

City of Portland

Unified Development Ordinance

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Contents

Chapter 1. General Provisions..... 1

Section 101. Short Title1

Section 102. Jurisdiction1

Section 103. Purpose1

Section 104. Minimum Standards.....1

Section 105. Conflicting Provisions1

Section 106. Compliance with these Regulations2

Section 107. Effective Date2

Section 108. Severability.....2

Section 109. Transitional Provisions2

Chapter 2. Development Review Bodies..... 4

Section 201. Administrative Officer4

Section 202. Planning and Zoning Commission4

Section 203. Board of Adjustment4

Chapter 3. Development Review Procedures..... 6

Section 301. In General6

Section 302. Public Notice and Public Hearings.....6

Section 303. Summary of Development Review Procedures.....8

Section 304. Pre-Development Permit8

Section 305. Building Permits/Utility Connections9

Section 306. Certificate of Occupancy9

Section 307. Application Completeness and Expiration9

Section 308. Written Interpretation13

Section 309. Administrative Appeal.....14

Section 310. Vested Rights Petitions (Zoning and Subdivision).....14

Section 311. Site Plans for Nonresidential Uses25

Section 312. Variances29

Section 313. Special Exceptions32

Section 314. Petition for a Subdivision Waiver32

Section 315. Special Use Permit (SUP).....37

Section 316. Planned Unit Development (PUD).....39

Section 317. Subdivision41

Section 318.	Amendments to Text or Official Zoning Map.....	54
Section 319.	Re-Application for Zoning Change Request.....	56
Chapter 4.	District Regulations	57
Section 401.	Establishment of Districts.....	57
Section 402.	Official Zoning Map	57
Section 403.	Rules for Interpretation of Boundaries	57
Section 404.	Newly Annexed Areas	58
Section 405.	Zoning District Intent Statements	58
Section 406.	Permitted Use Table.....	60
Section 407.	Unlisted Uses.....	63
Section 408.	Accessory Uses	63
Section 409.	District Dimensional Standards	64
Section 410.	Supplementary Yard Regulations.....	65
Chapter 5.	Supplementary Use Standards	68
Section 501.	Adult Entertainment.....	68
Section 502.	Bars, Saloons, Lounges and Dance Halls, Private Clubs.....	68
Section 503.	Entertainment or Amusement, Indoor or Outdoor.....	68
Section 504.	Home Occupations	70
Section 505.	Industrial Uses.....	71
Section 506.	Mobile Homes and Manufactured Housing.....	71
Section 507.	Railroad Rights-of-Way.....	72
Section 508.	Storage, Self-Service.....	72
Section 509.	Temporary Uses	73
Section 510.	Vehicle Sales and Service	74
Section 511.	Veterinarian, Animal Hospital and Kennels.....	74
Section 512.	Accessory Building Used as Caretaker Quarters	74
Section 513.	Bed and Breakfast	74
Chapter 6.	Subdivision Design and Improvements	76
Section 601.	Purpose	76
Section 602.	Conditions	76
Section 603.	Annexation	76
Section 604.	Planned Unit Developments	76
Section 605.	Design Requirements and Standards.....	76

Section 606. Lot Standards.....76

Section 607. Street Standards.....77

Section 608. Parking Area Construction Standards82

Section 609. Block Standards.....82

Section 610. Sidewalks and Bike Paths82

Section 611. Pollution Plan and Silt Runoff Control.....83

Section 612. Flood Prone Areas83

Section 613. Drainage84

Section 614. Water Facilities Development84

Section 615. Fire Protection.....86

Section 616. Sanitary Sewer Facilities.....87

Section 617. Gas Utility Standards.....88

Section 618. Street Light Standards.....89

Section 619. Other Utilities.....89

Section 620. Park Site Dedication89

Section 621. Commercial and Industrial Subdivisions90

Section 622. Easements90

Section 623. Private Streets90

Section 624. Setbacks.....91

Section 625. Number of Dwellings per Lot91

Section 626. Criteria for Subdivisions that Occurred Prior to September 1, 198991

Chapter 7. General Development Standards.....93

Section 701. Lot Grading and Drainage Design.....93

Section 702. Single-Family Residential Design Requirements93

Section 703. Townhouse Design Requirements.....95

Section 704. Multifamily Residential Design Requirements96

Section 705. Nonresidential Design Requirements.....99

Section 706. Driveways100

Section 707. Fences.....102

Section 708. Non-Single Family Residential Refuse Receptacles and Waste Removal Areas.....103

Section 709. Buffers and Landscaping104

Section 710. Outdoor Storage and Display in Nonresidential Districts.....107

Section 711. Off-Street Parking and Loading108

Section 712. Signs112

Section 713. Exterior Lighting118

Chapter 8. Nonconformities..... 120

Section 801. Nonconforming Lots of Record120

Section 802. Nonconforming Uses.....120

Section 803. Nonconforming Signs121

Chapter 9. Enforcement and Penalties..... 122

Section 901. Enforcement by Administrative Officer122

Section 902. Violation and Penalty122

Chapter 10. Definitions..... 123

Section 1001. General123

Section 1002. Rules of Construction123

Section 1003. Defined Terms123

Chapter 1. General Provisions

Section 101. Short Title

This ordinance shall be known and may be cited as the “City of Portland Unified Development Ordinance” or “this Ordinance.”

Section 102. Jurisdiction

- A. This Ordinance applies to all land within the regular municipal boundaries of Portland.
- B. The subdivision requirements of this Ordinance also apply within the City's designated ETJ (extraterritorial jurisdiction). The Portland extraterritorial jurisdiction extends one (1) mile from the regular municipal boundaries unless preempted by appropriate jurisdictional control of other municipalities.

