as a landscape buffer, which can be counted toward the 15 percent requirement.

- 3) For all non-residential and multiple family parcels, a minimum of 10 percent of the entire site shall be devoted to living landscape, which shall include grass, ground cover, plants, shrubs, or trees.
- 4) For all non-residential and multiple family parcels, developers shall be required to plant one canopy tree per 40 linear feet, or portion thereof, of street frontage. These required trees must be planted within the associated landscape setback along thoroughfares, unless otherwise approved by the City Manager or his designee. Trees may be grouped or clustered to facilitate site design.
- 5) Landscape areas within parking lots must be at least one parking space in size (162 square feet).
- 6) No landscape area counting toward minimum landscaping requirements shall be less than 25 square feet in area or less than five feet in width.
- 7) For all non-residential and multiple family parcels, internal landscape areas shall:
 - a. Have a landscaped area with at least one tree within 65 feet of every parking space; and
 - b. Have a minimum of one tree planted in the parking area for every 10 parking spaces within parking lots with more than 20 spaces.
- 8) Within parking lots, landscape areas with curbs and gutters must be provided to define parking areas and assist in clarifying appropriate circulation patterns.
- 9) A landscape island shall be located at the terminus of each parking row, and should contain at least one canopy tree.
- 10) All existing trees that are to be considered for credit shall be provided with a permeable surface (a surface that does not impede the absorption of water) within a minimum five-foot radius from the trunk of the tree. All new trees shall be provided with a permeable surface within a minimum two and one-half-foot radius from the trunk of the tree.
- 11) At least 75 percent of the frontage of parking lots, adjacent to a public right-of-way, within the street yard shall be screened from public streets with evergreen shrubs attaining a minimum height of three feet, an earthen berm of a minimum height of three feet, a low masonry wall of a minimum height of three feet, or a combination of the above with a minimum combined height of three feet. A wall used for parking lot screening should be accompanied with landscape planting in the form of low shrubs and groundcover to soften the appearance of the wall.
- 12) A minimum of 50 percent of the total trees required for the property shall be canopy trees as specified on the approved plant list.
- 13) Necessary driveways from the public right-of-way shall be allowed through all required landscaping areas in accordance with city regulations. Shared driveways shall be allowed through perimeter landscape areas.
- 14) For all non-residential and multiple family parcels, whenever an off-street parking area or vehicular use area abuts an adjacent property line, a perimeter landscape area at least

five feet wide shall be maintained along and between the edge of the parking area and the adjacent property line.

- 15) Whenever a non-residential use or multiple family use is adjacent to a property used or zoned for single-family or duplex residential uses, the more intensive land use shall provide a landscaped area of at least 10 feet in width along the common property line planted with one canopy tree for each 40 linear feet or portion thereof of adjacent exposure. These trees may not be clustered.
- 16) For all single-family and duplex parcels, builders shall be required to plant two canopy trees per lot, prior to obtaining a certificate of occupancy. At least one of the trees shall be located in the front yard. An existing quality tree of approximately four-inch caliper size located on the lot may be counted towards the requirement for an approximately two-inch caliper tree, if appropriate tree protection measures have been followed.

4.11.9 APPROVED PLANT LIST FOR NEW PLANTINGS OR REPLACEMENTS

The following is a required list of trees for new plantings or replacements of existing trees. Other species may be acceptable for new plantings; however, their suitability for the proposed planting area shall be approved by the Zoning Administrator.

<u>Overstory Trees: Range: 30'—60'</u>	
Bald Cyprus	<i>Taxodium distichum</i>
Cedar Elm	<i>Ulmus cressifolja</i>
Pecan	<i>Carya illinoensis</i>
Chinese Pistache	<i>Pistacia chinensis</i>
Bur Oak	<i>Quercus macrocarpa</i>
Shumard's Oak	<i>Quercus shumardii</i>
Sweet Gum	<i>Liquidambar styraciflua</i>
Catalpa	<i>Catalpa bignonioides</i>
Honey Locust Green	<i>Gleditsia triacanthos</i>
Ash	<i>Fraxinus pennsylvanica</i>
Live Oak	<i>Quercus virginiana</i>
Western Soapberry	<i>Sapindus drummondii</i>
<u>Accent Trees: 10'—20'</u>	
Redbud	<i>Cercis canadensis</i>
Crape Myrtle	<i>Lagerstroemia indica</i>

Yaupon Holly	<i>Ilex vomitoria</i>
Bradford Pear	<i>Purus calleryana 'Bradford'</i>
Texas Sophora	<i>Sophora affmis</i>
Wild Plum	<i>Prunus americana</i>
Crabapple	<i>Malus angustifolia</i>
Deciduous Holly	<i>Ilex decidua</i>
Flameleaf Sumac	<i>Rhus Copallina</i>
Cherry-Laurel	<i>Prunus caroliniana</i>
Chaste Tree	<i>Vitex Agnus-castus</i>
Shrubs: Range: 3'–5'	
Dwarf Crape Myrtle	<i>Lagerstroemia indica nana</i>
Dwarf Burford Holly	<i>Ilex comuta 'Barfordii Nana'</i>
Dwarf Chinese Holly	<i>Ilex comuta 'Rotunda'</i>
Dwarf Yaupon Holly	<i>Ilex vomitoria 'Nana'</i>
Fraser's Photinia	<i>Photinia Fraseri</i>
Purple Sage	<i>Leucophyllum frutescens</i>
Purple Leaf Japanese Barberry	<i>Berberis Thunbergii 'Atropurpurea'</i>
Pampas Grass	<i>Cortaderia Selloana</i>
Nandina	<i>Nandina domestica</i>
Juniper Supp.	<i>Juniperus chinensis</i>
Cattail	<i>Typha latifolia</i>
Ground Cover: Range: 18"	
Juniper Supp.	<i>Juniperus horizontalis or procumbens</i>
Periwinkle	<i>Vinca major</i>
Liriope	<i>Liriope Muscari</i>
Asian Jasmine	<i>Trachclospermun asiaticum</i>
Vines	

Coral Honeysuckle	<i>Lonicera sempervirens</i>
Carolina Yellow Jessamine	<i>Gelsemium semperviems</i>
Lady Banksia Rose	<i>Rosa Banksiae</i>
Cross Vine	<i>Bignonia Capreolata Clematis</i>
Sweet Autumn Clematis	<i>Paniculata</i>

4.11.10 TREE PRESERVATION

- 1) Any trees preserved on a site meeting the herein specifications may be credited toward meeting the tree requirement of any landscaping provision of this section for that area within which they are located, according to the following table:

Caliper of existing tree	Credit against tree requirement
6" to 8"	2 trees
9" to 15"	3 trees
16" to 30"	4 trees
31" to 46"	5 trees
47" or more	8 trees

For purposes of this section, caliper measurement shall be taken at a height of four and one-half feet above the ground, and shall be rounded to the nearest whole number.

- 2) Existing trees may receive credit if they are not on the city's approved plant material list but approved by the City Manager or designee; however, trees must be located within the landscape area to which credit is applied.
- 3) Any tree preservation proposed shall designate the species, size, and general location of all trees on the general landscape plan. The species, size, and exact location shall be shown on the landscape plan.
- 4) During any construction or land development, the developer shall clearly mark all trees to be maintained and may be required to erect and maintain protective barriers around all such trees or groups of trees. The developer shall not allow the movement of heavy equipment or the storage of equipment, materials, debris, or fill to be placed within the drip line of any trees. This is not intended to prohibit the normal construction required within parking lots.

- 5) During the construction stage of development, the developer shall not allow cleaning of equipment or material under the canopy of any tree or group of trees to remain. Neither shall the developer allow the disposal of any waste material such as, but not limited to, paint, oil, solvents, asphalt, concrete, mortar, etc., under the canopy of any tree or groups of trees to remain. No attachment or wires of any kind, other than those of a protective nature, shall be attached to any tree.

4.11.11 SIGHT DISTANCE AND VISIBILITY

- 1) Rigid compliance with these landscaping requirements shall not be such as to cause visibility obstructions and/or blind corners at intersections. Whenever an intersection of two or more streets or driveways occur, a triangular visibility area, as described below, shall be created. Landscaping within the triangular visibility area shall be designed to provide unobstructed cross visibility at a level between two feet and seven feet. Trees may be permitted in this area provided they are trimmed in such a manner that no limbs or foliage extend into the cross visibility area.
- 2) In the event other visibility obstructions are apparent in the proposed landscape plan, as determined by the City Manager, the requirements set forth herein may be modified to eliminate the conflict.

4.12 PERFORMANCE STANDARDS

4.12.1 GENERAL

In all zoning districts, any use indicated as a permitted use shall conform in operation, location, and construction to the performance standards hereinafter specified. In the LI and HI districts, in addition to the permitted uses, there shall be permitted any other manufacturing, processing, fabricating, packing, or storage use, except those requiring specific use permits, which conform in operation, location, and construction to the performance standards hereinafter specified for noise, smoke and particulate matter, odorous matter, fire or explosive hazard material, toxic and noxious matter, vibration, and glare.

4.12.2 NOISE

At no point at the bounding property line of any use shall the sound pressure level of any operation or plant exceed the A scale limits of 65 decibels for daytime and 58 decibels at nighttime. Measurement of noise shall be made with a sound level meter meeting the standards prescribed by the American National Standards Institute (ANSI). For this section, daytime is defined as the time period from 7:00 a.m. to 10:00 p.m., and nighttime is defined as the time period from 10:01 p.m. to 6:59 a.m. The boundary property line is the common line between 2 parcels of property.

4.12.3 SMOKE AND PARTICULATE MATTER

No operation or use shall cause, create, or allow the emission for more than 3 minutes in any one hour of air contaminants which at the emission point or within the bounds of the property are:

- 1) As dark or darker in shade as that designated as No. 2 on the Ringelmann Chart as published by the United States Bureau of Mines Information Circular 7118.
- 2) Of such opacity as to obscure an observer's view to a degree equal to or greater than does smoke or contaminants in the standard prescribed in Sec. 4.12.3(1), except that when the presence of uncombined water is the only reason for failure to comply or when such contaminants are emitted inside a building that prevents their escape into the atmosphere, this standard and the standard in Sec. 4.12.3(1) shall not apply.
- 3) The emission of particulate matter from all sources shall not exceed 0.5 pounds per acre of property within the plant site per any one hour.
- 4) The open storage and open processing operations, including onsite transportation movements which are the source of wind or airborne dust or other particulate matter; or which involves dust or other particulate air contaminants, generating equipment such as used in paint spraying, grain handling, sand or gravel processing or storage, or sand blasting shall be so conducted that dust and other particulate matter so generated are not trans-ported across the boundary line of the tract on which the use is located in concentrations exceeding 4 grains per 1,000 cubic feet of air.

4.12.4 ODOROUS MATTER

- 1) No use shall be located or operated that involves the emission of odorous matter that exceeds the odor threshold at the bounding property line or any point beyond the tract on which the emitting use is located.
- 2) The odor threshold as herein set forth shall be determined by observation by a person or persons. In any case, where uncertainty may arise, or where the operator or owner of an odor emitting use may disagree with the enforcing officer, or where specific measurement of odor concentration is required, the method and procedures specified by American Society for Testing Materials (A.S.T.M.D.) 1391-57 entitled "Standard Method for Measurement of Odor in Atmospheres" shall be used and a copy of A.S.T.M.D. 1391-57 is hereby incorporated by reference.

4.12.5 FIRE OR EXPLOSIVE HAZARD MATERIAL

- 1) No use involving the manufacture or storage of compounds or products which decompose by detonation shall be permitted except that chlorates, nitrates, per chlorates, phosphorus, and similar substances and compounds in small quantities for use by industry, school laboratories, druggists, or wholesalers may be permitted when approved by the Fire Department.
- 2) The storage and use of all flammable liquids and materials such as pyroxylin plastics, nitrocellulose film, solvents, and petroleum products shall be permitted only when such storage or use conforms to the standards and regulations of the Fire Department.

4.12.6 TOXIC OR NOXIOUS MATTER

No operation or use shall emit a concentration across the bounding property line of the tract on which such operation or use is located of toxic or noxious matter which will exceed 10 percent of the concentration (exposure) considered as the threshold limit for an industrial worker as such standards are set forth by the Texas State Department of Health in "Threshold Limit Values Occupational Health Regulation No. 3," a copy of which is hereby incorporated by reference.

4.12.7 VIBRATION

No operation or use shall at any time create earth borne vibrations which when measured at the bounding property line of the source operation exceed the limits of displacement set forth in the following table in the frequency ranges specified:

Frequency Cycles per Second	Displacement in Inches
0 to 10	0.0010
10 to 20	0.0008
20 to 30	0.0005
30 to 40	0.0004
40 and over	0.0003

4.13 EXTERIOR LIGHTING

4.13.1 PURPOSE

Standards for controlling lighting and glare are set forth to reduce the annoyance and inconvenience to property owners and traffic hazards to motorists. These standards are intended to allow reasonable enjoyment of adjacent and nearby properties by their owners and occupants while requiring adequate levels of lighting of parking areas.

4.13.2 GLARE

Any use shall be operated so as not to produce obnoxious and intense glare or direct illumination across the bounding property line from a visible source of illumination of such intensity as to create a nuisance or detract from the use or enjoyment of adjacent property. All outside lights shall be made up of a light source and reflector so selected so that acting together, the light beam is controlled and not directed across any bounding property line above height of three feet. The allowable maximum intensity measured at the property line of a residential use in a residential district shall be 0.25 foot-candles.

4.13.3 NONRESIDENTIAL LIGHTING

1) **Off-street parking**

All off-street parking areas, for nonresidential uses in nonresidential districts, which are used after dark shall be illuminated beginning one-half hour after sunset and continuing throughout the hours of business operation. In case only a portion of a parking area is offered for use after dark, only that part is required to be illuminated in accordance with

these standards. However, the portion offered for use shall be clearly designated. Lighting within the parking areas shall meet the following minimum requirements. No intermittent flashing lights are permitted.

2) Intensity

On the parking area surface, an average of at least two foot-candles, initial measurement, and a minimum average of one foot-candle on a maintained basis.

3) Height

Luminaries located in an off-street parking area on privately owned property shall be mounted at a height not to exceed 30 feet as measured vertically from the horizontal surface of the nearest parking pavement. Special lighting or lighting higher than the maximum building height allowed in the applicable zoning district may be approved by City Council as specifically noted on the site plan.

4.13.4 RESIDENTIAL LIGHTING

Residential lighting for security and night recreation use is permitted in all residential districts provided the following requirements are met:

- 1) Direct lighting over ten (10) feet in height is shielded from adjacent property.
- 2) No light source shall exceed twenty (20) feet in height. Street lights and other traffic safety lighting are exempt from this standard.
- 3) Lighting shall not directly shine on adjacent dwellings.

4.13.5 LUMINARIES

Light source shall be a down-light type, indirect, diffused, or shielded type luminaries installed so as to reduce glare effect and consequent interference with use of adjacent properties and boundary streets. Bare bulbs of 15 watts or more or strings of lamps are prohibited, except for temporary lighting not exceeding 45 days per year. Strings of low wattage lamps are permitted for use as café patio lights.

4.14 SIGN REGULATIONS

City sign regulations are addressed in Chapter 56, Signs and Advertising.

4.15 COURT STANDARDS

The minimum dimensions and area for outer or inner courts provided in buildings occupied for residential purposes shall be in accordance with the following provisions:

- 1) Outer courts residential structures.
 - a. For residential structures, three stories or less in height, any outer court which is used for access of light or air or which may be used for emergency access purposes shall be a minimum width equal to the depth of the court, but the width of any such outer court need not exceed 30 feet even though the depth of the court may exceed such dimension.

- b. For residential structures exceeding three stories in height, any outer court which is used for access of light or air or which may be used for emergency access purposes shall have a minimum width equal to the depth of the court, but the width of any such outer court need not exceed 50 feet even though the depth of the court may exceed such dimension.
- 2) Inner courts residential structures.
- a. For residential structures three stories or less in height, any inner court which is used for access of light or air or which may be used for emergency access purposes shall have minimum dimensions in the length and in the width of its base equal to the height of the roof or eave at the top of the wall enclosing such court, but neither the width or the length of the base of such inner court need exceed 30 feet even though the height of the enclosing walls may exceed such dimension.
 - b. For residential structures exceeding three stories in height, any inner court which is used for access of light or air or which may be used for emergency access purposes shall have a minimum dimension in the length and in the width of its base equal to the height of the roof or eave at the top of the wall enclosing such court, but neither the width or the length of the base of such inner court need exceed 50 feet even though the height of the enclosing walls may exceed such dimension.