Section 103. Purpose

This Ordinance is adopted for the purpose of promoting the public health, safety and general welfare of the citizens of Portland. More specifically, this Ordinance provides for the division of land into different districts that, in combination with regulations pertaining to such districts, are designed in accordance with a comprehensive plan to achieve objectives that include, but are not limited to, the following:

- A. Promote the beneficial and appropriate development of all land and the most desirable use of land in accordance with a well-considered plan;
- B. Protect the character and the established pattern of desirable development in each area;
- C. Prevent or minimize land use incompatibilities and conflicts among different land uses;
- D. Maintain property values by stabilizing expectations and ensuring predictability in development;
- E. Establish a process that effectively and fairly applies the regulations and standards of this Ordinance and respects the rights of property owners and the interests of citizens; and
- F. Ensure that adequate water and wastewater facilities are provided in residential subdivisions in Portland's jurisdiction and to apply no less than the minimum state standards for water and wastewater facilities to these subdivisions.

Section 104. Minimum Standards

In interpreting and applying the provisions of this Ordinance, these provisions shall be held to be the minimum requirements for the promotion of the public safety, health, convenience, comfort, morals, prosperity and general welfare.

Section 105. Conflicting Provisions

Wherever the requirements of this Ordinance are at variance with the requirements of any other lawfully adopted rules, regulations or laws, including private deed restrictions and covenants, the more restrictive or that imposing the higher standards shall govern; however, the City shall have no obligation to review or enforce private deed restrictions or covenants.

Section 106. Compliance with these Regulations

- A. No land shall be used except for a purpose permitted in the district in which it is located.
- B. No building shall be erected, structurally altered or used for any purpose other than permitted in the district in which such building is located. (See Chapter 8. Nonconformities.)
- C. No lot area shall be reduced or diminished so that yards shall be smaller than prescribed by this Ordinance, nor shall the lot area per family be reduced in any manner, except in conformity with the district in which such building is located.
- D. The owner of a tract of land located within the corporate limits or the extra territorial jurisdiction of the City of Portland that divides the tract in any manner that creates two (2) or more lots of five (5) acres or less intended for residential purposes must have a plat of the subdivision prepared in accordance with Section 317 and Chapter 6 of this Ordinance. Lots of five (5) acres or less are presumed to be for residential purposes unless the land is restricted to nonresidential uses on the final plat and all deeds and contracts for deeds.

Section 107. Effective Date

The effective date of this Ordinance shall be February 7, 2013.

Section 108. Severability

If any provision, section, sentence, clause or phrase of this Ordinance, or the application of same to any person or set of circumstances is, for any reason held to be unconstitutional, void, or invalid, the validity of the remaining portions of this Ordinance shall not be affected thereby, it being the intent of the City Council in adopting this Ordinance that no portion hereof, or provisions or regulations contained herein, shall become inoperative or fail by reason of any unconstitutionality of any other portion hereof, and all provisions of this Ordinance are declared severable for that purpose.

Section 109. Transitional Provisions

A. Previously Approved Plats

Nothing in this Ordinance shall limit or modify the rights of any person to complete any subdivision project that has received prior plat approval under existing subdivision regulations in place at that time. Such project should otherwise meet at least one of the following criteria:

1. Any subdivision created by plat and recorded before the effective date of this Ordinance and has remained undeveloped.
2. Plats that were recorded before the effective date of this Ordinance and development has commenced and is continuing in good faith.
3. A complete application for preliminary plat approval filed with the City prior to adoption of this Ordinance and any plat currently under review by the City before adoption of this Ordinance.

B. Expired Plats

Expired plats shall conform to current City regulations and construction standards.

C. Existing Community Unit Plans (CUP) and Special Permits (SP)

Nothing in this Ordinance shall limit or modify the rights of any person to continue a use approved through the Community Unit Plan or Special Permit process prior to the effective date of this Ordinance, subject to any and

all of the conditions specified in such approval.

D. New Development Applications

The zoning districts in effect prior to the effective date of this Ordinance shall be converted in accordance with the following table.

Previous District		New Base Zoning Districts	
R-2	Single-Family Residential District	R-6	Single-Family Residential District
–	[No Previous District]	R-7	Single-Family Residential District
R-5	Single-Family Small Lot Residential District	R-8	Single-Family Residential District
R-3	Two-Family Residential District	R-8D	Two-Family Residential District
R-4	Townhouse Residential District	R-15	Townhouse Residential District
MHD	Mobile Home District	RMH	Manufactured Housing District
M-1	Multiple-Family District (single ownership)	R-20	Multifamily Residential District
M-2	Multiple-Family District (condominium)	R-20	Multifamily Residential District
MR	Multi-Family Resort District	RST	Multifamily Resort District
P	Professional Office District	P	Professional Office District
C-1	Local Commercial District	C-R	Retail Commercial District
C-2	General Commercial District	C-G	General Commercial District
–	[No Previous District]	OT-1	Olde Town Residential District
–	[No Previous District]	OT-2	Olde Town Mixed Use District
I	Industrial District	I	Industrial District
Previous District		New Special Purpose Districts	
CUP	Community Unit Plan	PUD	Planned Unit Development District

Chapter 2. Development Review Bodies

Section 201. Administrative Officer

A. Designated Officer

The City Manager shall appoint the Administrative Officer of this Ordinance.

B. Powers and Duties

The Administrative Officer shall have the following powers and duties with regard to this Ordinance.

1. Review and final action on pre-development permits (Section 304), building permits (Section 305), certificates of occupancy (Section 306), and written interpretations of this Ordinance (Section 308).
2. Review and make recommendations to the Planning and Zoning Commission on special use permits (Section 315), planned unit developments (Section 316), subdivisions (Section 317), text amendments to this Ordinance (Section 318), and map amendments or rezonings (Section 318).
3. Any other powers and duties as may be assigned by the City Manager.