Section 5 SITE PLAN REVIEW

5.1 SITE PLAN REVIEW APPROVAL FOR HIGHWAY COMMERCIAL OVERLAY DISTRICT

Site plan approval shall be required for all property zoned Highway Commercial District in accordance with the following provisions:

- 1) The purpose of the site plan review is to ensure, prior to issuance of building permits that all city requirements have been or will be met, including compliance with zoning, subdivision, landscape, parking, loading and building regulations.
- 2) No building permit shall be issued on any tract of land for construction of new structures or any addition to a structure which affects its size, shape, or volume unless a site plan is first submitted for review by the planning and zoning commission and approved by the city council. A public hearing shall not be required.
- 3) No certificate of occupancy shall be issued unless all construction and development conforms to the site plan as approved by the city council.
- 4) Any major revision to an approved site plan must be approved by the planning and zoning commission then approved by council; however, minor revisions may be permitted upon approval by the city manager or his designee.
- 5) The site plan shall indicate building elevations, location of separate buildings, and the minimum distance between buildings. Site plans shall also include property lines, access routes adjacent zoning and structures, streets and alleys, together with a parking plan and landscape plan showing the arrangements and provisions for off-street parking, and the layout of plating materials. An architectural rendering of proposed buildings shall be submitted with the site plan for consideration of approval.
- 6) All site plans shall be filed with and reviewed by the city manager or his designee for compliance with this section before presentation to the planning and zoning commission and city council.
- 7) An approved site plan shall be the final plan for development, and construction shall conform to the approved plan. A final site plan may be submitted for the total area zoned or any portion thereof.

5.2 SITE PLAN APPROVAL REQUIRED FOR COMMERCIAL DEVELOPMENT

- 1) Site plan approval shall be required prior to the issuance of a building permit for the construction of any new structure or any addition to a structure that is intended to be used for any commercial or nonresidential use and which construction affects the structure's size, shape, or volume.
- 2) All building permits must conform to an approved site plan.
- 3) Approval of a site plan by the city council, after a recommendation by the planning and zoning commission, shall be required when the site plan is in conjunction with a request for a specific use permit or for a planned development.

- 4) A public hearing shall not be required on a site plan application unless the site plan is submitted in conjunction with the submission and request for approval of a specific use permit or a planned development.
- 5) Submission of site plan drawn to scale. Prior to the issuance of any building permit, a site plan drawn to scale shall be submitted to the city manager for initiation of the review and approval process through city council and/or the planning and zoning commission, as appropriate, along with the number of copies of the plan deemed necessary by the city to complete the required reviews or memorandums. The scale and number of copies shall be that deemed necessary by the city manager. (Note: All references contained in this subsection to the city manager mean and include the city manager's designee.)
- 6) Features to be shown on site plans. Site or development plans shall include the following information
 - a. General. The following general information shall be included:
 - i. The applicant's name, address, and telephone number and his legal interest in the property;
 - ii. The owner's name and address and, if different than the applicant, the owner's signed consent to the filing of the application;
 - iii. Street address (or common description) of the property;
 - iv. The zoning classification and present use of the subject property;
 - v. The proposed use or uses and a general description for the proposed development;
 - vi. A survey, certified by a registered professional land surveyor, showing existing and proposed property boundary lines with dimensions, easements, roadways, rail lines and public rights-of-way crossing and adjacent to the subject property;
 - vii. Maps showing the location, size, use and arrangements of all proposed buildings and computations showing height in stories and feet, total floor area, total square feet of ground area coverage of proposed and existing buildings which will remain, if any;
 - viii. Location, dimensions and number of all vehicular and pedestrian circulation elements, including streets and roadways, driveways, entrances, curbs, curb cuts, parking stalls, loading spaces and access aisles; sidewalks, walkways and pathways; refuse areas;
 - ix. The location and size of existing and proposed electric, water and sewer utilities on and adjacent to the site and fire hydrant locations;
 - x. All existing and proposed surface and subsurface drainage facilities, including culverts, drains and detention ponds, showing the size and direction of flow;
 - xi. Location, size and arrangement of all outdoor signs;
 - xii. The location and direction/intensity, if required, of all outdoor lighting;
 - xiii. Architectural renderings or elevations of proposed structures;
 - xiv. Location, designation and total area of all open usable space;

- xv. A detailed landscaping plan meeting the provisions of this chapter;
 - xvi. The adjacent land uses and improvements within 200 feet of the subject property;
 - xvii. The location of hazardous chemical storage;
 - xviii. A scale shall be shown with the dimensions as determined by the city manager;
 - xix. The location of any on-site items (kiosks, sanitation containers, drop boxes, etc.);
 - xx. The location and type of all existing and proposed screening;
 - xxi. The required landscape areas; and
 - xxii. Any additional information as deemed necessary to adequately evaluate the site or development plan.
- b. Screening of mechanical equipment. Mechanical and heating and air conditioning equipment in non-residential uses shall be screened from view from the public right-of-way and from adjacent residential properties.
 - c. Lighting. The lighting for the subject property will be constructed in conformance with Section 4.13.
- 7) Site circulation and parking.** The following site circulation and parking information shall be included on the site plan:
- a. The drive approach dimensions and radii;
 - b. The delineation and width of internal circulation roadways;
 - c. The distances between driveways and intersecting streets;
 - d. The number of required parking spaces and number of parking spaces provided, including handicapped parking spaces;
 - e. The parking dimensions;
 - f. The stacking spaces and drive-through lane location;
 - g. The location of curb stops relative to front of parking stall. (Note: Wheel stops are not permitted in lieu of curbs);
 - h. The handicapped ramps (required at all intersections);
 - i. The building entrances;
 - j. The sidewalk dimensions;
 - k. The fire lanes meeting fire code standards;
 - l. The location and dimension of delivery truck docks;
 - m. The location and dimension of loading spaces;
 - n. The location of bay doors;
 - o. The sanitation container locations;
 - p. The medians, islands, barriers, and channelization;
 - q. The width of adjacent streets, alleys, or other access abutting property;
 - r. The length, width, and taper of turn bays;
 - s. The directional signage and directional arrows for one-way traffic driveways;
- 8) Utility plan.** A utility plan shall be included on a separate drawing sheet(s) from the site plan, and shall include the following information:

- a. The existing and proposed water mains (include size and valve locations);
 - b. The water meter size and location;
 - c. The existing and proposed sewer mains (include size, manholes and cleanout);
 - d. The sewer service size (provide cleanout at property line);
 - e. The existing and proposed utility easements including the associated utility line (public or private) and its size;
 - f. The existing and proposed fire hydrants (including any nearby off-site hydrants);
 - g. The existing and proposed fire lines, fire sprinkler connections, and appurtenances;
 - h. The location and size of irrigation meters;
 - i. The location and size of grease and sand traps;
 - j. The location and size of sampling pits; and,
 - k. The location and type of pretreatment.
- 9)** Drainage plan. A drainage plan shall be included on a separate drawing sheet(s) from the site plan, and shall include the following information:
- a. The existing and proposed elevation at critical points;
 - b. The drainage area map (if site is over one-acre);
 - c. The on-site collection system, including stormwater detention areas and detention ponds;
 - d. The 100-year flood elevation (if in floodprone area), and erosion hazard setback easement;
 - e. The existing and proposed contours at two-foot intervals;
 - f. The existing and proposed drainage structures (include size and type);
 - g. The existing and proposed culverts (use six-to-one sloped headwall); and
 - h. The direction of surface drainage (must be discharged into existing waterway or public right-of-way).
- 10)** Landscape plan. A detailed landscape plan in conformance with section 77-173 shall be submitted along with the site plan. Landscape plans shall be prepared by a landscape architect, landscape contractor, or landscape designer. A landscape plan shall include all information as listed in section 77-173(e).
- 11)** Attributes in consideration. City council, planning and zoning commission, and staff consideration shall include paving and layout of streets, alleys and sidewalks, means of ingress and egress, provisions for drainage and utilities, parking spaces, protective screening and open spaces, as well as areas designated for landscaping, and any other aspect deemed necessary to consider in the interest of promoting the public health, safety, order, convenience, prosperity, and general welfare of the city.
- 12)** Additional information. If, during the course of considering the site plan or landscape plan, the planning and zoning commission is of the opinion that a proper recommendation or determination cannot be made without additional information, the planning and zoning commission is authorized to request that the applicant submit said information

- and is further authorized to withhold action on the site plan until the submission of the additional information for the planning and zoning commission's consideration.
- 13)** Expiration. A site plan shall expire two years after its approval, if no building permits have been issued for the site, or if a building permit has been issued but has subsequently lapsed. Site plans submitted for a planned development or specific use permit shall not expire.
- 14)** Approval required. A building permit shall not be issued prior to the approval of the site plan by the city council, planning and zoning commission and/or city manager, as appropriate. No building permit shall be issued except in compliance with the approved site plan, including all conditions of approval.
- 15)** Inspections, revisions, and continued compliance. During construction and upon completion, the project will be inspected to ensure that the approved site plan has been followed:
- a. In the event that changes to the approved site plan are proposed, the zoning administrator shall have the authority to require that a revised site plan be submitted to the city for review and approval;
 - b. It is recognized that final architectural and engineering design may necessitate some judgment in the determination of conformance to an approved site plan. The city manager shall have the authority to interpret conformance to an approved site plan; provided that such interpretations do not materially affect access, circulation, general building location on the site, or any conditions specifically attached as part of a planning and zoning commission or city council approval. The city manager shall only approve minor changes, which substantially conform to the approved site plan, and to all applicable city regulations, such as:
 - i. Minor dimension and location adjustments;
 - ii. Minor changes in the number of parking spaces provided that minimum parking requirements are met;
 - iii. Adjustments to sanitation container location;
 - iv. Minor revisions to approved elevations; and
 - v. Substitution of similar materials on an approved landscape plan.
 - c. The city manager may not approve the following types of revisions:
 - i. Major changes to type of screening materials;
 - ii. Significant alterations to the building footprint;
 - iii. Specific conditions of approval; and
 - iv. Any changes that may negatively impact adjacent properties.
 - d. If, in the judgment of the city manager, the proposed revisions exceed staff's approval authority, the revised site plan shall be forwarded to the planning and zoning commission for consideration according to the procedures for site plan approval. If proposed revisions to the site plan have not been approved by the city manager

- within 30 days of their final submission, they shall be scheduled for consideration by the planning and zoning commission upon request by the applicant.
- e. A certificate of occupancy shall not be issued until the final inspection shows that the project has been completed in accordance with the approved site plan.
 - f. The final site plan and landscape plan shall be accompanied by a digital copy for permanent record.
 - g. Maintenance of the property in conformance with the approved site plan shall thereafter be a condition of a valid certificate of occupancy. Failure to maintain the property in conformance with an approved site plan shall be a violation of this chapter.
- 16) Phasing plan. To assist in process planning or site plans to be constructed in phases, the zoning administrator may request a phasing plan for the development, to ensure adequate site access, circulation, parking, sanitation containers, utilities, etc.

5.3 SITE PLAN APPROVAL REQUIRED FOR MULTI-FAMILY DEVELOPMENT

- 1) Site plan approval shall be required prior to the issuance of a building permit for the construction of any new structure or any addition to a structure that is intended to be used for any multi-family use and which construction affects the structure's size, shape, or volume.
- 2) All building permits must conform to an approved site plan.
- 3) Approval of a site plan by the city council, after a recommendation by the planning and zoning commission, shall be required when the site plan is in conjunction with a request for a specific use permit or for a planned development.
- 4) A public hearing shall not be required on a site plan application unless the site plan is submitted in conjunction with the submission and request for approval of a specific use permit or a planned development.
- 5) Submission of site plan drawn to scale. Prior to the issuance of any building permit, a site plan drawn to scale shall be submitted to the city manager for initiation of the review and approval process through city council and/or the planning and zoning commission, as appropriate, along with the number of copies of the plan deemed necessary by the city to complete the required reviews or memorandums. The scale and number of copies shall be that deemed necessary by the city manager. (Note: All references contained in this subsection (f) to the city manager mean and include the city manager's designee.)
- 6) Features to be shown on site plans. Site or development plans shall include the following information
 - a. General. The following general information shall be included:
 - i. The applicant's name, address, and telephone number and his legal interest in the property;
 - ii. The owner's name and address and, if different than the applicant, the owner's signed consent to the filing of the application;

- iii. Street address (or common description) of the property;
 - iv. The zoning classification and present use of the subject property;
 - v. The proposed use or uses and a general description for the proposed development;
 - vi. A survey, certified by a registered professional land surveyor, showing existing and proposed property boundary lines with dimensions, easements, roadways, rail lines and public rights-of-way crossing and adjacent to the subject property;
 - vii. Maps showing the location, size, use and arrangements of all proposed buildings and computations showing height in stories and feet, total floor area, total square feet of ground area coverage of proposed and existing buildings which will remain, if any;
 - viii. Location, dimensions and number of all vehicular and pedestrian circulation elements, including streets and roadways, driveways, entrances, curbs, curb cuts, parking stalls, loading spaces and access aisles; sidewalks, walkways and pathways; refuse areas;
 - ix. The location and size of existing and proposed electric, water and sewer utilities on and adjacent to the site and fire hydrant locations;
 - x. All existing and proposed surface and subsurface drainage facilities, including culverts, drains and detention ponds, showing the size and direction of flow;
 - xi. Location, size and arrangement of all outdoor signs;
 - xii. The location and direction/intensity, if required, of all outdoor lighting;
 - xiii. Architectural renderings or elevations of proposed structures;
 - xiv. Location, designation and total area of all open usable space;
 - xv. A detailed landscaping plan meeting the provisions of this chapter;
 - xvi. The adjacent land uses and improvements within 200 feet of the subject property;
 - xvii. The location of hazardous chemical storage;
 - xviii. A scale shall be shown with the dimensions: as determined by the city manager;
 - xix. The location of any on-site items (kiosks, sanitation containers, drop boxes, etc.);
 - xx. The location and type of all existing and proposed screening;
 - xxi. The required landscape areas; and
 - xxii. Any additional information as deemed necessary to adequately evaluate the site or development plan.
- b. Screening of mechanical equipment. Mechanical and heating and air conditioning equipment in multi-family uses shall be screened from view from the public right-of-way and from adjacent residential properties.
 - c. Lighting. The lighting for the subject property will be constructed in conformance with Section 4.13 of this chapter.
- 7) Site circulation and parking. The following site circulation and parking information shall be included on the site plan:**

- a. The drive approach dimensions and radii;
 - b. The delineation and width of internal circulation roadways;
 - c. The distances between driveways and intersecting streets;
 - d. The number of required parking spaces and number of parking spaces provided, including handicapped parking spaces;
 - e. The parking dimensions;
 - f. The stacking spaces and drive-through lane location;
 - g. The location of curb stops relative to front of parking stall. (Note: Wheel stops are not permitted in lieu of curbs);
 - h. The handicapped ramps (required at all intersections);
 - i. The building entrances;
 - j. The sidewalk dimensions;
 - k. The fire lanes meeting fire code standards;
 - l. The location and dimension of delivery truck docks;
 - m. The location and dimension of loading spaces;
 - n. The location of bay doors;
 - o. The sanitation container locations;
 - p. The medians, islands, barriers, and channelization;
 - q. The width of adjacent streets, alleys, or other access abutting property;
 - r. The length, width, and taper of turn bays;
 - s. The directional signage and directional arrows for one-way traffic driveways;
- 8) Utility plan.** A utility plan shall be included on a separate drawing sheet(s) from the site plan, and shall include the following information:
- a. The existing and proposed water mains (include size and valve locations);
 - b. The water meter size and location;
 - c. The existing and proposed sewer mains (include size, manholes and cleanout);
 - d. The sewer service size (provide cleanout at property line);
 - e. The existing and proposed utility easements including the associated utility line (public or private) and its size;
 - f. The existing and proposed fire hydrants (including any nearby off-site hydrants);
 - g. The existing and proposed fire lines, fire sprinkler connections, and appurtenances;
 - h. The location and size of irrigation meters;
 - i. The location and size of grease and sand traps;
 - j. The location and size of sampling pits; and,
 - k. The location and type of pretreatment.
- 9) Drainage plan.** A drainage plan shall be included on a separate drawing sheet(s) from the site plan, and shall include the following information:
- a. The existing and proposed elevation at critical points;
 - b. The drainage area map (if site is over one acre);

- c. The on-site collection system, including stormwater detention areas and detention ponds;
 - d. The 100-year flood elevation (if in floodprone area), and erosion hazard setback easement;
 - e. The existing and proposed contours at two-foot intervals;
 - f. The existing and proposed drainage structures (include size and type);
 - g. The existing and proposed culverts (use six-to-one sloped headwall); and
 - h. The direction of surface drainage (must be discharged into existing waterway or public right-of-way).
- 10)** Landscape plan. A detailed landscape plan in conformance with Section 11 of this Code shall be submitted along with the site plan. Landscape plans shall be prepared by a landscape architect, landscape contractor, or landscape designer. Landscape plans shall include all information as listed in subsection 77-173(e).
- 11)** Attributes in consideration. City council, planning and zoning commission, and staff consideration shall include paving and layout of streets, alleys and sidewalks, means of ingress and egress, provisions for drainage and utilities, parking spaces, protective screening and open spaces, as well as areas designated for landscaping, and any other aspect deemed necessary to consider in the interest of promoting the public health, safety, order, convenience, prosperity, and general welfare of the city.
- 12)** Additional information. If, during the course of considering the site plan or landscape plan, the planning and zoning commission is of the opinion that a proper recommendation or determination cannot be made without additional information, the planning and zoning commission is authorized to request that the applicant submit said information and is further authorized to withhold action on the site plan until the submission of the additional information for the planning and zoning commission's consideration.
- 13)** Expiration. A site plan shall expire two years after its approval, if no building permits have been issued for the site, or if a building permit has been issued but has subsequently lapsed. Site plans submitted for a planned development or specific use permit shall not expire.
- 14)** Approval required. A building permit shall not be issued prior to the approval of the site plan by the city council, planning and zoning commission and/or city manager, as appropriate. No building permit shall be issued except in compliance with the approved site plan, including all conditions of approval.
- 15)** Inspections, revisions, and continued compliance. During construction and upon completion, the project will be inspected to ensure that the approved site plan has been followed:
- a. In the event that changes to the approved site plan are proposed, the director of planning shall have the authority to require that a revised site plan be submitted to the city for review and approval;

- b. It is recognized that final architectural and engineering design may necessitate some judgment in the determination of conformance to an approved site plan. The city manager shall have the authority to interpret conformance to an approved site plan; provided that such interpretations do not materially affect access, circulation, general building location on the site, or any conditions specifically attached as part of a planning and zoning commission or city council approval. The city manager shall only approve minor changes, which substantially conform to the approved site plan, and to all applicable city regulations, such as:
 - i. Minor dimension and location adjustments;
 - ii. Minor changes in the number of parking spaces provided that minimum parking requirements are met;
 - iii. Adjustments to sanitation container location;
 - iv. Minor revisions to approved elevations; and
 - v. Substitution of similar materials on an approved landscape plan.
 - c. The city manager may not approve the following types of revisions:
 - i. Major changes to type of screening materials;
 - ii. Significant alterations to the building footprint;
 - iii. Specific conditions of approval; and
 - iv. Any changes that may negatively impact adjacent properties.
 - d. If, in the judgment of the city manager, the proposed revisions exceed staff's approval authority, the revised site plan shall be forwarded to the planning and zoning commission for consideration according to the procedures for site plan approval. If proposed revisions to the site plan have not been approved by the city manager within 30 days of their final submission, they shall be scheduled for consideration by the planning and zoning commission upon request by the applicant.
 - e. A certificate of occupancy shall not be issued until the final inspection shows that the project has been completed in accordance with the approved site plan.
 - f. The final site plan and landscape plan shall be accompanied by a digital copy for permanent record.
 - g. Maintenance of the property in conformance with the approved site plan shall thereafter be a condition of a valid certificate of occupancy. Failure to maintain the property in conformance with an approved site plan shall be a violation of this chapter.
- 16)** Phasing plan. To assist in process planning or site plans to be constructed in phases, the director of planning may request a phasing plan for the development, to ensure adequate site access, circulation, parking, sanitation containers, utilities, etc.

5.4 AMENDMENTS

At any time following the approval of a concept plan, preliminary site plan, adopted development plan, or site plan and before the lapse of such approval, the property owner(s) may request an amendment.

Amendments shall be classified as major and minor. Minor amendments shall include corrections of distances and dimensions, adjustments of building configuration and placement, realignment of drives and aisles, layout of parking, adjustments to open space, landscaping, and screening, changes to utilities and service locations which do not substantially change the original plan. Minor phasing for adopted development plans are permitted only the purpose of adding an adjacent residential or vertically mixed-use building into the current phase. Amendments to previously approved storm water conservation areas, increases in building height and/or building proximity to an adjacent offsite residential use, and all other amendments shall be considered major amendments and may be considered by the Planning & Zoning Commission at a public meeting in accordance with the same procedures and requirements for the approval of a plan. The City Manager may approve or disapprove a minor amendment. Disapproval may be appealed to the Planning & Zoning Commission.

§.5 EXTENSION AND REINSTATEMENT PROCEDURE

- 1) Sixty days prior to or following the lapse of approval for a concept plan, preliminary site plan, or site plan as provided in these regulations, the property owner may petition the Planning & Zoning Commission to extend or reinstate the approval. Such petition shall be considered at a public meeting of the Planning & Zoning Commission.
- 2) In determining whether to grant such request, the Planning & Zoning Commission shall take into account the reasons for lapse, the ability of the property owner to comply with any conditions attached to the original approval, and the extent to which newly adopted regulations shall apply to the plan. The Planning & Zoning Commission shall extend or reinstate the plan, or deny the request, in which instance the property owner must submit a new application for approval.
- 3) The Planning & Zoning Commission may extend or reinstate the approval subject to additional conditions based upon newly enacted regulations or such as are necessary to assure compliance with the original conditions of approval. The Planning & Zoning Commission may also specify a shorter time for lapse of the extended or reinstated plan than is applicable to original approvals.

§.6 REVOCATION OF APPROVAL

The City Council or the Planning & Zoning Commission may revoke approval of a concept plan, preliminary site plan, or site plan if it determines that the conditions of the approval have not been met or if the plan contains, or is based upon, incorrect information which affects a significant health or safety interest.

§.7 APPEALS

The decision of the Planning & Zoning Commission to approve or deny a concept plan, preliminary site plan, and site plan shall be final and binding unless an appeal of the decision is made to the City Council. The applicant, City Manager, or 2 members of City Council may appeal the decision of the Commission with regard to a plan by filing a Notice of Appeal in the office of the City Manager, no later than 10 days after the date on which the Commission notifies the applicant of its decision. Such notification may take

place by means of an oral ruling by the Commission at a public meeting. Written notice of any appeal shall be sent to the property owner. The Notice of Appeal shall set forth in clear and concise fashion the basis for the appeal. The City Council shall consider the appeal at a public meeting no later than 45 days after the date on which the Notice of Appeal is filed. The City Council may affirm, modify, or reverse the decision of the Commission and may, where appropriate, remand the plan to the Commission for further proceedings consistent with City Council's decision.

5.8 ADDITIONAL DEVELOPMENT AND REDEVELOPMENT

Following the completion of improvements shown on an approved site plan, additional development, site modifications, or redevelopment of the site shall be permitted subject to the approval of a revised site plan. Minor expansions and redevelopment may be approved by the City Manager under the terms of Section 5.4. All other expansions or redevelopment shall require submittal of a revised site plan and the approval of the Planning & Zoning Commission under the requirements and procedures then in effect.

Section 6 PENALTIES AND ENFORCEMENT

6.1 PENALTY FOR VIOLATIONS

- 1) Any person violating any of the provisions or terms of this chapter shall be subject to the same penalty as provided for in this chapter, and upon conviction shall be punished by a fine not to exceed the sum of \$2,000.00 for each offense, and each and every day such violation shall continue shall be deemed to constitute a separate offense.
- 2) In addition to the penalty provided for in subsection (a) of this section, the right is hereby conferred and extended upon any property owner owning a property in any district, where such property owner may be affected or invaded by a violation of the terms of the article, to bring suit in such court or courts having jurisdiction thereof and obtain such remedies as may be available at law and equity in the protection of the rights of such property owner.

6.2 PRESERVING RIGHTS IN PENDING LITIGATION AND VIOLATIONS UNDER EXISTING ORDINANCES

By the passage of the ordinance from which this chapter is derived, no presently illegal use shall be deemed to have been legalized unless such use falls specifically within a use district where the actual use is a conforming use where recognized, or an illegal use, as the case may be. It is further the intent and declared purpose of this chapter that no offense committed, and no liability, penalty or forfeiture, either civil or criminal, incurred prior to the time the zoning ordinance, as codified in this chapter, was adopted, shall be discharged or affected.

6.3 SEVERABILITY

It is the intention of the City Council that this ordinance and every provision thereof shall be considered severable and the validity or partial invalidity of any section, clause, or provision of this ordinance shall not affect the validity of any other portion of this ordinance.

6.4 EFFECTIVE DATE

This Ordinance shall become effective on the ___ day of _____ 2017, after publication of the caption, as the law in such cases provides.

Section Updates

New

Updated

ORDINANCE # _____



Farmersville
DISCOVER A TEXAS TREASURE

SUBDIVISION ORDINANCE
CITY OF FARMERSVILLE

DRAFT NOVEMBER 2017

CITY OF FARMERSVILLE SUBDIVISION ORDINANCE

Table of Contents

SECTION 1	GENERAL PROVISIONS	1
1.1	AUTHORITY	1
1.2	PURPOSE	1
1.3	APPLICATION OF REGULATIONS	3
1.4	JURISDICTION	4
1.5	EXEMPTIONS	5
1.6	PENDING APPLICATIONS	6
1.7	INTERPRETATION; CONFLICT; SEVERABILITY	6
1.8	SAVING PROVISION	6
1.9	VARIANCES	7
1.10	WAIVERS FROM DEVELOPMENT EXACTION	8
1.11	DEFINITIONS	10
1.12	ENFORCEMENT, VIOLATIONS AND PENALTY	17
SECTION 2	PLATTING PROCEDURES	18
2.1	IN GENERAL	18
2.2	OFFICIAL SUBMISSION DATE AND COMPLETENESS OF APPLICATION	19
2.3	FEES, APPLICATIONS FORMS AND PROCEDURAL	20
2.4	SUBMISSION PROCEDURES AND CITY REVIEW PROCESS	20
2.5	ACTION BY THE PLANNING AND ZONING COMMISSION AND CITY COUNCIL	21
2.6	APPEALS	22
2.7	LAPSE OF APPROVAL, REINSTATEMENT AND DORMANT PROJECTS	22
2.8	CONCEPT PLAN	24
2.9	PRELIMINARY PLAT	26
2.10	FINAL PLAT	31
2.11	DEVELOPMENT PLATS	33
2.12	REPLATTING	35
2.13	AMENDING PLATS	37
2.14	PLAT VACATION	39
2.15	MINOR PLATS	40
SECTION 3	SUBDIVISION DESIGN STANDARDS	42
3.1	OUTSIDE PUBLIC FACILITIES PORT	42
3.2	BLOCKS AND LOTS	43
3.3	MONUMENTS	44
3.4	STREETS AND ALLEYS	45
3.5	TRAFFIC IMPACT ANALYSIS	51
3.6	PRIVATE STREET SUBDIVISIONS	53
3.7	SIDEWALKS	58
3.8	WATER AND WASTEWATER FACILITY DESIGN	59
3.9	STORM WATER COLLECTION AND CONVEYANCE SYSTEMS	60
3.10	RETAINING WALLS	62
3.11	SCREENING, ENTRY FEATURES AND LANDSCAPING REQUIREMENTS	62
3.12	PRIVATE UTILITY SERVICES	64

3.13	EASEMENTS	66
SECTION 4	PARKS, OPEN SPACE AND PUBLIC FACILITIES	68
4.1	AREAS FOR PARKS AND PUBLIC USE	68
4.2	PROTECTION OF DRAINAGE AND CREEK AREAS.....	69
4.3	PROPERTY OWNERS OR HOMEOWNERS ASSOCIATIONS.....	71
SECTION 5	REQUIREMENTS FOR COMPLETION, ACCEPTANCE AND MAINTENANCE OF IMPROVEMENTS.....	74
5.1	IMPROVEMENTS IN GENERAL.....	74
5.2	WATER AND WASTEWATER REQUIREMENTS.....	75
5.3	STORM DRAINAGE AND WATER QUALITY CONTROLS	76
5.4	WITHHOLDING CITY SERVICES AND IMPROVEMENTS UNTIL ACCEPTANCE	76
5.5	GUARANTEE OF PUBLIC IMPROVEMENTS.....	77
5.6	TEMPORARY IMPROVEMENTS	80
5.7	FAILURE TO COMPLETE IMPROVEMENTS	80
5.8	ACCEPTANCE OF DEDICATION OFFERS	80
5.9	MAINTENANCE AND GUARANTEE OF PUBLIC IMPROVEMENTS	81
5.10	CONSTRUCTION PROCEDURES.....	81
5.11	INSPECTION AND ACCEPTANCE OF PUBLIC IMPROVEMENTS.....	82
5.12	DEFERRAL OF REQUIRED IMPROVEMENTS	83
5.13	ISSUANCE OF BUILDING PERMITS AND CERTIFICATES OF OCCUPANCY.....	83
SECTION 6	PARTICIPATION AND ESCROW	84
6.1	Participation Policy.....	84
6.2	ESCROW POLICIES AND PROCEDURES.....	85

Section 1 GENERAL PROVISIONS

1.1 AUTHORITY

- 1) This Ordinance is adopted under the authority of the Constitution and laws of the State of Texas, including Chapter 212 of the Texas Local Government Code.
- 2) The following rules and regulations are hereby adopted as the Subdivision Ordinance of the City of Farmersville, Texas, also referred to herein as "this Ordinance". The City Council hereby extends the application of this Ordinance to the full extent of the extraterritorial jurisdiction of the City of Farmersville. This Ordinance shall be applicable to the filing of plats and the subdivision of land, as those terms are defined herein and in Chapter 212 of the Texas Local Government Code, within the corporate limits of the City of Farmersville and its extraterritorial jurisdiction as those boundaries may be from time to time adjusted by annexation, disannexation, or otherwise. The City shall have all remedies and rights provided by Chapter 212 with regard to the control and approval of subdivisions and plats both within the City and within its extraterritorial jurisdiction.

1.2 PURPOSE

1.2.1 INTERPRETATION AND APPLICATIONS

In the interpretation and application of the provisions of this Ordinance, it is the intention of the City Council that the principles, standards and requirements provided for herein shall be minimum requirements for the platting and developing of subdivisions within the City of Farmersville and its extraterritorial jurisdiction.

1.2.2 VALID GOVERNMENTAL FUNCTION

The subdivision of land is the first step in the development process. The distribution and relationship of residential, nonresidential and agricultural uses throughout the community, along with the system of improvements for thoroughfares, utilities, public facilities and community amenities determine, in large measure, the quality of life enjoyed by the residents of the community. Health, safety, economy, amenities, environmental sensitivity, and convenience are all factors that influence and determine a community's quality of life and overall character. A community's quality of life is a matter of public interest. Consequently, the subdivision of land, as it affects a community's quality of life, is an activity where regulation is a valid function of municipal government. The regulations contained herein are intended to encourage the development of a quality municipal environment by establishing standards for the provision of adequate light, air, open space, storm water drainage, transportation, public utilities and facilities, and other needs necessary for ensuring the creation and continuance of a healthy, attractive, safe and efficient community that provides for the conservation, enhancement and protection of its human and natural resources.

1.2.3 INTENT OF STANDARDS

The procedure and standards for the development, layout and design of subdivisions of land within the corporate limits and extraterritorial jurisdiction of the City of Farmersville, Texas are intended to:

- 1)** Promote the development and the utilization of land in a sustainable manner that assures an attractive and high-quality community environment in accordance with the Comprehensive Plan and the Zoning Ordinance of the City of Farmersville;
- 2)** Guide and assist property owners and applicants in the correct procedures to be followed, and to inform them of the standards which shall be required;
- 3)** Protect the public health, safety and general welfare of the community by imposing standards for the location, design, class and type of streets, walkways (sidewalks), alleys, utilities and essential public services;
- 4)** Assist orderly, efficient and coordinated development within the City's corporate limits and extraterritorial jurisdiction;
- 5)** Provide neighborhood conservation and prevent the development of slums and blight;
- 6)** Integrate the development of various tracts of land into the existing community, and coordinate the future development of adjoining tracts;
- 7)** Provide that the cost of improvements to minimum standards which primarily benefit the tract of land being developed be borne by the owners or developers of the tract, and that the cost of improvements to minimum standards which primarily benefit the whole community be borne by the whole community as contained in this Ordinance thereby assuring that the cost of such required improvements is roughly proportionate to the impact of the development on the City's infrastructure;
- 8)** Ensure the most efficient and beneficial provision of public facilities and services for each tract being subdivided;
- 9)** Provide for compatible relationships between land uses and buildings; provide for the circulation of traffic throughout the municipality, having particular regard to the avoidance of congestion in the streets and highways; provide for pedestrian circulation that is appropriate for the various uses of land and buildings; and provide the proper location and width of streets;
- 10)** Prevent pollution of the air, streams and bodies of water; assure the adequacy of drainage facilities; safeguard both surface and groundwater supplies, as well as natural resources and endangered or threatened plant and animal life; and encourage the wise use and management of natural resources throughout the municipality in order to preserve the integrity, stability and beauty of the community and the value of the land;
- 11)** Promote sustainability of development through the preservation of the natural beauty and topography of the municipality, and ensure development that is appropriate with regard to these natural features;
- 12)** Establish adequate and accurate records of land subdivision;

- 13) Ensure that public or private facilities are available and will have sufficient capacity to serve proposed and future developments and citizens within the City and its extraterritorial jurisdiction;
- 14) Protect and provide for the public health, safety and general welfare of the community;
- 15) Provide for adequate light, air and privacy; secure safety from fire, flood and other danger; and prevent overcrowding of the land and undue congestion of population;
- 16) Protect the character and the social and economic stability of all parts of the community, and encourage the orderly and beneficial development of all parts of the community;
- 17) Protect and conserve the value of land throughout the community and the value of buildings and improvements upon the land, and minimize conflicts among the uses of land and buildings;
- 18) Guide public and private policy and action in providing adequate and efficient transportation systems, public utilities, and other public amenities and facilities; and
- 19) Encourage the development of a stable, prospering economic environment.