Section 202. Planning and Zoning Commission

The Planning and Zoning Commission shall have the following powers and duties with regard to this Ordinance.

A. Review and take final action on subdivisions (Section 317).

B. Review and make recommendations to the City Council on special use permits (Section 315), planned unit developments (Section 316), subdivisions (Section 317), text amendments to this Ordinance (Section 318), and map amendments or rezonings (Section 318).

Section 203. Board of Adjustment

A. Meetings and Minutes Open to the Public

The board shall meet at the call of the chairman and all hearings shall be open to the public. The board shall keep minutes of its proceedings which shall be a public record.

B. Powers and Duties

The Board of Adjustment shall have the following powers and it shall be its duty:

1. To hear and decide appeals where it is alleged there is error of law in any order, requirement, decision or determination made by an administrative official in the enforcement of this Ordinance (Section 309).
2. To authorize in specific cases a variance from the terms of this Ordinance if the variance meets the criteria in Section 312.

C. Authority

1. The Board shall have no authority to change any provisions of this Ordinance, nor shall the Board grant variances to the use provisions of this Ordinance.
2. The jurisdiction of the Board is limited to appeals and hardship cases that arise from time to time.

3. In exercising its authority under paragraph B.1 above, the Board may reverse or affirm, in whole or in part, or modify the administrative official's order, requirement, decision or determination from which the appeal is taken.
4. The concurring vote of four members of the Board is necessary to reverse an order, requirement or decision, or to authorize a variance to the terms of this Ordinance.

D. City Council

The City Council shall have the following powers and duties with regard to this Ordinance.

1. Decide appeals of subdivisions denied by the Planning and Zoning Commission (Section 317).
2. Take final action on special use permits (Section 315), planned unit developments (Section 316), text amendments to this Ordinance (Section 318), and map amendments or rezonings (Section 318).

Chapter 3. Development Review Procedures

Section 301. In General

A. Pre-Application Conference

An applicant for development approval may request a pre-application conference with the Administrative Official. An applicant for plat approval must request a pre-application conference. Prior to the conference, the applicant shall provide a description of the character, location and magnitude of the proposed development. The purpose of this meeting is to acquaint the participants with the requirements of this Ordinance and the views and concerns of the City.

B. Application Forms

Every application for development approval shall be in a form specified by the Administrative Official, and is subject to the requirements of Section 307 Application Completeness and Expiration.

C. Standard Application Submission Cycle

Applications that will be reviewed by the Planning and Zoning Commission or the Board of Adjustment must be filed at least twenty-eight (28) days in advance of the scheduled public hearing, in order to allow adequate time for staff review. Note that this does not guarantee placement on a particular agenda date, as determination of completeness and publication requirements may require a longer timeframe.

D. Fees

Application and administrative fees for the requirements of these regulations are established in the Portland Fee Schedule as adopted by ordinance. No application shall be processed until the established fee has been paid. This nonrefundable fee shall be established from time-to-time by the City Council to defray the actual cost of processing the application and providing public notice. No application fee shall be required when a text or map amendment is being proposed by the Administrative Official, City Manager, City Council or Planning and Zoning Commission.

Section 302. Public Notice and Public Hearings

A. The following procedures shall require public notice, as shown and further described below.

Procedure	Published	Mailed
Variance or Appeal of Administrative Decision	✓	✓
Special Use Permit	✓	✓
Planned Unit Development		
Initial Approval (Rezoning)	✓	✓
Minor Amendment	--	--
Major Amendment	✓	✓
Text Amendment	✓	--
Zoning Map Amendment (Rezoning)	✓	✓
Replat without Vacating Preceding Plat	✓	✓

B. Published Notice of Public Hearing

Whenever the provisions of this Ordinance require a public hearing before the Planning and Zoning Commission

or City Council, notice shall be published in a newspaper of general circulation in the City of Portland at least fifteen (15) days before the public hearing.

C. Mailed Notice of Public Hearing

1. General

Notice of required public hearings shall also be sent by mail to owners of real property within at least 200 feet of the lot lines of the land that is the subject of the application. Owners of real property shall be identified by reference to the most recent tax records. Notice shall be deemed mailed by virtue of its deposit with the United States Postal Service, properly addressed with postage prepaid.

2. Planning and Zoning Commission and Zoning Board of Adjustment

Mailed notice shall be deposited in the US Mail before the tenth (10th) day before the Planning and Zoning Commission or Board of Adjustment public hearing.

3. City Council

If a hearing before the City Council is required, such notice shall be mailed and postmarked at least fifteen (15) days before the City Council public hearing.

D. Content of Published and Mailed Notice

Published and mailed notices shall provide at least the following information:

1. The general location of the land that is the subject of the application;
2. A summary of the subject property's legal description or a street address;
3. The substance of the application;
4. The time, date and location of the public hearing;
5. A contact person at the City and their telephone number; and
6. A statement that interested parties may appear at the public hearing and be heard with respect to the application.

E. Continuation of Public Hearings

A public hearing for which proper notice was given may be continued to a later date without complying with the notice provisions above provided that the continuance is set for a date and time certain announced at the public hearing.

F. Postponement of Public Hearing

1. Once a public hearing has been scheduled in accordance with this Section, the applicant may request postponement or withdrawal of the application by notifying the Administrative Official in writing by 12:00 noon on the Friday preceding the initially scheduled hearing.
2. An applicant will be allowed no more than one postponement of a public hearing. If review of an application is postponed at the request of the applicant and set for hearing on a later date, the application will be reviewed at that time; no additional requests for postponement by the applicant shall be considered.

Section 303. Summary of Development Review Procedures

The following table summarizes the level of review for each development review procedure specified in this Ordinance.