1.2.4 MINIMUM STANDARDS

Minimum standards for development are contained in the City's Design Manuals and Standard Construction Details, the Zoning Ordinance, the Building Code, applicable articles of the Code of Ordinances, and in this Ordinance. However, the Comprehensive Plan and Future Land Use Plan express policies designed to achieve an optimum quality of development in Farmersville and its extraterritorial jurisdiction. Subdivision design shall be of a quality that will carry out the purpose and spirit of the policies expressed within the Comprehensive Plan and within this Ordinance, and shall be encouraged to exceed the minimum standards required herein.

1.3 APPLICATION OF REGULATIONS

1.3.1 FINAL PLAT APPROVAL REQUIRED

If land is required to be platted, no conveyance or sale of any portion or Lot of the property may occur until a final plat is approved by the City Council and recorded in the land records of Collin or Hunt County.

1.3.2 ISSUANCE OF BUILDING PERMITS AND CERTIFICATES OF OCCUPANCY

No subdivision plat shall be recorded until a final plat, accurately describing the property to be conveyed, has been approved in accordance with this Ordinance and with other applicable City regulations (described in Subsection 1.3.C below). No building permit, certificate of occupancy, plumbing permit, electrical permit, flood plain permit, utility tap, or certificate of acceptance for required public improvements shall be issued by the City for any parcel of land or plat until:

- 1) A final plat has been approved in accordance with this Ordinance; and
- 2) All improvements required by this Ordinance have been constructed and accepted by the City of Farmersville, or assurances for the completion of required improvements have been provided in accordance with Article VI of this Ordinance.

1.3.3 COMPLIANCE WITH PLANS AND REGULATIONS

Compliance with all City ordinances pertaining to the subdivision of land, and the Comprehensive Plan, shall be required prior to approval of any development application governed by this Ordinance. It is the property owners' responsibility to be familiar with, and to comply with City ordinances. Applicable ordinances and requirements include, but are not limited to, the following:

- 1) Comprehensive Plan, which includes the Future Land Use Plan, Thoroughfare Plan, and associated maps and plans;
- 2) Zoning Ordinance (Ordinance No. _____, as amended);
- 3) Applicable Chapters of the City's Code of Ordinances;
- 4) Design Manuals for Storm Drainage Systems, Water and Sanitary Sewer-Lines and Thoroughfares adopted by the City; and
- 5) Standard Construction Details adopted by the City.

1.4 JURISDICTION

1.4.1 JURISDICTION

The provisions of this Ordinance shall apply to the following forms of land subdivision and development activity within the City's limits and its extraterritorial jurisdiction:

- 1) The division of land into two or more tracts, lots, sites or parcels; or
- 2) All subdivisions of land whether by metes and bounds division or by plat, which were outside the jurisdiction of the City's subdivision regulations in Collin or Hunt County, Texas and which subsequently came within the jurisdiction of the City's subdivision regulations through:
 - a. Annexation; or
 - b. Extension of the City's extraterritorial jurisdiction; or
- 3) The combining of two or more contiguous tracts, lots, sites or parcels for the purpose of creating one or more legal lots in order to achieve a more developable site, except as otherwise provided herein; or
- 4) When a building permit is required for un-platted or improperly platted parcels for one of the following uses:
 - a. Residential single-family:
 - i. Construction of a new single-family dwelling unit; or
 - ii. Moving of a primary structure or a main building onto a piece of property; or
 - iii. Renovation or expansion of an existing main building in excess of 50% of the square footage of the current structure; or
 - b. Nonresidential and multi-family:
 - i. Construction of a new nonresidential or multi-family structure; or
 - ii. Additions to, or modification of an existing building in excess of 50% of its current size; or

- iii. Moving a primary structure onto a parcel of property; or
- c. For tracts where any public improvements are proposed; or
- d. Whenever a property owner proposes to divide land lying within the City or its extraterritorial jurisdiction into two or more tracts, and claims exemption from Subchapter A of Chapter 212 of the Texas Local Government Code for purposes of development, that results in parcels or lots each of which parcels or lots are greater than five (5) acres in size, where each part has access and where no public improvement is being dedicated, he shall first obtain approval of a development plat that meets the requirements of Texas Local Government Code Chapter 212, Subchapter B, Regulation of Property Development, Sections 212.041 through 212.050. (See Section 2.11 of this Ordinance for requirements for development plats.)

1.5 EXEMPTIONS

1.5.1 EXEMPTIONS

The provisions of this Ordinance shall not apply to:

- 1) Development of land platted and approved prior to the effective date of this Ordinance, except as otherwise provided for herein and for which no re-subdivision or replat is sought; or
- 2) Development of land constituting a single tract, lot, site or parcel for which a legal deed of record describing the boundary of said tract, lot, site or parcel was filed of record in the Deed Records of Collin or Hunt County, Texas on or before the effective date of this ordinance, or
- 3) Sale, inheritance, or gift of land by metes and bounds of tracts greater than five (5) acres in size, where each part has access and upon which no improvement is being dedicated, and no subdivision or alteration is occurring; or
- 4) Existing cemeteries complying with all State and local laws and regulations; or
- 5) Divisions of land created by order of a court of competent jurisdiction; or
- 6) When a building permit is requested for un-platted or improperly platted parcels for one or more of the following activities:
 - a. Remodeling or repair of an existing primary structure which involves no expansion of square footage beyond the original structure; or
 - b. Construction of subordinate facilities such as fences and accessory buildings (as defined in the Zoning Ordinance); or
 - c. Moving a structure off a lot or parcel, or for demolition permits.

1.6 PENDING APPLICATIONS

1.6.1 REGULATORY REVIEW

All applications for plat approval, including final plats, that are pending on the effective date of this Ordinance and which have not lapsed shall be reviewed under the regulations in effect immediately preceding the effective date of this Ordinance. Notwithstanding the foregoing, a property owner may opt, at the owner's sole discretion, that such a plat be reviewed under this Ordinance.

1.7 INTERPRETATION; CONFLICT; SEVERABILITY

1.7.1 INTERPRETATION

In their interpretation and application, the provisions contained in this Ordinance shall be held to be the minimum requirements for the promotion of the public health, safety and general welfare. These regulations shall be construed broadly to promote the purposes for which they are adopted.

1.7.2 CONFLICT WITH OTHER LAWS

These regulations are not intended to interfere with, abrogate, or annul any other ordinance, rule or regulation, statute or other provision of law except as provided in this Ordinance. To the extent that this Ordinance promulgates standards or imposes restrictions or duties which differ from those imposed by other City ordinances, rules or regulations, the regulations contained within this Ordinance the provision that is more stringent or imposes a higher standard shall control.

1.7.3 SEVERABILITY

If any part or provision of this Ordinance, or the application of this Ordinance to any person or circumstance, is adjudged invalid by any court of competent jurisdiction, the judgment shall be confined in its operation to the part, provision, or application directly involved in the controversy in which the judgment shall be rendered, and it shall not affect or impair the validity of the remainder of these regulations or the application of them to other persons or circumstances. The City Council hereby declares that it would have enacted the remainder of these regulations even without the incorporation in this Ordinance of any such part, provision, or application which may be judged invalid.

1.8 SAVING PROVISION

This Ordinance shall not be construed as abating any action now pending under, or by virtue of, prior existing subdivision regulations, or as discontinuing, abating, modifying or altering any penalty accruing or about to accrue, or as affecting the liability of any person, firm or corporation, or as waiving any right of the City under any section or provision existing at the time of adoption of this Ordinance, or as vacating or annulling any rights obtained by any person, firm or corporation, by lawful action of the City except as shall be expressly provided in this Ordinance.

1.9 VARIANCES

1.9.1 VARIANCES

Where the City Council, after a recommendation from the Planning and Zoning Commission (Commission), finds that undue hardship will result from strict compliance with a certain provision(s) of this Ordinance, or where the purposes of these regulations may be served to a greater extent by an alternative proposal, the City Council may approve a variance from any portion of these regulations so that substantial justice may be done and the public interest is secured, provided that the variance shall not have the effect of nullifying the intent and purpose of these regulations, and further provided that the City Council shall not approve a variance unless it shall make findings based upon the evidence presented to it in each specific case that:

- 1) Granting the variance will not be detrimental to the public safety, health or welfare, and will not be injurious to other property or to the owners of other property, and the variance will not prevent the orderly subdivision of other property in the vicinity;
- 2) The conditions upon which the request for a variance is based are unique to the property for which the variance is sought, and are not applicable generally to other property;
- 3) Because of the particular physical surroundings, shape or topographical conditions of the specific property involved, a particular hardship to the property owner would result, as distinguished from a mere inconvenience, if the strict letter of these regulations is carried out;
- 4) The variance will not in any manner vary the provisions of the Zoning Ordinance or Comprehensive Plan or any other adopted plan(s) of the City; and
- 5) An alternate design will generally achieve the same result or intent as the standards and regulations prescribed herein.

Such findings of the City Council, together with the specific facts upon which such findings are based, shall be incorporated into the official minutes of the City Council meeting at which a variance is considered. A variance from any provision of this Ordinance may be granted only when in harmony with the general purpose and intent of this Ordinance so that the public health, safety and welfare may be secured and substantial justice done. Economic hardship to the property owner or developer alone shall not be deemed to constitute undue hardship or otherwise justify a variance from the requirements of this Ordinance.

1.9.2 CONDITIONS

In approving a variance the City Council may require such conditions as will, in its judgment, secure substantially the purposes described in Section 1.2.

1.9.3 PROCEDURES

A petition for a variance shall be submitted in writing by the property owner to the Commission before or contemporaneously with the plat or replat submitted for the Commission's consideration. The application

shall state fully the grounds for the variance, and all of the facts relied upon by the Applicant. The Commission shall hold a hearing on the requested variance from this Ordinance and after having heard from the Applicant and all other interested persons the Commission shall forward a recommendation regarding the requested variance to the City Council, together with the Commission's recommendation regarding the plat or replat. The City Council shall similarly hold a hearing on the requested variance from this Ordinance, and after public testimony and giving due consideration to the recommendation of the Commission, the City Council shall approve or disapprove the requested variance. The City Council shall also approve or disapprove the subject plat or replat in accordance with this Ordinance and the laws of the State of Texas.

1.10 WAIVERS FROM DEVELOPMENT EXACTIONS

1.10.1 WAIVERS FROM DEVELOPMENT EXACTIONS

It is the City's intent that any required development exactions shall be roughly proportional to the impact that any proposed development or redevelopment creates on the City's infrastructure and resources. The property owner or applicant for plat approval may file a petition for relief from a dedication or construction requirement that is applied or imposed as a condition of approval of a preliminary plat or final plat in accordance with the following procedures:

- 1) **Petition for Relief** – The property owner or applicant must submit a written petition for relief to the City Manager at least 10 days prior to the Planning and Zoning Commission's consideration of a preliminary plat or final plat. The petition shall state the reasons for the waiver request and must indicate the dedication or construction requirements for which relief is being requested. An applicant may also submit a petition for relief from conditions of plat approval added by the Commission through its consideration of a preliminary plat or final plat. This petition must be submitted no later than 10 days following the Commission's action.
- 2) **Consideration of Plat** – Upon filing an appeal, the applicant is thereby requesting the postponement of consideration of a pending plat application by the Planning and Zoning Commission, pending preparation of the study required by subsection 3 below, and completion of the appeal process, in which case the applicant shall also waive the statutory period for deciding plats for the time needed to decide the appeal by the City.
- 3) **Study Requirements** – The city shall provide a study in support of the dedication or construction requirements. The petitioner may provide a study in support of the waiver request. The city's study shall include the following information:
 - a. Total capacity of the city's public infrastructure system or improvements to be dedicated to the city to be utilized by the proposed subdivision, employing standard measures of capacity and equivalency tables that relate the type of development proposed to the quantity of system capacity. If the proposed subdivision is to be developed in phases, such information shall be provided for the entire development.

- b. Total capacity to be supplied to the city's infrastructure system by the proposed dedication of an interest in land or construction of capital improvements;
- c. Comparison of the capacity of the city's public facilities system to be consumed by the proposed subdivision with the capacity to be supplied by the proposed dedication of an interest in land or construction of capital improvements. In making this comparison, the impacts on the city's public facilities system from the entire development shall be considered;
- d. The effect of any city participation in the costs of oversizing the capital improvements to be constructed;

1.10.2 CITY ENGINEER'S RECOMMENDATIONS

The City Engineer shall evaluate the petition and any supporting study provided by the petitioner and make a recommendation to the Planning and Zoning Commission based upon the city's study, any submitted petitioner's study and his/her own analysis. The City Engineer may utilize any reasonable methodology and information in evaluating the petition.

1.10.3 CONSIDERATION OF PETITION

Based upon the petition, any study submitted by the petitioner and the City Engineer's recommendation, the Planning and Zoning Commission shall make a recommendation to the City Council as to whether the application of the regulations for dedication or public improvements is roughly proportional to the nature and impact created by the development. The Commission, and subsequently the City Council in making its final decision, shall consider one of the following recommendations regarding the petition for relief:

- 1) Denial of the petition and imposition of the standard or condition requiring dedication or construction of capital improvements in accordance with the regulations contained within this ordinance;
- 2) Granting of the petition and waiver in whole or in part any dedication or construction requirement necessary to meet the criteria for approval;
- 3) Accepting alternative designs for the public infrastructure system or improvements to be dedicated to the city;
- 4) Delaying the imposition of the requirement until a future phase of development. If a delay is recommended, the future phase of development must be clearly defined;
- 5) Reduction in the applicant's cost of the dedication or construction requirement;

1.10.4 CRITERIA FOR APPROVAL

The City Council shall determine whether the application of the regulations requiring dedication of an interest in land for public improvements or construction of capital improvements is roughly proportional to the nature and extent of the impacts created by the proposed development on such water, wastewater, roadway or drainage system, and reasonably benefits the development.

1.10.5 LAPSE OF PLAT APPROVAL

If relief is granted to the petitioner, it shall remain in effect for the time period specified in Section 2.7 for each type of plat, and shall end upon expiration of the plat. Plat approvals may be extended as provided in Section 2.7.

1.10.6 PLAT MODIFICATION

If a plat for which relief was granted is modified to increase the number of residential units or the intensity of non-residential uses, the City Engineer may prepare a new study to validate the relief. The petitioner may file for relief, and the new application and study shall be submitted and processed in accordance with this section.

1.10.7 EFFECT ON OTHER ORDINANCES

No waiver granted pursuant to this section shall waive any dimensional requirement of the City's Zoning Ordinance including but not limited to lot depth, lot width, lot area, lot coverage, setbacks, landscaping and buffers. Any waiver from the literal interpretation and application of the City's Zoning Ordinance shall be strictly governed by the City's Zoning Ordinance and state law. Additionally, a waiver granted pursuant to this Ordinance shall not relieve the property owner from compliance with any other statute, ordinance, rule or regulation imposed by the City, county, state or federal government upon the development of the subject property.

1.11 DEFINITIONS

For the purpose of this Ordinance, the following terms, phrases, words and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense shall include the future tense; words in the plural number shall include the singular number (and vice versa); and words in the masculine gender shall include the feminine gender (and vice versa). Definitions not expressly prescribed herein are to be determined in accordance with customary usage in municipal planning and engineering practices. The word "shall" is always mandatory, while the word "may" is merely directory.

- 1) **Addition** -- A lot, tract or parcel of land lying within the City's corporate boundaries or extraterritorial jurisdiction which is intended for the purpose of subdivision or development.
- 2) **Administrative Officers** -- Any officer of the City of Farmersville referred to in this Ordinance by title, including but not limited to the City Manager, City Attorney, City Secretary, City Planner, Building Official and City Engineer shall be the person so retained in that position by the City, or his or her duly authorized representative. This definition shall also include engineering, planning, legal and other consultants retained by the City to supplement or support existing City staff, as deemed appropriate by the City.
- 3) **Alley** -- A minor public right-of-way not intended to provide the primary means of access to abutting lots, which is used primarily for vehicular service access to the rear or sides of properties otherwise abutting on a street. The length of an alley segment is to be

measured from the right-of-way lines of the streets from which the alley is provided access, including any alley turnouts onto a street.

- 4) Amended or Amending Plat -- A revised plat correcting errors or making minor changes to the original recorded final plat, as authorized by Tex. Loc. Govt Code § 212.016.
- 5) Amenity -- An improvement to be dedicated to the public or to the common ownership of the lot owners of the subdivision and providing an aesthetic, recreational or other benefit, other than those prescribed by this Ordinance.
- 6) Applicant -- A person who submits an application for an approval required by this Ordinance.
- 7) Application -- A written request for an approval required by this Ordinance.
- 8) Base Flood -- The flood having a one percent (1%) chance of being equaled or exceeded in any given year.
- 9) Block Length or Street Length -- For a residential subdivision, that distance measured along the centerline of the street from the intersection centerpoint of one through street to the intersecting centerpoint of another street, or to the midpoint of a cul-de-sac. The through street referred to above shall not be a cul-de-sac, a dead-end street, or a looped street, but shall be a street which clearly has two points of ingress from two different directions.
- 10) Bond-- Any form of a surety bond in an amount and form satisfactory to the City.
- 11) Building Setback Line -- The line within a property defining the minimum horizontal distance between a building or other structure and the adjacent street right-of-way line, property line, a creek, or some other specific environmental feature.
- 12) Capital Improvements Program (CIP) -- The official proposed schedule, if any, of all future public projects listed together with cost estimates and the anticipated means of financing each project, as adopted by City Council.
- 13) City -- The City of Farmersville, Texas.
- 14) City Attorney -- The term City Attorney shall apply only to such attorney, or firm of attorneys, that has been specifically employed by the City to assist in legal matters.
- 15) City Council -- The duly elected governing body of the City of Farmersville, Texas.
- 16) City Engineer -- The term "City Engineer" shall apply only to such licensed professional engineer, or firm of licensed professional consulting engineers, that has been specifically employed by the City to assist in engineering-related matters.
- 17) City Manager -- The person holding the position of City Manager, as appointed by the City Council.
- 18) City Planner -- The term "City Planner" shall apply only to such practicing, professional land planner, or firm of professional land planners, that has been specifically employed by the City to assist in planning- and zoning- related matters.
- 19) Commission -- The Planning and Zoning Commission of the City.
- 20) Comprehensive Plan -- The phrase "Comprehensive Plan" shall mean the Comprehensive Plan of the City and adjoining areas as adopted by the City Council, including all its

revisions. This Plan indicates the general locations recommended for various land uses, transportation routes, public and private buildings, streets, parks, water and wastewater facilities, and other public and private developments and improvements.

- 21) Concept Plan -- A map generally showing all topography, trees, drainage patterns, existing utilities, existing infrastructure, etc. on which is superimposed a drawing of the overall conceptual layout of a proposed development, which shows the anticipated plan of development, and which serves as a working base for noting and incorporating suggestions of the City's administrative officers, the Commission, the City Council, and others who are consulted prior to preparation of the preliminary plat. A concept plan is also sometimes referred to as a "site plan" or a "land study".
- 22) Construction Plat -- A Construction Plat is also known as a "Final Plat" approved by the City Council but not yet filed or recorded with the County and for which no infrastructure has been accepted by the City.
- 23) Contiguous -- Lots are contiguous when at least one boundary line or point of one lot touches a boundary line, or lines, or point of another lot.
- 24) Cul-De-Sac -- A street having only one outlet to another street, and terminated on the opposite end by a vehicular turnaround or "bulb". The length of a cul-de-sac is to be measured from the intersection centerpoint of the adjoining through street to the midpoint of the cul-de-sac bulb.
- 25) Dead-End Street -- A street, other than a cul-de-sac, with only one outlet to another street.
- 26) Design Standards -- The City of Farmersville's technical construction standards and specifications for the construction of subdivision improvement, as published in the then current Manuals for the Design of Storm Drainage Systems, Water and Sanitation Sewer Lines and Thoroughfare Standards, as maintained and available for inspection at the City Hall.
- 27) Easement -- The word "easement" shall mean an area of joint use on private property.
- a. 1. Drainage or utility easements are areas upon which the City or a public utility shall have the right to remove and keep removed all or part of any buildings, fences, trees, shrubs and other improvements or growths which in any way endanger or interfere with the construction, maintenance or efficiency of its respective systems within said easements. The City and public utilities shall, at all times, have the right of ingress and egress to and from and upon easements for the purpose of constructing, reconstructing, inspecting, patrolling, maintaining and adding to or removing all or part of their respective systems without the necessity at any time of procuring the permission of anyone.
 - b. 2. Access easements are areas, which are open to the general public at large that shall remain at all times open to the public for access.
- 28) Engineer -- A person duly authorized and licensed under the provisions of the Texas Engineering Practice Act to practice the profession of engineering.

- 29) Engineering Plans or Drawings -- The maps or drawings accompanying a plat and showing the specific location and design of all changes and improvements to be installed in the subdivision in accordance with the requirements of the City as a condition of approval of the plat.
- 30) Escrow -- A deposit of cash with the City in accordance with this Ordinance.
- 31) Extraterritorial Jurisdiction (ETJ) -- all land situated, as classified by the Texas Local Government Code chapters 42, 43 and 212, in all directions from the corporate boundary of the city and its extensions, and which is not in conflict with the ETJ of another municipality, or with any duly executed boundary agreement with another incorporated municipality.
- 32) Final Plat (also Record Plat) -- The one official and authentic map of an as built subdivision of land prepared from actual field measurement and staking of all identifiable points by a surveyor or engineer, with the subdivision location referenced to a GPS control point, and with all boundaries, corners and curves of the land division sufficiently described so that they can be reproduced without additional references and showing all streets and lots, easements, dedications and other pertinent features as constructed on the ground and as accepted by the City. The final plat of any lot, tract or parcel of land shall be recorded in the land records of Collin or Hunt County, Texas following acceptance and approval by the City. An amended plat is also a final plat.
- 33) Governing Body -- The City Council of the City of Farmersville, Texas.
- 34) Improvement or Development Agreement -- A contract entered into by the applicant and the City, by which the applicant promises to complete the required public improvements within the subdivision or addition within a specified time period following final plat approval.
- 35) Land Study -- A Land Study is also known as a "Concept Plan".
- 36) Land Planner -- Persons, including surveyors or engineers, who possess and can demonstrate a valid proficiency in the planning of residential, nonresidential and other related developments, such proficiency often having been acquired by education in the field of landscape architecture or other specialized planning curriculum, or by actual experience and practice in the field of land planning.
- 37) Lot (also Lot of Record) -- A divided or undivided tract or parcel of land having frontage on a public street, and which is, or which may in the future be, offered for sale, conveyance, transfer or improvement; which is designated as a distinct and separate tract; and which is identified by a tract or lot number or symbol in a duly approved subdivision plat which has been properly filed of record.
- 38) Major Plat -- All plats not classified as minor plats, including but not limited to subdivisions of more than four (4) lots, or any plat that requires the construction of a new street (or portion thereof) or the extension of a municipal facility as required by this or any other City ordinance.
- 39) Major Subdivision -- This is the same as a "Major Plat".

- ~~40) Minor Plat -- A subdivision of land resulting in four (4) or fewer lots fronting on an existing street and not requiring the creation of any new street or the extensions of municipal facilities.~~
- 41) Minor Subdivision -- This is the same as a Minor Plat.
- 42) On-Site Facilities or Improvements -- These are the existing or proposed facilities or improvements constructed within the property boundaries of the plat, and the existing or proposed facilities required to be constructed or improved immediately adjacent to the property that are needed to serve the development. Facilities and improvements include, but are not limited to, streets, alleys, water lines, sewer lines, storm drainage facilities, and curbs and gutters.
- 43) Off-Site Facilities or Improvements -- Off-site facilities shall mean those facilities or improvements that are required to serve the site but that are not located within the boundaries of the plat, and are not required to be constructed or improved immediately adjacent to the property to serve the development. These include oversizing for streets, sewer lines, water lines and storm drainage facilities, as well as the excess capacity of facilities such as water storage tanks and wastewater treatment plants available for new development.
- 44) Overlength Street -- A street segment, or a cul-de-sac or alley segment, which exceeds the maximum length allowed by this Ordinance, as measured along the centerline of the street from the intersection centerpoint of one through street, which shall not be a cul-de-sac or dead-end or looped street, to the intersecting centerpoint of another through street or, in the case of a cul-de-sac, to the midpoint of the cul-de-sac. For an alley segment, the measurement shall be to the right-of-way lines of the streets from which the alley is provided access, including any alley turnouts, or from the centerpoint of an intersection with another alley, which connects to a street.
- 45) Pavement Width -- The portion of a street that is available for vehicular traffic. Where curbs are used, it is the portion from the back of one curb to the back of the opposite curb.
- 46) Perimeter Street -- Any existing or planned street which abuts the subdivision or addition to be platted.
- 47) Person -- Any individual, association, firm, corporation, governmental agency, political subdivision, or legal entity of any kind.
- 48) Planning and Zoning Commission -- The duly appointed Planning and Zoning Commission of the City of Farmersville, Texas, in accordance with Section 211.007 of the Texas Local Government Code.
- 49) Plat -- This means a preliminary plat, final plat, development plat, amended plat or replat, as determined by the context.
- 50) Preliminary Plat -- The graphic expression of the proposed overall plan for subdividing, improving and developing a tract, showing in plan view the proposed street and lot layout, easements, dedications and other pertinent features, with such notations as are sufficient

to substantially identify the general scope and detail of the proposed development, as well as its compliance with all requirements of the development codes of the City of Farmersville. Engineering plans for all public improvements shall be submitted along with the preliminary plat. The Preliminary Plat is subject to approval by the Planning and Zoning Commission and City Council.

- 51) Private Street -- A private vehicular access way, including an alley, that is shared by and that serves two or more lots, which is not dedicated to the public, and which is not publicly maintained. YY. Property Owner (also known as "Applicant" or "Subdivider" or "Developer"). Any person or firm, association, syndicate, general or limited partnership, corporation, trust or other legal entity, or any agent thereof, that has sufficient proprietary interest in the land sought to be subdivided to commence and maintain proceedings to subdivide the same under this Ordinance. In any event, the term "property owner" shall be restricted to include only the owner(s) or authorized agent(s) of such owner(s), such as a developer of land sought to be subdivided.
- 52) Public Improvements -- Facilities, infrastructure and other appurtenances, typically owned and maintained by the City, which serve a public purpose in providing a needed service or commodity, such as wastewater collection and treatment and water storage and distribution, and which protect the general health, safety, welfare and convenience of the City's citizens, including efficiency in traffic circulation and access for emergency services. Required public improvements may include, but shall not be limited to, street and alley paving, including any necessary median openings and left turn lanes on major thoroughfares; water lines and pumping stations; sanitary sewer lines and lift stations; storm drainage structures and storm water management devices; water quality and erosion controls; screening and retaining walls; fire lane paving and fire hydrants; landscaping, where such is used for required screening or other required landscaped area, and associated irrigation system; and any required public sidewalks, street lights and street name signs. The term "public improvements" shall not include facilities or infrastructure of private providers of utility services other than water and wastewater, but shall be deemed to include facilities and infrastructure that the City would normally require of a development but which will be owned and maintained by an entity such as a homeowner's association, as in the case of private streets.
- 53) Record Plat -- A map, drawing or chart prepared according to the provisions of this chapter, and containing all engineering and legal data, dedications, and certificates necessary to the recording of same in the map and plat records of the county. A record plat may also be referred to as a final plat.
- 54) Replatting or Replat -- This is the re-subdivision of any part or all of a block or blocks of a previously platted subdivision, addition, lot or tract.
- 55) Right-of-Way -- A parcel of land occupied, or intended to be occupied, by a street or alley. Where appropriate, right-of-way may include other facilities and utilities such as sidewalks; railroad crossings; electrical, communication, oil and gas facilities, water and

sanitary and storm sewer facilities; and any other special use. The use of right-of-way shall also include parkways and medians outside of the paved portion of the street. The usage of the term "right-of-way" for land platting purposes shall mean that every right-of-way hereafter established and shown on a final plat is to be separate and distinct from the lots or parcels adjoining such right of-way, and shall not be included within the dimensions or areas of such lots or parcels.

- ~~56) Rural Subdivision -- The division of any lot, tract or parcel of land into two or more lots or sites, each lot being one acre or larger, conforming to the area regulations for the Single Family 1 Dwelling District and bordering on a county road in the extraterritorial jurisdiction of the city. Development of the subdivision shall follow the requirements of this ordinance, except as hereinafter modified with regard to a rural subdivision.~~
- 57) Standard Street -- A standard street is a street or road that meets or exceeds the minimum specifications in the City's standard street specifications, and which is constructed to the ultimate configuration for the type of roadway it is designated for on the City's Thoroughfare Plan.
- 58) Street -- A right-of-way, whether public or private and however designated, which provides vehicular access to adjacent land. Streets may be of the following categories:
- a. 1. Major thoroughfares, also known as arterial streets or primary thoroughfares, which provide vehicular movement from one neighborhood to another or to distant points within the City, and including freeways or highways leading to other communities.
 - b. 2. Collector streets, also known as feeder streets or secondary thoroughfares, which provide vehicular circulation within neighborhoods, and from local streets to major thoroughfares.
 - c. 3. Local residential streets, also known as minor thoroughfares or streets, which primarily provide direct vehicular access to abutting residential property.
 - d. 4. Private streets are streets which are owned and maintained by a homeowner's association or property owners' association, and which are not dedicated to the public.
- 59) Street Improvements -- This means any street or thoroughfare, together with all appurtenances required by City regulations to be provided with such street or thoroughfare including, but not limited to, walkways (sidewalks), drainage facilities to be situated in the right-of-way for such street or thoroughfare, traffic control devices, street lights and street signs, for which facilities the City will ultimately assume the responsibility for maintenance and operation.
- 60) Street Length -- This phrase means the same as Block Length.
- 61) Street Right-of-Way -- The width of the right-of-way for any roadway is the shortest perpendicular distance between the lines which delineate the rights-of-way of the street.
- 62) Subdivision (also known as Addition) -- A division or re-division of any tract of land situated within the City's corporate limits or its extraterritorial jurisdiction into two or

more parts, lots or sites, for the purpose, whether immediate or future, of sale, division of ownership, or building development. Subdivision includes the re-subdivision of land or lots which are part of a previously recorded subdivision.

- 63) Submission Date -- The submission date is when all necessary forms, fees, information, plans and copies have been submitted to the City, previewed, and deemed as complete by action of issuance of a fee receipt by the City.
- 64) Substandard Street -- An existing street or road that does not meet the minimum specifications in the City's standard street specifications, and which is not constructed to the ultimate configuration for the type of roadway it is designated for on the City's Thoroughfare Plan.
- 65) Surveyor -- A licensed land surveyor or a registered public surveyor, as authorized by State statutes to practice the profession of surveying.
- 66) TCEQ -- Texas Commission on Environmental Quality (formerly TNRCC).
- 67) Temporary Improvements -- Improvements built and maintained by the property owner that are needed to remedy a circumstance that is temporary in nature, such as a temporary drainage easement or erosion control device, that will be removed upon completion of the subdivision or shortly thereafter.
- 68) Yard -- The open area between building setback lines and lot lines.

1.12 ENFORCEMENT, VIOLATIONS AND PENALTIES

1.12.1 VIOLATIONS

It shall be unlawful for any owner or agent of any owner to subdivide or plat any land into lots, blocks and streets or to sell property therein and thereby which has not been platted or subdivided in accordance with the Subdivision Ordinance. It shall be unlawful for any person to violate any term or provision of the Subdivision Ordinance.

1.12.2 PENALTIES

Any person, firm or corporation violating any of the provisions or terms of the Subdivision Ordinance shall be deemed guilty of a misdemeanor and, upon conviction thereof, be subject to a fine not to exceed \$2000 for each offense. Each and every day such violation shall continue shall be deemed to constitute a separate offense.

1.12.3 CIVIL ENFORCEMENT

Appropriate civil actions and proceedings may be maintained in law or in equity to prevent unlawful construction, to recover damages, to impose additional penalties, to restrain, correct, or abate a violation of these regulations, whether such violation occurs with respect to lands within the corporate boundaries of the city or within the city's extraterritorial jurisdiction. These remedies shall be in addition to the penalties described above.