Procedure	Ordinance Section	Admin. Official	Board of Adjustment	Planning and Zoning Commission	City Council
Pre-Development Permit	Section 304	■			
Building Permits/Utility Connections	Section 305	■			
Certificate of Occupancy	Section 306	■			
Written Interpretation	Section 308	■	◆		
Administrative Appeal	Section 309		◆		
Vested Rights Petitions (Zoning and Subdivision)	Section 310	■			◆
Site Plans for Nonresidential Uses	Section 311	■		◆	
Variances	Section 312		■		
Special Exceptions	Section 313		■		
Petition for a Subdivision Waiver	Section 314			○	■
Special Use Permit (SUP)	Section 315	●		○	■
Planned Unit Development (PUD)	Section 316	●		○	■
Subdivision	Section 317	●		■	◆
Amendments to Text or Official Zoning Map	Section 318	●		○	■

- = Review and Report
- = Public Hearing and Recommendation
- = Final Approval
- ◆ = Appeal

Section 304. Pre-Development Permit

A. Permit Required

No person, company or corporation shall clear, grade or in any way alter vacant land within the incorporated limits of the City of Portland without first obtaining a permit from the Building Department.

B. Exemptions

The provisions of this Section shall not apply to persons, companies or corporations that clear, grade or alter land for agricultural purposes.

C. Application

Applicants for such permits shall provide proof of ownership or agency and a plan for pre-development. The pre-development plan shall identify the project site, all easements, rights-of-way and utilities. It shall address the purpose of the project, project duration, project hours and methods, including material disposal. The Administrative Official may require a drainage plan and run-off calculations to ensure grade changes do not adversely affect runoff or promote erosion.

Section 305. Building Permits/Utility Connections

- A. No building, structure, patio, porch, deck, swimming pool, spa, sign, or fence or other similar structure shall be erected, constructed, altered, moved, converted, extended, or enlarged, and no structure or manufactured home shall be placed on any lot, without the owner first having obtained a building permit from the Building Department. No parking lot shall be resurfaced, including seal coats, overlays, slurries, rehabilitations, or reconstructions, without the owner first having obtained a permit from the Building Department. Such permit shall require conformity with the provisions of this Ordinance and all other applicable City Ordinances.

(Ord No. 2079, 11-5-13)

- B. When issued, a building permit shall be valid for a period of six (6) months, at which time, construction must have begun. Once construction has begun, construction must be completed within two (2) years. One six (6) month extension may be granted by the Building Official.
- C. The permit application shall include adequate information to allow the Administrative Official to determine compliance with this Ordinance, including, as necessary, site plans, elevations, construction details, etc.
- D. No building permits or utility connections shall be issued for any construction or existing structure on any lot, tract or plot of land in the City of Portland or within its extraterritorial jurisdiction, when applicable, without a plat properly recorded in the County records, except as expressly exempted in Section 212.012, Texas Local Government Code, or as amended.
- E. The City may require the installation of public improvements (sidewalks, curb and gutter, extension of water or sewer mains, etc.) as a condition of building permit approval or certificate of occupancy.

Section 306. Certificate of Occupancy

- A. No building or premises shall be occupied until a certificate of occupancy has been issued by the Administrative Official.
- B. No change in the use, tenant, or occupancy of land or an existing building (except solely for single-family residential purposes) shall be made until a certificate of occupancy has been issued by the Administrative Official.
- C. No vacant land shall be occupied or used, except for agricultural uses, until a certificate of occupancy has been issued by the Administrative Official.
- D. A certificate of occupancy shall be applied for at the same time as a building permit, when such permit is required.
- E. Before issuing a Certificate of Occupancy, the Administrative Official shall require conformity with the provisions of this Ordinance and all other applicable City Ordinances. Every certificate of occupancy shall state that the new occupancy complies with the provisions of City Ordinances.

Section 307. Application Completeness and Expiration

- A. Zoning Regulations

1. Applicability

The following procedures shall apply to any zoning related plan or application that is required by the City and is submitted in accordance with this UDO.

2. Determination of Completeness for Zoning Related Applications

Every required application shall be subject to a determination of completeness by the responsible official for processing the application.

a. Acceptance Standard

The application shall only be accepted by the responsible official for processing when it is accompanied by all documents required by, and prepared in accordance with, the requirements of this UDO. A typographical error shall not, by itself, constitute an incomplete application.

b. Acceptance Procedures

A determination of completeness of an application shall be conducted in accordance with the following procedures:

- i. A determination of completeness shall be made by the responsible official not later than the tenth (10th) business day, unless otherwise specified, after the official vesting date.
- ii. If the submitted application is incomplete, then the applicant shall be notified in writing not later than the tenth (10th) business days after the official vesting date.
 - a) Such notice shall be served by depositing it in the U.S. Postal Service, or by electronic mail transmission, before the tenth (10th) business day following submission of the application.
 - b) The notification shall specify the documents or other information needed to complete the application, and shall state the date the application will expire (see 4 below) if the documents or other information are not provided to the City.
- iii. An application shall be deemed complete on the eleventh (11th) business day after the application has been received if notice is not served in accordance with ii above.
- iv. If the application is determined to be complete, the application shall be processed as prescribed by this UDO.

c. Acceptance shall not Constitute Compliance

A determination of completeness shall not constitute a determination of compliance with the substantive requirements of this section.

d. Acceptance shall not Guarantee Approval

It is not guaranteed that an accepted, complete application will be approved, if after the application is deemed complete it is determined that the application does not comply with this UDO.

3. Re-Submittal after Notification of Incompleteness

- a. If the application is re-submitted after a notification of incompleteness within the time allotted in 2.b.ii above, the application shall be processed upon receipt of the re-submittal.
- b. To the extent that the information or documents submitted is not sufficient to enable the decision-maker to apply the criteria for approval, the application may be denied on such grounds.

4. Expiration of a Zoning Related Application due to Incompleteness

Pursuant to Texas Local Government Code Chapter 245 (or as amended), a zoning related application shall automatically expire at the close of business on the forty-fifth (45th) calendar day after the application's official vesting date, if:

- a. The applicant fails to provide documents or other information necessary to comply with the City's technical requirements relating to the form and content of the permit application;
- b. The City provides to the applicant, not later than the tenth (10th) business day after the date the application is filed, written notice 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
- c. The applicant fails to provide the specified documents or other information necessary to comply with the City's requirements relating to the application within the time provided in the notification.

5. Zoning Amendment Application

a. Complete Applications Required

No zoning amendment application shall be accepted for filing or processing unless such request is accompanied by a completed application and all documents required by and prepared in accordance with the requirements of the zoning regulations and any other applicable ordinance and it is filed with the Administrative Official.

b. Texas Local Government Code Chapter 245 does not apply to zoning amendment applications

Chapter 245 of the Texas Local Government Code, as amended, shall not apply to a zoning amendment application or an ordinance establishing zoning since neither is a permit under this UDO or Chapter 245.

c. Denial of Zoning Applications

- i. The acceptance or processing by any City official of a zoning application prior to the time a complete application is submitted hereby is deemed to be null and void and, upon discovery, shall be grounds for denial or revocation of such application.
- ii. A typographical error shall not constitute an incomplete application.
- iii. The applicant may be notified of such denial or revocation for an incomplete zoning application in writing.

6. Vesting Begins on the Official Vesting Date

An application shall be vested into the standards of the UDO in effect at the time of the application's official vesting date.

7. Submission of Previously Decided Zoning Related Application

After the final decision on a specific application by the decision-maker, the same application shall not be submitted again until after six (6) months from the decision-maker's action.

B. Subdivision Regulations

1. Applicability

The following procedures shall apply to any subdivision related plan or application that is required by the City and is submitted in accordance with this UDO.

2. Determination of Completeness for Subdivision Related Applications

Every required application shall be subject to a determination of completeness by the responsible official for processing the application.

a. Acceptance Standards

The application shall only be accepted by the responsible official for processing when it is

accompanied by all documents required by, and prepared in accordance with, the requirements of this UDO. A typographical error shall not, by itself, constitute an incomplete application.

b. Acceptance Procedures

A determination of completeness of an application shall be conducted in accordance with the following procedures:

- i. A determination of completeness shall be made by the responsible official not later than the tenth (10th) business day, unless otherwise specified, after the official vesting date.
- ii. If the submitted application is incomplete, then the applicant shall be notified in writing not later than the tenth (10th) business day after the official vesting date.
 - a) Such notice shall be served by depositing it in the U.S. Postal Service, or by electronic mail transmission, before the tenth (10th) business day following submission of the application.
 - b) The notification shall specify the documents or other information needed to complete the application, and shall state the date the application will expire (see 5 below) if the documents or other information are not provided to the City.
- iii. An application shall be deemed complete on the eleventh (11th) business day after the application has been received if notice is not served in accordance with ii above.
- iv. If the application is determined to be complete, the application shall be processed as prescribed by this UDO.

c. Acceptance shall not Constitute Compliance

A determination of completeness shall not constitute a determination of compliance with the substantive requirements of this UDO.

d. Acceptance shall not Guarantee Approval

There is no implied intent or guarantee that an accepted and completed application will be approved, if after the application is deemed complete, it is determined that the application does not comply with this UDO.

3. Re-Submittal after Notification of Incompleteness

- a. If the application is re-submitted after a notification of incompleteness, the application shall be processed upon receipt of the re-submittal.
- b. The statutory 30-day time frame for plat approvals shall begin on the date of the re-submittal.
- c. To the extent that the information or documents submitted is not sufficient to enable the decision-maker to apply the criteria for approval, the application may be denied on such grounds.

4. Waiver of Right to 30-Day Action

The Administrative Official shall be the responsible official to approve a waiver of right to 30-day action.

a. Request

An applicant may submit in writing a waiver of right to 30-day action.

b. Received

- i. If the applicant is requesting a waiver of right to 30-day action, the waiver of right to 30-day action must be received by the Administrative Official on or before the seventh (7th) calendar day prior to the Planning and Zoning Commission meeting at which action would have to be taken (based on the 30-day requirement in State law) on the application.
 - ii. Waiver requests that are not received by that day shall not be considered properly submitted, and action shall be taken on the application at such meeting as scheduled.
 - c. Requirements Maintained
 - i. Submission of a waiver of right to 30-day action, and acceptance of such waiver by the City as part of an application, shall not be deemed in any way a waiver to any requirement within this UDO.
 - ii. A waiver from requirements herein is a separate and distinct process (see Section 314 Petition for a Subdivision Waiver).
5. Expiration of a Subdivision Related Application – Before Approval Decision
- Pursuant to Texas Local Government Code Chapter 245 (or as amended), a subdivision related application shall automatically expire (ending all vesting claims) at the close of business on the forty-fifth (45th) calendar day after the application’s official vesting date, if:
- a. The applicant fails to provide documents or other information necessary to comply with the City’s technical requirements relating to the form and content of the permit application;
 - b. The City provides to the applicant, not later than the tenth (10th) business day after the date the application is filed, written notice 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
 - c. The applicant fails to provide the specified documents or other information necessary to comply with the City’s requirements relating to the application within the time provided in the notification.
6. Vesting Begins on the Official Vesting Date
- An application shall be vested into the standards of the UDO in effect at the time of the application’s official vesting date.
7. Right to 30-Day Action for Plats Applications Begins on the Official Submission Date
- The statutory 30-day time frame for plat approvals, established by TLGC 212 (or as amended), shall commence on the official submission date.