Section 2 PLATTING PROCEDURES

2.1 IN GENERAL

2.1.1 CLASSIFICATION OF SUBDIVISIONS AND ADDITIONS

Before any land subdivision is filed for record with the County Clerk, the property owner shall apply for and secure City Council approval of the required subdivision plat, in accordance with the following procedures, unless otherwise provided within this Ordinance.

- 1) Minor subdivision plats may be approved for residential or nonresidential properties. Minor plat approval by the City Manager requires the submission of a final plat drawing and other submission materials required by Section 2.10 of this Ordinance. Lots may be conveyed or sold only after the plat has been approved by the City and the plat has been recorded with Collin or Hunt County.
- 2) Major subdivision plats may be approved for residential or nonresidential properties. The procedure for approval of a major subdivision typically involves three steps: a concept plan, preliminary plat and final plat. Sections 2.8 through 2.10 of this Ordinance provide the requirements for each submittal. Major plat approval shall be in accordance with Sections 2.4 through 2.6 of this Ordinance. All major subdivision plats must be reviewed by the Commission and approved by the City Council, pursuant to Sections 2.4 through 2.6 of this Ordinance. Upon completion of the required public improvements, or upon submission and City approval of the appropriate surety for required public improvements in accordance with Article VI below, the property owner may file the final plat in the land records of Collin or Hunt County. Lots may be sold only after the final plat has been recorded in the appropriate county. No conveyance or sale of any portion or lot of the property may occur until after the final plat is approved by the City Council and filed.
- 3) Replats may be approved, after public hearings before the Planning and Zoning Commission and City Council, in accordance with Section 2.12

2.1.2 ZONING REQUIREMENTS

A property within the City's corporate limits that is being proposed for platting must be properly zoned as required for the proposed subdivision prior to submission of an application for approval of any plat. In addition, the proposed development layout or subdivision design shown on the proposed plat must be in conformance with all standards and requirements prescribed in the City's Zoning Ordinance.

Any plat submitted for approval by the City shall conform to and be in conformity with the City's Zoning Ordinance, if the property is located within the City's corporate limits, and, if the property is located within the City's corporate limits or extraterritorial jurisdiction, it shall conform to and be in conformity with the City's Comprehensive Plan, including all adopted water, sewer, storm drainage, future land use, park, recreation, open space and thoroughfare plans.

2.1.3 PRE-APPLICATION CONFERENCE

Prior to formal application for approval of any concept plan or plat, the applicant and/or representatives shall request and attend a mandatory pre-application conference to become familiar with the City's development regulations and the subdivision process.

2.2 OFFICIAL SUBMISSION DATE AND COMPLETENESS OF APPLICATION

2.2.1 TIMING OF APPLICATION

A technically complete application for approval of any plat shall be submitted to the City at least sixteen (16) calendar days but no more than thirty (30) calendar days, prior to the Commission meeting at which the applicant desires the plat to be considered. The applicant may submit a technically complete application for approval of any plat more than thirty (30) calendar days prior to the Commission meeting only if the applicant voluntarily waives in writing the thirty (30) day requirement for action of Section 212.009 of the Texas Local Government Code. ~~If the applicant fails to voluntarily waive the thirty (30) day requirement in writing the plat shall be considered by the Commission at a different meeting date which occurs within the thirty (30) day requirement for action of Section 212.009 of the Texas Local Government Code.~~

For the purpose of these regulations, the official submission date shall be the date upon which a technically complete application for approval of any type of plat that contains all required elements mandated by Section 212.004(b) of the Texas Local Government Code and by this Ordinance is submitted to the City Manager, after which the statutory period required for approval or disapproval of the plat shall commence to run. No application shall be deemed officially submitted until the City Manager determines that the application is technically complete and the applicant pays the prescribed application fees.

2.2.2 REJECTION OF INCOMPLETE APPLICATIONS

Plat applications that are not technically complete shall not be accepted for official submission by the City, and shall not be scheduled on a Commission or Council agenda until the proper information is provided to City officials.

2.2.3 EXPIRATION OF PERMIT APPLICATION

In accordance with Chapter 245 of the Local Government Code, a permit application expires on or after the 45th day after the date the application is filed if:

- 1) The applicant fails to provide documents or other information necessary to comply with the technical requirements relating to the form and content of the permit application;
- 2) The city provides to the applicant not later than the 10th business day after the date the application is filed written notice of the failure that specifies the necessary documents or other information and the date the application will expire if the documents or other information is not provided; and

- 3) The applicant fails to provide the specified documents or other information within the time provided in the notice.

2.3 FEES, APPLICATIONS FORMS AND PROCEDURES

2.3.1 FEES, POLICIES AND PROCEDURES

City Council shall establish a schedule of fees as required to recoup costs related to the administration of this ordinance. In addition to the requirements outlined herein for each type of development application, the City Manager is hereby authorized to maintain policies and procedures applicable to the submission and processing of applications including, but not limited to, application forms, compliance checklists, dedication language blocks for plats, tax certificate requirements and other similar items that must be used and submitted by the applicant(s).

2.4 SUBMISSION PROCEDURES AND CITY REVIEW PROCESS

2.4.1 SUBMISSION MATERIALS

The application shall include a written application form which bears the signature(s) of the property owner(s) of the subject property, along with the appropriate submission fee, (Inspection fees may be paid at the time the actual inspection is made of the project), copies of the plat in a size and format specified by the City, a copy of any applicable development agreement pertaining to the subject property (if any), and any other applicable information and materials deemed appropriate by the City. The City requires proof of land ownership prior to approval of any development application involving real property.

The application shall be accompanied by an original tax certificate from each taxing unit with jurisdiction of the real property indicating that no delinquent ad valorem taxes are owed on the subject property. Documentation shall also be included that shows there exists no delinquent assessments, fees, or other debts or obligations to the City and which are directly attributable to the subject property. It shall be the applicant's responsibility to provide evidence or proof that all taxes, assessments, debts or obligations have been paid at the time of submission for any application for approval under this Ordinance.

The application shall also be accompanied by an engineer's summary report which describes, in as much detail as necessary, the following: the overall nature and scope of the proposed development including, but not limited to, the following: the current approved zoning of the property, proposed use(s) and acreage of each proposed use, minimum lot sizes, widths and depths, number of lots to be created, and special amenities or facilities that will be included in the development; how the property will be served with required utilities and services; how storm water drainage will be handled; and, an itemization and description of any variance or waiver from the provisions of this Ordinance that will be sought.

If the proposed development will have access points onto a major thoroughfare, the application shall also include a letter from the appropriate governmental entity, such as TxDOT or Collin or Hunt, acknowledging and approving proposed driveway locations and corresponding median openings and left turn lanes, if applicable. Letters shall also be provided, together with the application, from each of the applicable utility service providers including water, wastewater, gas, electricity, telephone, cable TV and solid waste,

verifying their ability to provide an adequate level of service for the proposed development. The application shall also be accompanied by a letter from the Farmersville Independent School District that addresses the District's ability to accommodate the additional number of school-age children that will be generated by the proposed development, and that expresses any desire the District may have to obtain a future school site within any portion of the subject property.

All plat drawings and other corresponding plans and drawings, including engineering plans and landscape and screening plans, shall be submitted in a size, format and engineering scale as approved by the City, and in a format that will be acceptable for eventual filing at Collin County or Hunt County. The City may deny a hearing and any approval if the applicant does not submit the complete information and fees required by this Ordinance in a timely manner.

It shall be a violation of this Ordinance for any person to knowingly or willfully misrepresent, or fail to include, any information required by this Ordinance in any plat application or during any public hearing or meeting of the Planning and Zoning Commission or City Council. Such a violation shall constitute grounds for denial of the plat.

2.4.2 REQUEST TO WAIVE 30 DAY REQUIREMENT

After the plat has been scheduled on an agenda (or at any time prior), the applicant may request, in writing, a waiver of the thirty (30) day approval requirement specified in Section 212.009 of the Texas Local Government Code, in order to allow more time to correct deficiencies, address concerns, or otherwise improve the plat pursuant to the City's regulations. After receipt of the request, the City may delay action on the final plat beyond thirty (30) calendar days following the official submission date.

2.4.3 SIMULTANEOUS SUBMISSION OF PLATS

In the event that an applicant submits preliminary and final plat applications simultaneously, as provided in Section 2.9.4, the City Manager shall schedule both plat applications for action by the Commission within thirty (30) calendar days of the official submission date, unless the applicant has voluntarily executed a written waiver of the 30-day review period for one or both plats. If the preliminary plat has not received approval prior to consideration of the final plat by the Commission, then the Commission shall disapprove (deny) the final plat if not withdrawn by the applicant. The City Council shall take action on either one or both plat applications, as applicable, within thirty (30) calendar days of the Commission's action. Affirmation of, or minor modifications to, the Commission's recommendation to approve the plat(s) shall require a simple majority vote of the Council members present.

2.5 ACTION BY THE PLANNING AND ZONING COMMISSION AND CITY COUNCIL

2.5.1 PLANNING AND ZONING COMMISSION ACTION

The Planning and Zoning Commission shall review each plat application and, if in conformance with the provisions of this Ordinance and with all other applicable regulations of the City, it shall recommend approval or disapproval (denial) of the plat within thirty (30) calendar days of the official submission date. The authority to approve or disapprove concept plans is hereby delegated to the Commission.

2.5.2 CITY COUNCIL ACTION

The Council shall take action on plats within thirty (30) calendar days after the Commission's action. Affirmation of, or minor modifications to, the Commission's recommendation to approve the plat shall require a simple majority vote of the Council members present.

2.6 APPEALS

2.6.1 REASONS FOR DISAPPROVAL

If the Commission recommends disapproval (denial) of a plat application or denies a concept plan application, the Commission shall state such disapproval and the specific technical reasons therefore.

2.6.2 NOTICE OF APPEAL

The applicant or property owner may appeal the Commission's decision to the City Council by filing a Notice of Appeal in the office of the City Manager no later than ten (10) calendar days after the date upon which the Commission denied the application. Any appeal to the City Council shall not be considered a "filing" under Section 212.009 of the Local Government Code or any successor statute, and thus shall not require council action within thirty (30) days of the Commission's disapproval of the plat application. The Notice of Appeal shall set forth in clear and concise fashion the basis for the appeal. The Council shall consider the appeal at a public meeting no later than thirty (30) calendar days after the date upon which the Notice of Appeal was filed.

2.6.3 ACTION OF CITY COUNCIL

The Council may change the decision of the Commission by a three-fourths majority vote of the Council members present. The Council may also, where appropriate, remand the plat back to the Commission for reconsideration if it believes that there is a compelling reason to do so, such as the introduction of significant new facts or testimony. The City Council shall be deemed to have concurred in the disapproval or denial of any plat application that is disapproved or denied by the Commission until such time as the City Council specifically overrules the Commission's decision as provided herein.

2.7 LAPSE OF APPROVAL, REINSTATEMENT AND DORMANT PROJECTS

2.7.1 CONCEPT PLANS AND PRELIMINARY SITE PLANS

The approval of any concept plan or preliminary plat as required by the Ordinance, shall be effective for two (2) years beyond the date that the plat was approved by the Commission or Council, except as otherwise provided herein. On or before the second anniversary of Council approval of the plat, the applicant must have submitted an application for the next consecutive step in the platting process. If this next consecutive step is not accomplished, then the approved plat shall be deemed to have expired and shall become null and void.

2.7.2 FINAL PLATS

The approval of a final plat shall be effective for a period of two (2) years beyond the date that the plat was approved by the Commission and Council. If the required fees are not paid and the applicable site construction not commenced within this time period, the final plat shall expire and become null and void, unless such time period is extended or reinstated by the City Manager.

2.7.3 FILING OF FINAL PLATS

Following the acceptance of all improvements, the final plat shall be filed at Collin County or Hunt County at the City's earliest convenience. A filed final plat is valid in perpetuity, unless vacated or amended. Failure to file a final plat in a timely manner may be subject for withholding of building permits, certificates of occupancy and connection of City utilities.

2.7.4 LAPSE OF APPROVAL OF ENGINEERING PLANS

The approved engineering plans shall be valid for a period of one (1) year following approval by the City Engineer. The City Council may, upon written request by the applicant, grant an extension of approval for a time period no greater than one year, after which the engineering plans shall be subject to re-approval by the City Engineer if no construction has occurred.

2.7.5 EXTENSION AND REINSTATEMENT PROCEDURE

Prior to the lapse of approval for a plat, the property owner may petition the City to extend the plat approval. Such petition shall be considered by the City Council, and an extension may be granted by Council for a specific period of time. If no petition for extension of plat approval is submitted by the property owner prior to the expiration date, then the plat shall be deemed to have expired and shall become null and void. The property owner must thereafter submit a new plat application for approval, including applicable fees, and shall conform to the development regulations then in effect.

The City Council may extend the approval subject to additional conditions based upon newly enacted City regulations or State legislation, or such as are necessary to ensure compliance with the original conditions of approval and to protect the public health, safety and welfare. The Council may also specify a shorter time for extension of the plat than the original two (2) year approval period.

2.7.6 DORMANT PROJECTS

Any plan or plat approved prior to May 11, 2004 without an expiration date and for which no progress had been made toward completion of the project.

2.7.7 RE-APPLICATIONS AND FEES

Should a development proposal or plat application lapse or expire, or should it be denied by the Commission or the Council, then that application ceases "pending" status and the project, and its corresponding series of development approvals and permits, shall be deemed to be ended, or "completed". Any re-application for any type of development approval for that property shall be

considered commencement of a new project, and shall be accompanied by new application materials, including new submission fees, and shall conform to all applicable City ordinances in effect at the time of submission of the new application.

2.8 CONCEPT PLAN

2.8.1 PURPOSE AND APPLICABILITY

The purpose of a concept plan is to allow the Planning and Zoning Commission to preview proposed major thoroughfare and collector street patterns; land use patterns and trends; environmental issues and constraints; conformance to the Comprehensive Plan, Future Land Use Plan, Thoroughfare Plan, water and sewer master plans, and other applicable plans of the City; and, if the subject property is within the City's corporate limits, the Zoning Ordinance; and the property's relationship to adjoining subdivisions or properties. Review of a concept plan also assists the City in evaluating the possible impacts of the proposed development in terms of provision of essential public facilities and services, respecting and preserving important natural features and the environment, provision of open space and recreational opportunities, and protecting the general health, safety and welfare of the community. **Concept plans may be used to separate large properties into parts for phasing site planning and development.** Submission and approval of a concept plan is the first step in the approval process for all residential or nonresidential development projects; **however, the City Manager may allow an applicant to initiate the subdivision process with a preliminary plat based on the size of the property and the nature of the proposed development.**

2.8.2 CONCEPT PLAN CONTENT

- 1) **General** – All plans must include the date of preparation, appropriate engineering scale, north arrow, vicinity map, and the names, addresses and telephone numbers of both the property owner and the individuals preparing the plans.
- 2) **Site Features** – The plan shall describe existing natural features such as contours at not less than two (2) foot intervals, trees over six inches (6) in caliper, drainage ways and other water features and physical improvements by including the following items:
 - a. The slope or grade of the property;
 - b. The location of creeks, rivers, washes, gullies, ponds, wells, lakes and wetlands in addition to any floodway and one hundred (100) year floodplain within the property;
 - c. The location of any groves or stands of trees or wooded areas including any majestic or historic trees;
 - d. Any places, natural features, or structures of local or historic significance; and
 - e. Any areas of existing impervious coverage and the location of any transitions from natural land to impervious surface.
- 3) **Plan Layout** – The concept plan shall include the following:
 - a. A metes and bounds description of the overall tract;
 - b. Conceptual representation of proposed use(s) and generalized representation of proposed improvements;

- c. Identification of all areas to be dedicated to the City or to have public easements, such as roadways, utilities, open space and drainage areas;
- d. General indication of how the proposed development will be able to achieve the required points for applicable design standards required in this ordinance;
- e. Location of all proposed screening between the site and adjacent property;
- f. Indication of each phase of development if separate phases are proposed; and
- g. The location of collector roadways proposed in the development, right-of-way widths, and the location of collector access points to abutting or adjoining streets and highways.

2.8.3 OTHER MATERIALS

Other material that may be required and submitted in support of the application:

- 1) Draft development agreement and any covenants, conditions, restrictions and agreements that govern the construction, use, maintenance and operation of roadways, parks, open space, drainage areas and facilities;
- 2) A preliminary geotechnical report that addresses soil, subsurface and slope conditions that may affect development;
- 3) A traffic study or traffic impact analysis, as determined by the City Engineer, showing the projects impact on roadway and intersection capacity; and
- 4) A development schedule indicating the approximate date on which construction is expected to begin and the rate of anticipated development to completion.