Section 308. Written Interpretation

A. Authority

The Administrative Official shall have authority to make all written interpretations concerning the provisions of this Ordinance and the Official Zoning Map.

B. Request for Interpretation

An applicant for a permit may request a written interpretation. Such request shall be submitted to the Administrative Official.

C. Interpretation by Administrative Official

Within ten (10) working days after a request for interpretation has been submitted, the Administrative Official

shall:

1. Review and evaluate the request in light of the text of this Ordinance, the Official Zoning Map, the Comprehensive Plan and any other relevant information;
2. Consult with other staff, as necessary; and
3. Render an opinion.

The interpretation shall be provided to the applicant in writing by mail.

D. Official Record

The Administrative Official shall maintain an official record of interpretations. The record of interpretations shall be available for public inspection during normal business hours.

E. Appeal

To appeal written interpretations made by the Administrative Officer, the procedure set forth in Section 309 shall be followed.

Section 309. Administrative Appeal

A. Who May Appeal

An appeal may be taken to the Board of Adjustment by any person, firm, or corporation or any officer or department affected by a decision of any administrative official within thirty (30) days of notice of the decision.

B. Application

The applicant must file a notice of appeal specifying the grounds for the appeal with the Board and the official from whom the appeal is taken. The burden of proof shall be upon the applicant.

C. Powers of the Board

The Board may reverse or affirm or may modify the decision made by the administrative official, and to that end the Board shall have all the powers of the official from whom the appeal is made.

D. Board Hearing and Action

1. The Board shall fix a reasonable time for the hearing of the appeal. Upon the hearing, any party may appear in person or by agent. The Board shall decide the appeal within a reasonable time.
2. In considering such an appeal, the Board of Adjustment shall review the decision and public testimony in light of the Comprehensive Plan, this Ordinance and the Official Zoning Map, and any other land use policies adopted by the Planning and Zoning Commission or City Council, whichever are applicable.
3. The Board of Adjustment shall affirm, modify or reverse the decision of the Administrative Official in interpreting the provisions of this Ordinance and the Official Zoning Map. (See Section 203.C.4) The Board of Adjustment shall modify or reject the decision only if it is not supported by substantial competent evidence or if the decision is deemed contrary to the intent and purpose of the Comprehensive Plan, this Ordinance or the Official Zoning Map.

Section 310. Vested Rights Petitions (Zoning and Subdivision)

A. Zoning Vested Rights Petition

1. Purpose

The purpose of a zoning vested rights petition is to determine whether one or more standards of this UDO should not be applied to a plan or application, or whether certain permits are subject to expiration.

2. Applicability of a Zoning Vested Rights Petition

A zoning vested rights petition may be filed for an application, permit, or plan required under these zoning regulations.

3. Petition Submission

- a. A zoning vested rights petition shall be submitted to the City’s responsible official in accordance with the Texas Local Government Code, Chapter 245 or successor statute.
- b. Submission of such petition shall stay further proceedings on the related application until a final decision is reached on the zoning vested rights petition.

4. Petition Form Requirements

The zoning vested rights petition shall allege that the petitioner has a vested right that requires the City to review and decide the application under standards in effect prior to the effective date of the currently applicable standards. The petition shall include, at a minimum, the following information and documents:

- a. Basic Owner Information
 - The name, mailing address, phone number and email address of the property owner (or the property owner’s duly authorized agent).
- b. Identification of Property and “Project”
 - i. Identification of the property for which the property owner claims a vested right.
 - ii. Identification of the “project,” as that term is defined in Chapter 245 at 245.001.(3).
 - iii. A chronology of the history of the “project,” with special emphasis on facts establishing that the project was in progress on or commenced after September 1, 1997, as required by Chapter 245 at 245.003;
- c. Narrative Description for Purpose of Petition
 - A narrative description of the grounds for the petition, including a statement as to whether the petition asserts a vested right related to a specific regulation or to an entire project.
- d. Identification Regulations
 - i. Identification of all City regulations in effect at the time the original application for the permit was filed that (a) the owner contends are vested and (b) the owner contends controls the approval, disapproval, or conditional approval of an approval for a permit, pursuant to Chapter 245 at 245.002(a) and (b).
 - ii. Identification of all City regulations, with particularity and in detail, that the property owner contends do not apply to the project due to the vested rights provided the property owner by Chapter 245.
 - a) Global references to a particular ordinance, or set of criteria, may be deemed insufficient and the City may consider the request for a vested rights determination to be incomplete and, hence, not subject to a staff determination at that time.
 - iii. Identification of any current City regulations which petitioner agrees can be applied to the application at issue.

- e. Copies of Applications
A copy of each approved or pending application which is the basis for the contention that the City may not apply current standards to the application which is the subject of the petition.
 - f. Submittal Date of First Application
The submittal date of the first application that began the vesting process (i.e., first permit in the series of permits required for the project), as identified in Section 307 Application Completeness and Expiration.
 - g. Submittal Date of Subsequent Application
If applicable, the submittal dates of subsequent applications for the permits for the project.
 - h. Narrative Description of How Current Regulations Affect Proposed Use
A narrative description of how the application of current regulations affect proposed use of the land, landscaping, open space, or park dedication, lot size, lot dimensions, coverage or building size shown on the application for which the petition is filed.
 - i. Copies of Prior Vested Rights Determinations
A copy of any prior vested rights determination involving the same land.
 - j. Benchmarking Project Progress for Expiring Permits or Applications
Whenever the petitioner alleges that a permit or application subject to expiration should not be terminated, a description of the events constituting progress toward completion of the project for which the permit subject to expiration was approved.
5. Validity and Expiration of Different “Permits” for Vesting Purposes
- a. Required Plan Validity and Expiration
 - i. Required Plan
An approved site plan, Specific Use Permit’s site plan, or PUD’s site plan shall be considered a “permit” as described by State law in Chapter 245.005, as amended, of the Texas Local Government Code (TLGC) and herein be referred to as “Required Plan.”
 - ii. Appropriate Approval Required for a “Permit”
A required plan shall not be considered a “permit” unless, it has been approved by the appropriate entity before the effective date of these regulations, or an application for a required plan is complete as of the effective date of these regulations.
 - iii. Required Plan Expiration
Any approved required plan shall be deemed expired two (2) years from the date on which the required plan was originally approved by the appropriate entity if no progress (see iv below) has been made toward completion of the project.
 - iv. Progress Benchmarks
The term “progress” shall be as defined based on TLGC Chapter 245.005 as follows:
 - a) Plans for construction and an application for a building permit for at least one of the buildings on the approved required plan are submitted within two (2) years following approval of the required plan;

- b) A good-faith attempt is made to file with the City an application for a permit necessary to begin or continue towards completion of the project;
- c) Costs have been incurred for developing the project including, without limitation, costs associated with roadway, utility, and other infrastructure facilities designed to serve, in whole or in part, the project (but exclusive of land acquisition) in the aggregate amount of five percent (5%) of the most recent appraised market value of the real property on which the project is located;
- d) Fiscal security is posted with the City to ensure performance of an obligation required by the City; or
- e) Utility connection fees for the project have been paid to the City.

v. Required Plan Expiration

If one of the items listed in iv.a) through iv.e) above is not accomplished within the two (2) year period, the approved required plan shall expire upon the second (2nd) anniversary of its approval by the appropriate entity, and shall become null and void.

vi. Required Plan Extension and Reinstatement Petition

- a) Prior to the expiration of a required plan, the applicant may petition the City (in writing) to extend the required plan approval.
- b) The Administrative Official shall be the responsible official for processing and review of the application.
- c) Such petition shall be recommended for approval or denial by the Planning and Zoning Commission, and shall be granted approval or denied by the City Council.
- d) If no petition is submitted, then the required plan shall be deemed to have expired and shall become null and void.
 - i) Any new request for required plan approval thereafter shall be deemed a “new permit”, and shall be submitted with a new application form, with a new filing fee, and with new plans and materials in accordance with the procedures set forth in this section.
 - ii) The new request shall also be reviewed for compliance with the ordinances and regulations in effect at the time the new application is made.
- e) In determining whether to grant a request for extension, the Planning and Zoning Commission and City Council shall take into account the following:
 - i) The ability of the property owner to comply with any conditions attached to the original approval, and
 - ii) The extent to which development regulations would apply to the required plan at that point in time.

6. Decision of a Zoning Vested Rights Petition

a. Review of a Zoning Vested Rights Petition

The responsible official shall promptly forward the owner’s vested rights request, along with any supporting information or documentation provided along with the request, to the Administrative Official and City Attorney for their respective reviews.

- b. Decision on a Zoning Vested Rights Petition
 - i. The Administrative Official, after consultation with the City Attorney, shall issue a final administrative determination of whether a vested right exists in relation to the project, and shall identify, with particularity, all claims for vested rights exists in relation to the project, and shall identify, with particularity, all claims for vested rights that have been granted and all claims for vested rights that have been denied.
 - ii. The Administrative Official shall issue a final administrative determination with thirty (30) business days from the receipt of the responsible official.
 - c. Vesting Pre-Determination Conference

Prior to rendering the final determination, the Administrative Official may request a pre-determination conference with the owner to discuss the owner's vested rights claim and to ensure that the nature of the claim is fully and completely understood by the Administrative Official prior to a final determination being rendered.
7. Appeal to the Council of a Decision on a Zoning Vested Rights Petition
 - a. If the property owner believes that the Administrative Official's vested rights determination is in error, the property owner or City Council shall have the right to appeal within thirty (30) business days of such determination to the City Council, which will have jurisdiction to hear and decide the appeal pursuant to this UDO and Chapter 211 of the Texas Local Government Code.
 - b. The property owner may also request the Board of Adjustment to grant a zoning variance from the regulations at issue under the same standards governing variances for other matters, as set forth in this UDO and/or Chapter 211 of the Texas Local Government Code.
 8. Judicial Review

Should the property owner or any aggrieved person be dissatisfied with the actions of the City Council, they may avail themselves of all legal remedies to review the decision as set forth in Section 211.011 of the Texas Local Government Code.
 9. Binding Determination
 - a. The Administrative Official's final determination, if not appealed to the City Council within thirty (30) business days, shall be immediately filed in the City's files related to the project and the determination shall be considered binding upon the City and the property owner for the duration of the project.
 - b. Similarly, any decision by the City Council regarding a vested right claim, if not timely appealed pursuant to Section 211.011 of the Texas Local Government Code, shall be filed in the City's files related to the project and the determination shall be considered binding upon the City and the property owner for the duration of the project.
 - c. Notwithstanding the binding nature of the Administrative Official's final determination and any ruling by the City Council, the City and the property owner may, at any time, enter into a development agreement that, to the extent authorized by law, modifies the final determination and the applicable development regulations to be applied to the project.
 10. Action on Petition and Order
 - a. Action on the Petition

The Administrative Official or City Council on the petition or appeal may take any of the following actions:

- i. Deny the relief requested in the petition, and direct that the application shall be reviewed and decided under currently applicable standards;
- ii. Grant the relief requested in the petition, and direct that the application be reviewed and decided in accordance with the standards contained in identified prior regulations; or
- iii. Grant the relief requested in part, and direct that certain identified current standards be applied to the application, while standards contained in identified prior regulations also shall be applied.