2.8.4 EXTENT OF AREA SHOWN

When the overall development project is to be developed in phases, the concept plan area shall include the entire property from which the phases are being subdivided and an approximate development schedule together with the projected sequence and timing of developing each such phase. Where significant natural or man-made features, such as existing thoroughfares or creeks, make inclusion of the entire property in the concept plan unnecessary to adequately review the items listed in the preceding paragraph, the concept plan may include a smaller study area. Boundaries such as existing major thoroughfares, creeks, political subdivisions, or other such natural or man-made features may be used to delineate the smaller study area.

2.8.5 PLANNING AND ZONING COMMISSION REVIEW AND ACTIONS

The Commission may approve, approve with conditions or stipulations or deny for specific technical reasons any concept plan. The concept plan does not require review and approval of the Council.

2.8.6 CONCURRENT REVIEW

A concept plan may, with the approval of the City Manager, be submitted and reviewed concurrently with the preliminary plat for residential uses only. For nonresidential uses, the concept plan and the plat must be reviewed separately as changes to the concept plan may require amendments to the preliminary plat.

2.9 PRELIMINARY PLAT

2.9.1 PURPOSE AND APPLICABILITY

A preliminary plat allows the Commission and the City Council to evaluate the proposed plat for conformity with requirements and conditions identified at the time of concept plan approval and to evaluate construction plans for public improvements or to provide adequate security for construction of the same. A preliminary plat is required for all subdivisions prior to the construction of public improvements **however, the City Manager may allow an applicant to proceed to a final plat without filing of a preliminary plat based on the size and nature of the proposed development. If an applicant does not submit a preliminary plat, a facilities agreement in accordance with Section 5.5 must be submitted and approved by the City Council to guarantee the installation of required public improvements.**

2.9.2 PHASING

The preliminary plat shall constitute only that portion of the approved concept plan which the applicant proposes to construct and record initially, provided however, that such portion conforms to all the requirements of this Ordinance and with any other applicable regulations and codes of the City.

2.9.3 INFORMATION REQUIRED UPON OR WITH PRELIMINARY PLAT

The proposed preliminary plat and associated engineering plans shall show the following information (detailed engineering information may be shown on a separate plan or document if approved by the City Engineer):

- 1) A vicinity, or location, map that shows the location of the proposed preliminary plat within the City (or within its ETJ) and in relationship to existing roadways;
- 2) Boundary lines, abstract or survey lines, corporate or other jurisdictional boundaries, existing or proposed highways and streets (including right-of-way widths), bearings and distances related to State Plane Coordinates and sufficient to locate the exact area proposed for the subdivision, and all survey monuments (identified and labeled; see Section 3.3 for specifications); the length and bearing of all straight lines, radii, arc lengths, tangent lengths and central angles of all curves shall be indicated along the lines of each lot (curve and line data may be placed in a table format); accurate reference ties via courses and distances to at least one recognized abstract or survey corner or existing subdivision corner shall be shown;
- 3) The plat shall also include a note describing the corner tie as required above and further tie at least one corner of the subdivision that is being developed or redeveloped to the

- City's approved vertical control monumentation, the details of which monumentation are contained in Appendix 1 attached hereto and incorporated herein by reference for all purposes allowed by law; the Developer shall establish two (2) permanent monuments per development (at points approved by the City Engineer) that shall be tied to said vertical control monumentation; and, the boundary line description of the tract being subdivided shall close to an accuracy of one in ten thousand (1:10,000);
- 4) The name, location and recording information of all adjacent subdivisions (or property owners of adjacent un-platted property), including those located on the other sides of roads or creeks, shall be drawn to the same scale and shown in dotted lines adjacent to the tract proposed for subdivision in sufficient detail to show accurately the existing streets, alleys, building setbacks, lot and block numbering, easements, and other features that may influence the layout of development of the proposed subdivision; adjacent un-platted land shall show property lines, the names of owners of record, and the recording information;
 - 5) The location, widths and names of all streets, alleys and easements (the applicant must coordinate with appropriate utility entities for placement of necessary utility easements and for location of all streets and median openings on highways or arterial roadways), existing or proposed, within the subdivision limits and adjacent to the subdivision. A list of proposed street names shall be submitted for all new street names (street name approval is required at the time the preliminary plat is approved);
 - 6) The location of all existing property lines, existing lot and block numbers and date recorded, easements of record (with recording information), buildings, existing sewer or water mains, gas mains or other underground structures, or other existing features within the area proposed for subdivision;
 - 7) Proposed arrangement and square footage of lots (including lot and block numbers) and proposed use of same; for nonresidential uses, the location and size of buildings (this information may be provided on a separate sheet, such as on a voluntary concept plan or preliminary site plan; see the Zoning Ordinance);
 - 8) A title block within the lower right hand corner of the plat (and engineering plans) which shows the title or name under which the proposed subdivision is to be recorded, the name and address of the property owner and the name of the land planner, licensed engineer or registered public surveyor who prepared the plat or plans, the scale of the plat, the date the plat was prepared, and the location of the property according to the abstract or survey records of Collin County or Hunt County, Texas, The subdivision name shall not duplicate (or phonetically replicate) the name of any other platted subdivision in Farmersville or its ETJ unless required to identify separate phases of the development. The City may require a different subdivision name if there is potential for confusion by public safety officials or the general public;
 - 9) Sites, if any, to be reserved or dedicated for parks, schools, playgrounds, other public uses or for private facilities or amenities;

- 10) Scale, date, north arrow oriented to the top or left side of the sheet, and other pertinent informational data;
- 11) Contours with intervals of two feet (2') or less shown for the area, with all elevations on the contour map referenced to the City of Farmersville's approved vertical control monumentation contained in Appendix 1 or a subsequent control monument set as part of a development or re-development and approved for such use by the City Engineer;
- 12) Areas contributing drainage to the proposed subdivision shall be shown in the engineering plans; locations proposed for drainage discharge from the site shall be shown by directional arrows;
- 13) All physical features of the property to be subdivided, including the location and size of all water courses, the 100-year flood plain according to Federal Emergency Management Agency (FEMA) information, any U.S. Army Corps of Engineers flowage easement requirements, ravines, bridges, culverts, existing structures, drainage area in acres of area draining into subdivisions, the outline of major wooded areas or the location of major trees, six inches (6) in diameter and larger when measured 4 feet above ground level, and other features pertinent to the subdivision;
- 14) Engineering plans of water and sewer lines and other infrastructure (including sizes) to be constructed in the subdivision; the proposed connections to distribution mains shall be indicated;
- 15) Proposed phasing of the development; where a subdivision is proposed to occur in phases, the applicant, in conjunction with submission of the preliminary plat, shall provide a schedule of development; the dedication of rights-of-way for streets and street improvements, whether on-site or off-site, intended to serve each proposed phase of the subdivision; the City Council shall determine whether the proposed streets and street improvements are adequate pursuant to standards herein established, and may require that a traffic impact analysis be submitted for the entire project or for such phases as the City Council determines to be necessary to adjudge whether the subdivision will be served by adequate streets and thoroughfares;
- 16) Proposed or existing zoning of the subject property and all adjacent properties, as well as a tabulation of site development information and the intended manner of compliance with the Design Standards of the Zoning Ordinance including the required points for optional standards.
- 17) Minimum finished floor elevations of building foundations shall be shown for lots adjacent to a flood plain or within an area that may be susceptible to flooding;

2.9.4 CONCURRENT REVIEW

The applicant may choose to submit a final plat for review concurrently with the preliminary plat. In such case, the City may schedule concurrent review of both plats, provided that all required information and other items are submitted for both plats, including full engineering plans and the appropriate assurances

for the completion of all improvements, as per Article VI, and provided that adequate review can be achieved by the City and Commission.

2.9.5 STANDARDS FOR APPROVAL

No preliminary plat shall be recommended for approval by the Commission or approved by the City Council unless the following standards have been met:

- 1)** The plat substantially conforms with the approved concept plan, or other studies and plans approved by the City, as applicable;
- 2)** The layouts and engineering plans for required public improvements and City utilities have been submitted by the applicant for approval by the City Engineer (whether specifically stated or not, preliminary plat approval shall always be subject to any additions or alterations to the engineering plans as deemed necessary by the Engineer, as needed, to ensure the safe, efficient and proper construction of public improvements within the subdivision); and
- 3)** The plat conforms to applicable zoning and all other pertinent development regulations and the requirements of state and federal law.

2.9.6 EFFECT OF APPROVAL

Approval of a preliminary plat by the City Council shall be deemed general approval of the street and lot layout shown on the preliminary plat (approval for construction of the necessary streets, water lines, sewer lines, and other required improvements and utilities shall be authorized only through the City Engineer's approval of the engineering plans), and to the preparation of the final plat. Except as provided for herein, approval of the preliminary plat shall constitute conditional approval of the final plat when all conditions of approval and when all procedural requirements set forth in this Ordinance have been met.

2.9.7 ENGINEERING PLANS

Along with the preliminary plat application, the applicant shall submit complete engineering plans for streets, alleys, storm sewers and drainage structures, water and sanitary sewer facilities, screening and retaining walls, landscaping and irrigation, and any other required public improvements for the area covered by the preliminary plat.

The engineering plans shall also contain any plans deemed necessary to show or document compliance with the City's ordinances pertaining to non-point source pollution control, on-site sewage facility rules, and any other applicable codes and ordinances of the City that are related to development of a land parcel. Cost estimates shall also be submitted with the engineering plans. A complete sets of engineering plans shall include the following plans or sheets (generally in this order), as well as any additional plans or sheets deemed necessary and requested by the City Engineer:

- 1)** Cover or title sheet -- Preliminary plat
- 2)** Final site plan (for nonresidential and multi-family projects only - see the Zoning Ordinance for specific requirements and approval procedures) -- Existing conditions plan,

which shows existing topography, vegetation, tree inventory, existing natural and man-made physical features, etc. -- Grading, erosion control, and water quality control plans -
- Paving and storm drainage plans -- Utility plans for water, sanitary sewer, etc. -- Traffic control plans (if necessary) -- Screening and retaining wall plans -- Landscaping and irrigation plans

The City Engineer shall review, or cause to be reviewed, the plans and specifications and if approved, shall mark them Approved and shall return one set to the applicant. If not approved, one set shall be marked with the objections noted and returned to the applicant for correction, whereupon the applicants engineer shall correct the plans as requested and shall resubmit the corrected plans back to the City Engineer for re-review.

The applicant shall have engineering plans prepared by or under the direct supervision of a professional engineer licensed in the State of Texas, as required by State law governing such professions and in accordance with this Ordinance and the City's Design Manuals and Standard Construction Details. All engineering plans submitted for City review shall be dated and shall bear the responsible engineer's registration number, his or her designation of "professional engineer" or "P.E.", and the engineers seal and signature. The City Engineer shall approve engineering plans when such plans meet all of the requirements of this Ordinance and the Design Manuals and Standard Construction Details.

Engineering plans shall be in conformance with the Design Manuals and Standard Construction Details and with the requirements set forth herein. Engineering plans showing paving and design details of streets, alleys, culverts, bridges, storm sewers, water mains, sanitary sewers, sidewalks, screening and retaining walls, landscape and irrigation plans (if appropriate), and other engineering details of the proposed subdivision shall be prepared at a legible scale and shall be submitted to the City Engineer (or designee) along with a copy of the preliminary plat of the subdivision.

As part of the engineering plans, a drainage plan showing how the drainage of each lot relates to the overall drainage plan for the plat under consideration shall be submitted. The drainage plan shall be made available to each builder within the proposed subdivision and all builders shall comply with the drainage plan.

Once the engineering plans are approved by the City Engineer, the property owner shall provide additional sets of the approved plans as required by the City Engineer, for use during construction. A full set of the City-approved engineering plans must be available for inspection on the job site at all times.

2.9.8 UTILITY COMPANY REVIEW

The applicant shall also provide copies of letters from applicable local utility companies stating that each utility company has reviewed the preliminary plat and stating any requirements, including easements, they may have. This requirement may be deferred until the time of final plat submittal by the City Engineer.

2.9.9 TIMING OF PUBLIC IMPROVEMENTS

- 1) Public improvements shall be installed and accepted by the city following approval of the preliminary plat and release of construction by the City Engineer. However, the City Engineer may permit all or some of the public improvements to be installed, offered for dedication, or accepted by the City after approval of the final plat by the City Council if there exists a compelling reason that is consistent with the public health, safety or welfare to do so (also see Article V).
- 2) The City Council may permit or require the deferral of the construction of public improvements if, in its judgment, deferring the construction would not result in any harm to the public or would offer significant advantage in coordinating the site's development with adjacent properties and off-site public improvements. The deferred construction of any required public improvement(s) must be approved by the City Council at the time of final plat approval, and the necessary assurances for completion of the improvements, in accordance with Article V, shall be a stipulation, or condition, of approval of the preliminary or final plat.
- 3) If the City Council does not require that all public improvements be installed, offered for dedication, or accepted by the City prior to approval of the final plat, the applicant shall provide assurances or security for the completion of the improvements or escrowed funds, as provided in Article V and Article VI.

2.9.10 REVISIONS TO APPROVED PRELIMINARY PLAT

Minor revisions to the preliminary plat may be needed before the final plat can be filed of record. Such minor revisions as slight enlargement or shifting of easements or lot lines, addition of private or franchise utility easements, correction of bearings or distances, correction of minor labeling errors, addition of erroneously omitted informational items and labels, etc. may occur on the final plat without having to re-approve the preliminary plat. Major revisions, such as reconfiguration of lot lines or easements, relocation of driveways or access easements or fire lanes, any modification to the perimeter or boundary of the property, and relocation, addition or deletion of any public improvement (including corresponding easements), shall necessitate re-submission and re-approval of the plat as a revised preliminary plat. The procedures for such re-approval shall be the same as for a preliminary plat, and such re-approval may constitute a new project thus necessitating submission of a new application form, payment of new fees, and other requirements.

2.10 FINAL PLAT

2.10.1 PURPOSE AND APPLICABILITY

The purpose of a final plat is to record the subdivision of property including the accurate description of blocks, rights-of-way, easements, building lines and street names. A final plat shall be required for all subdivisions of property and the recording of single lots in accordance with Section 1.4. The final plat shall conform to the preliminary plat, as approved, and shall incorporate all applicable conditions, changes,

directions and additions imposed by the Planning and Zoning Commission and City Council upon the preliminary plat. The final plat shall not be submitted prior to approval of the preliminary plat (see Section 2.9.4 for exception).

2.10.2 INFORMATION REQUIRED ON A FINAL PLAT

The final plat shall contain all information that is required for a preliminary plat except that physical features of or on the land, such as topography, buildings, structures, water bodies and tree cover, shall not be shown on the final plat. The final plat shall also provide a place for the County Clerk of the respective county to stamp the date and location where the plat will be filed (i.e., Volume or Cabinet ____, Page or Slide ____) in the lower right-hand corner of the plat drawing, and conform to the standards of Collin County or Hunt County for filing of plats.

2.10.3 DEDICATION AND EASEMENT LANGUAGE

The final plat shall include formal irrevocable offers of dedication to the public of all streets local government uses, utilities, parks and easements, in a form approved by the City Attorney. The plat shall include any other applicable language, such as for drainage, floodway or other special types of easements, or such as for a private street subdivision, as deemed appropriate and necessary by the City Manager to protect the public health, safety and welfare.

2.10.4 STANDARDS FOR APPROVAL

No final plat shall be reviewed by the Planning and Zoning Commission or approved by the City Council unless the following standards have been met:

- 1) The plat substantially conforms to the approved preliminary plat and other studies and plans, as applicable;
- 2) The construction and installation of required public improvements and City utilities has been completed and the improvements have been accepted by the City as conforming to the City's regulations and design standards (or the proper assurances for construction of the improvements have been submitted and approved by the City, per Article V); and
- 3) The plat conforms to applicable zoning, subdivision and other development related regulations, including the City's non-point source pollution control ordinance (Article 11.100 of the Code of Ordinances, as amended), on-site sewage facility rules (as applicable; Article 11.200 of the Code of Ordinances, as amended), and any other applicable codes or ordinances of the City that are related to development of a land parcel.

2.10.5 ACCEPTANCE OF IMPROVEMENTS

When all of the improvements are found to be constructed and completed in accordance with the approved plans and specifications and with the City's standards, and upon receipt by the City of Farmersville of a maintenance bond or certificate of deposit in accordance with Article V of this Ordinance from each contractor, "AS BUILT" plans, in the quantity and format required by the City, shall be submitted

with a letter stating the contractor's compliance with this Ordinance. After such letter is received, the City Engineer shall receive and accept for the City of Farmersville the title, use and maintenance of the improvements according to Section 5.8. The approved final plat shall not be filed with the County prior to receipt of the above letter and other items, nor prior to acceptance of the improvements by the City.

2.10.6 CERTIFICATE OF COMPLIANCE

Upon final approval of a final plat required by these regulations, the City Council shall issue to the person applying for approval a certificate stating that the final plat has been approved by the Council. For purposes of this section, final approval shall not occur until all conditions of approval have been met.

2.10.7 EFFECT OF APPROVAL

Approval of a final plat authorizes the property owner, upon fulfillment of all requirements and conditions of approval and upon completion of construction of all required improvements (or submission of the proper assurances for construction of same, per Article V) to submit the required documents, in a format acceptable to the County Clerk, of the plat for filing with Collin or Hunt County. Lots may be sold only when the final plat has been approved by the City Council and the plat has been filed. No conveyance or sale of any portion or lot of the property may occur until after the final plat is approved by the City Council and filed with the appropriate county.

2.10.8 FILING OF PLAT

Subsequent to acceptance of public improvements by the City Engineer, the applicant shall return copies of the final plat and a digital plat file, with any other required documents and necessary fees as specified by the City, to the City Manager. All necessary filing materials shall bear original signatures and seals. No plat or replat of a subdivision of real property shall be filed for record or have recorded in the county clerk's office a plat or replat unless the plat or replat has attached to it an original tax certificate from each taxing unit with jurisdiction of the real property indicating that no delinquent ad valorem taxes are owed on the real property. The City Manager shall secure the signatures of City of Farmersville authorities, and return the signed original plats to the applicant within (30) days of receipt. The applicant shall file the final plat at the office of the County Clerk of Collin County or Hunt County within thirty (30) calendar days following signature by the City. The applicant shall return to the City Manager both mylar and paper copies in the quantity and format specified by the City.

2.11 DEVELOPMENT PLATS

2.11.1 AUTHORITY

This Section is adopted pursuant to the Texas Local Government Code, Chapter 212, Subchapter B, Sections 212.041 through 212.050, as amended.

2.11.2 APPLICABILITY

For purposes of this Section, the term "development" means the new construction or the enlargement of any external dimension of any building, structure or improvement of any nature (residential or nonresidential). This Section shall apply to any land lying within the City or within its extraterritorial jurisdiction in the following circumstances:

- 1) The development of any tract of land which has not been platted or replatted prior to the effective date of this Ordinance, unless expressly exempted herein;
- 2) The development of any tract of land for which the property owner claims an exemption from the City's Subdivision Ordinance, including requirements to replat, which exemption is not expressly provided for in such regulations;
- 3) The development of any tract of land for which the only access is a private easement or street;
- 4) The division of any tract of land resulting in parcels or lots each of which is greater than five (5) acres in size, and where no public improvement is proposed to be dedicated.

2.11.3 EXCEPTIONS

No development plat shall be required, where the land to be developed has received final plat or replat approval prior to the effective date of this Ordinance. The City Council may, from time to time, exempt other development or land divisions from the requirements of this Section.

2.11.4 PROHIBITION ON DEVELOPMENT

No development shall commence, nor shall any building permit, utility connection permit, electrical connection permit or similar permit be issued, for any development or land division subject to this Section, until a development plat has been reviewed by the Commission, approved by the City Council, and submitted to the County for filing. Notwithstanding the provisions of this Section, the City shall not require building permits or otherwise enforce the City's Building Code in the City's extraterritorial jurisdiction in relation to any development plat required by this Section of the Subdivision Ordinance.

2.11.5 STANDARDS OF APPROVAL

The development plat shall not be approved until the following standards have been satisfied:

- 1) The proposed development conforms to all City plans, including but not limited to, the Comprehensive Plan, utility plans and applicable capital improvements plans;
- 2) The proposed development conforms to the requirements of the Zoning Ordinance (if located within the City's corporate limits) and the Subdivision Ordinance;
- 3) The proposed development is adequately served by public facilities and services, parks and open space in conformance with City regulations;
- 4) Appropriate agreements for acceptance and use of public dedications to serve the development have been tendered; and

- 5) The proposed development conforms to the design and improvement standards contained in this Ordinance and in the City’s Design Manuals and Standard Construction Details, and to any other applicable codes or ordinances of the City that are related to development of a land parcel and the requirements of state and federal law.

2.11.6 CONDITIONS

The City Council may impose such conditions on the approval of the development plat as are necessary to assure compliance with the standards in Subsection 2.11.5 above.

2.11.7 APPROVAL PROCEDURE

The application for a development plat shall be submitted to the City in the same manner as a final plat (see Section 2.10), and shall be approved or denied by the City Council following review and recommendation by the Planning and Zoning Commission in a similar manner as a final plat. Upon approval, the development plat shall be filed at the County in the same manner as prescribed for a final plat, and approval of a development plat shall expire if all filing materials are not submitted to the City Manager and if the plat is not filed at the County within the time periods specified for a final plat.

2.11.8 SUBMITTAL REQUIREMENTS

In addition to all information that is required to be shown on a final plat (see Section 2.10), a development plat shall:

- 1) Be prepared by a registered professional land surveyor;
- 2) Clearly show the boundary of the development plat;
- 3) Show each existing or proposed building, structure or improvement or proposed modification of the external configuration of the building, structure or improvement involving a change therein;
- 4) Show all easements and rights-of-way within or adjacent to the development plat; and
- 5) Be accompanied by the required number of copies of the plat, a completed application form, the required submission fee, and a certificate showing that all taxes have been paid on the subject property and that no delinquent taxes exist against the property in accordance with Section 2.4.

2.12 REPLATTING

2.12.1 REPLAT REQUIRED

Unless otherwise expressly provided for herein, a property owner who proposes to replat all or any portion of an already approved final plat, other than to amend or vacate the plat, must first obtain approval for the replat under the same standards and by the same procedures prescribed for the final platting of land by this Ordinance. All improvements shall be constructed in accordance with the same requirements as for a preliminary or final plat, as provided herein. The City Manager may waive or modify

minor requirements for a preliminary replat under certain circumstances where the proposed replat does not involve a large parcel of land or an existing structure or business on the subject property, and where the proposed plat revisions are relatively simple in nature. A public hearing must be conducted by the Planning and Zoning Commission and City Council prior to consideration and action on a replat.

2.12.2 REPLATTING WITHOUT VACATING PRECEDING PLAT

A replat of a subdivision or portion of a subdivision may be recorded and is controlling over the preceding plat without vacation of that plat if the replat:

- 1) Is signed and acknowledged by only the owners of the property being replatted;
- 2) Is approved, after a public hearing on the matter at which parties in interest and citizens have an opportunity to be heard, by the Planning and Zoning Commission and by the City Council; and
- 3) Does not attempt to amend or remove any covenants or restrictions imposed on the property in question.

2.12.3 ADDITIONAL REQUIREMENTS FOR CERTAIN REPLATS

In addition to compliance with Section 2.12.2, above, a replat without vacating the preceding plat must conform to the requirements of this Section if:

- 1) During the preceding five (5) years, any of the area to be replatted was limited by an interim or permanent zoning classification to residential use for not more than two (2) residential units per lot; or
- 2) Any lot in the preceding plat was limited by deed restrictions to residential use for not more than two (2) residential units per lot.

If a replat includes property that is subject to either of the foregoing conditions notice of the hearing required under Section 2.12.2 shall be given before the fifteenth (15th) day before the date of the hearing by:

- 1) Publication in the City's officially designated newspaper or a newspaper of general circulation in Collin County; and
- 2) By written notice, with a copy of Subsection 3) below attached, forwarded by the City to the owners of lots within the original subdivision that are within 200 of the lots to be replatted, as indicated on the most recently approved municipal tax roll or in the case of a subdivision with the extraterritorial jurisdiction of the City, the most recently approved county tax roll of the property upon which the replat is requested. The notice may be delivered by depositing the notice, properly addressed with postage prepaid, in a post office or postal depository within the boundaries of the municipality.
- 3) If the proposed replat requires a variance, as defined in Section 1.9, and is protested in accordance with this provision the approval of the proposed replat will require the affirmative vote of at least three-fourths (3/4) of the members present of the Commission

or the City Council, or both. For a legal protest, written instruments signed by the owners of at least twenty percent (20%) of the area of the lots or land immediately adjoining the area covered by the proposed replat and extending two hundred feet (200') from that area, but within the original subdivision, must be filed with the City prior to action by the Planning and Zoning Commission or the City Council, or both prior to the close of the public hearing. In computing the percentage of land area subject to the 20% rule described above, the area of streets and alleys shall be included. Compliance with this provision is not required if the area sought to be replatted was designated for other than single or duplex family residential use by notation on the last legally recorded plat or in the last legally recorded restrictions applicable to the plat.

2.12.4 ADDITION OR DELETION OF LOTS

Any replat which adds or deletes lots must include the original subdivision and lot boundaries. If a replat is submitted for only a portion of a previously platted subdivision, the replat must reference the previous subdivision name and recording information, and must state on the replat the specific lots sought to be changed.

2.12.5 ADDITIONAL REQUIREMENTS

- 1) If the previous plat is vacated as prescribed in Section 212.013 of the Texas Local Government Code, as amended, a public hearing is not required for a replat of the area vacated.
- 2) The replat of the subdivision shall meet all the requirements for a final plat for a new subdivision that may be pertinent, as provided for herein.
- 3) The title shall identify the document as a Final Plat of the _____ Addition, Block _____, Lot(s) _____, Being a Replat of Block _____, Lot(s) _____ of the _____ Addition, an addition to the City of Farmersville, Texas, as recorded in Volume/Cabinet _____, Page/Slide _____ of the Records of (the appropriate) County of Record, Texas.
- 4) An application submittal for a replat shall be the same as for a final plat, and shall be accompanied by the required number of copies of the plat, a completed application form, the required submission fee, and a certificate showing that all taxes have been paid on the subject property and that no delinquent taxes exist against the property in accordance with Section 2.4.1.
- 5) The replat shall be filed at the County in the same manner as prescribed for a final plat, and approval of a replat shall expire if all filing materials are not submitted to the City, and if the replat is not filed at the County within the time periods specified for a final plat.

2.13 AMENDING PLATS

- 1) An amended plat shall meet all of the informational and procedural requirements set forth for a final plat, and shall be accompanied by the required number of copies of the plat, a completed application form, the required submission fee, and a certificate showing

- that all taxes have been paid on the subject property and that no delinquent taxes exist against the property in accordance with Section 2.4.1.
- 2) The City Manager may approve an amending plat, which may be recorded and is controlling over the preceding or final plat without vacation of that plat, if the amending plat is signed by the applicants only and if the amending plat is solely for one or more of the following purposes:
- a. Correct an error in a course or distance shown on the preceding plat;
 - b. Add a course or distance that was omitted on the preceding plat;
 - c. Correct an error in a real property description shown on the preceding plat;
 - d. Indicate monuments set after the death, disability, or retirement from practice of the engineer or surveyor responsible for setting monuments;
 - e. Show the location or character of a monument that has been changed in location or character or that is shown incorrectly as to location or character on the preceding plat;
 - f. Correct any other type of scrivener or clerical error or omission previously approved by the municipal authority responsible for approving plats, including lot numbers, acreage, street names, and identification of adjacent recorded plats;
 - g. Correct an error in courses and distances of lot lines between two adjacent lots if:
 - i. Both lot owners join in the application for amending the plat;
 - ii. Neither lot is abolished;
 - iii. The amendment does not attempt to remove recorded covenants or restrictions; and
 - iv. The amendment does not have a material adverse effect on the property rights of the other owners in the plat;
 - h. Relocate a lot line to eliminate an inadvertent encroachment of a building or other improvement on a lot line or easement;
 - i. Relocate one or more lot lines between one or more adjacent lots if:
 - i. The owners of all those lots join in the application for amending the plat;
 - ii. The amendment does not attempt to remove recorded covenants or restrictions; and
 - iii. The amendment does not increase the number of lots;
 - j. To make necessary changes to the preceding plat to create six (6) or fewer lots in the subdivision or a part of the subdivision covered by the preceding plat if:
 - i. The changes do not affect applicable zoning and other regulations of the City;
 - ii. The changes do not attempt to amend or remove any covenants or restrictions; and
 - iii. The area covered by the changes is located in an area that the City Council has approved, after a public hearing, as a residential improvement area;
 - k. Replat one or more lots fronting on an existing street if:
 - i. The owners of all those lots join in the application for amending the plat;

- ii. The amendment does not attempt to remove recorded covenants or restrictions; and
 - iii. The amendment does not increase the number of lots; and
 - iv. The amendment does not create or require the creation of a new street or make necessary the extension of municipal facilities.
- 3) The City Manager may, at his or her discretion and for any reason, elect to present the amending plat to the Planning and Zoning Commission and City Council for consideration and approval. The City Manager is not authorized to disapprove an amending plat and shall refer any amending plat which the City Manager refuses to approve to the Commission and the City Council for consideration within the time period required by State law.
- 4) Notice, a public hearing, and the approval of other lot owners are not required for the approval and issuance of an amending plat.
- 5) The amended plat shall be entitled and clearly state that it is an "amended plat." It shall also state the specific lots affected or changed as a result of the amended plat, and shall include the original subdivision plat boundary. All references to "final plat" or "replat" shall be removed.
- 6) Other than noted above, the procedure for approval of plat amendment(s) shall be the same as in Section 2.12.
- 7) The amending plat shall be filed at the County in the same manner as prescribed for a final plat, and approval of an amending plat shall expire if all filing materials are not submitted to the City Secretary, and if the plat is not filed at the County within the time periods specified for a final plat.

2.14 PLAT VACATION

2.14.1 BY PROPERTY OWNER

The property owner of the tract covered by a plat may vacate, upon review by the Commission and approval by the City Council, the plat at any time before any lot in the plat is sold. The plat is vacated when a signed, acknowledged instrument declaring the plat vacated is approved and recorded in the manner prescribed for the original plat (instrument language is available from the City, upon request).

2.14.2 BY ALL LOT OWNERS

If some or all of the lots covered by the plat have been sold, the plat, or any part of the plat, may be vacated on the application of all the owners of lots in the plat with approval obtained in the manner prescribed for the original plat.

2.14.3 CRITERIA

The Planning and Zoning Commission shall review, and the City Council shall approve, the petition for vacation on such terms and conditions as are in accordance with Section 212.013 of the Texas Local

Government Code (as amended), and as are reasonable to protect the public health, safety and welfare. As a condition of vacation of the plat, the City Council may direct the petitioners to prepare and seek approval of a revised final plat in accordance with this Ordinance such that the property does not become un-platted.

2.14.4 EFFECT OF ACTION

On the execution and recording of the vacating instrument, the vacated plat shall have no effect. Regardless of the Commission’s and Council’s action on the plat vacation, the property owner will have no right to a refund of any monies, fees or charges paid to the City nor to the return of any property or consideration dedicated or delivered to the City except as may have previously been agreed to by the City Council.

2.15 MINOR PLATS

2.15.1 GENERAL REQUIREMENTS

A minor plat shall meet all of the informational and procedural requirements set forth for a final plat, and shall be accompanied by the required number of copies of the plat, a completed application form, the required submission fee, and a certificate showing that all taxes have been paid on the subject property and that no delinquent taxes exist against the property in accordance with Section 2.4.

2.15.2 APPLICABILITY

An application for approval of a Minor Plat may be filed only in accordance with state law, when all of the following circumstances apply:

- 1) The proposed division results in four (4) or fewer lots;
- 2) All lots front onto an existing public street and the construction or extension of a street is not required to meet the requirements of this Ordinance; and
- 3) Except for right-of-way and easements, the plat does not require the extension of any municipal facilities to serve any lot within the subdivision.

2.15.3 ADDITIONAL REQUIREMENTS

Private wells and private wastewater treatment facilities shall be considered adequate when existing public water and wastewater lines are not within five hundred (500) feet of the proposed lots.

2.15.4 CITY MANAGER ACTION

The City Manager may approve a minor plat involving four or fewer lots fronting on an existing street and not requiring the creation of any new street or the extension of municipal facilities, or may, for any reason, elect to present the minor plat to the Planning and Zoning Commission and City Council for consideration and approval. The City Manager is not authorized to disapprove a minor plat and shall refer any minor plat which the City Manager refuses to approve to the Planning and Zoning Commission and/or City Council for consideration within the time period required by State law.

2.15.5 TITLE

The minor plat shall be entitled and clearly state that it is a "minor plat."

2.15.6 FILING OF MINOR PLAT

The minor plat shall be filed at the County in the same manner as prescribed for a final plat, and approval of a minor plat shall expire if all filing materials are not submitted to the City and if the plat is not filed at the County within the time periods specified for a final plat.