B. Subdivision Vested Rights Petition

1. Purpose

In accordance with the Texas Local Government Code, Chapter 245 or successor statute, the purpose of a subdivision vested rights petition is to determine whether an application should be processed under the terms of a previous ordinance, to provide a process for determination of possible vested status, and to determine when certain permits are subject to expiration.

2. Applicability of a Subdivision Vested Rights Petition

A subdivision vested rights petition may be submitted for any application authorized by these subdivision regulations.

3. Petition Submission

a. Filing

A subdivision vested rights petition shall be submitted to the City’s responsible official and shall be in accordance with the Texas Local Government Code, Chapter 245 or successor statute.

b. Automatic Waiver

Submission of a subdivision vested rights petition shall require a waiver of right to 30-day action (see Section 307.B.4 above).

c. Stay of Further Proceedings

Submission of a subdivision vested rights petition shall stay further proceedings on the related application until a final decision is reached on the subdivision vested rights petition.

4. Time for Filing a Petition and Application

a. A subdivision vested rights petition shall be filed jointly with an application for which a vested right is claimed.

b. A subdivision vested rights petition may be filed without a joint application if the petition is filed pursuant to 11 below.

c. Where more than one application is authorized to be filed simultaneously by this UDO, the petition may be filed simultaneously for each application.

5. Petition Requirements

The subdivision vested rights petition shall allege in writing that the applicant has a vested right for some or all of the land subject to the application under Texas Local Government Code, Chapter 245 or successor statute, or pursuant to Texas Local Government Code, Section 43.002 or successor statute, that requires the City to review and decide the application under standards that were in effect prior to the effective date

of the currently applicable standards. The petition shall include the following information and documents:

- a. The name, mailing address, phone number and email address of the property owner (or the property owner's duly authorized agent).
 - b. A narrative description of the grounds for the petition, including a statement as to whether the petition asserts a vested right related to a specific standard or to an entire project;
 - c. A copy of each approved or pending application which is the basis for the contention that the City may not apply current standards to the application which is the subject of the petition;
 - d. The official vesting date of the application;
 - e. The date the subdivision for which the application was submitted was commenced;
 - f. Identification of all standards otherwise applicable to the application from which relief is sought;
 - g. Identification of any current standards which applicant agrees can be applied to the application at issue;
 - h. A narrative description of how the application of current standards affect proposed landscaping, open space or park dedication, shown on the application for which the petition is filed;
 - i. A copy of any prior vested rights determination involving the same land; and
 - j. Whenever the applicant alleges that an application subject to expiration should not be terminated, a description of the events constituting progress towards completion of the subdivision for which the application was approved.
6. Decision of a Subdivision Vested Rights Petition
- a. Reviewing a Subdivision Vested Rights Petition
 - i. The responsible official for a subdivision vested rights petition is the same as that for reviewing the application with which the petition is associated.
 - ii. Where multiple applications are submitted, and there is more than one responsible official, the decision of each responsible official shall be coordinated with that of any other responsible official on the subdivision vested rights petition.
 - iii. The City Attorney shall also be notified of the subdivision vested rights petition following its filing and acceptance for processing.
 - iv. The applicant shall reimburse the City for all related legal costs for review of a subdivision vested rights petition. This reimbursement shall be paid in full prior to filing of the final plat.
 - b. Decision by the Responsible Official on a Subdivision Vested Rights Petition
 - i. If the responsible official is the decision-maker on the original related application, that official shall determine whether the relief requested in the subdivision vested rights petition should be granted in whole or in part, and shall formulate a written report summarizing the decision-maker's reasoning and recommendation.
 - ii. The applicant shall be notified of the decision within fourteen (14) calendar days following the date the subdivision vested rights petition was filed at the City.

- iii. The responsible official may defer making a decision on the subdivision vested rights petition and instead forward the petition to the Planning and Zoning Commission for a decision, in accordance with the process outlined in c below.
 - c. Decision by Planning and Zoning Commission on a Subdivision Vested Rights Petition
 - i. If the original related application is to be decided by the Planning and Zoning Commission, or if the responsible official defers making a decision on a subdivision vested rights petition pursuant to b.iii above, the responsible official for that type of application shall submit a report in the form of a recommendation on the petition to the Planning and Zoning Commission.
 - ii. The Planning and Zoning Commission shall render a decision on the petition within thirty (30) calendar days following the date the petition was filed at the City or deferred by the responsible official.
 - iii. The Planning and Zoning Commission’s decision on a petition shall be upon a simple majority vote of the full Planning and Zoning Commission’s voting members.
 - d. Decision by City Council on a Subdivision Vested Rights Petition
 - i. Where the City Council is the final decision-maker on the related application, or for any petition submitted pursuant to 11 below, the responsible official for that type of application shall submit a report in the form of a recommendation on the petition to the City Council.
 - ii. The City Council shall render a decision on the petition within thirty (30) calendar days following the date the petition was filed at the City.
 - iii. The City Council’s decision on a petition shall be upon a simple majority vote of the full City Council’s voting members, and shall be final.
 - e. Appeal to the Council of a Decision on Subdivision Vested Rights Petition
 - i. The applicant may appeal the responsible official's or Planning and Zoning Commission's decision on the subdivision vested rights petition to the City Council by submitting written notice of appeal to the applicable responsible official within fourteen (14) calendar days following the date of such decision.
 - a) A letter stating the reasons for the appeal, citing the specific applicable section(s) of the UDO, shall be submitted by the applicant.
 - ii. The City Council shall hear and decide the appeal within thirty (30) calendar days following receipt of the notice of appeal by the City.
 - iii. Approval of an appeal by the City Council shall only be upon a favorable vote of at least four (4) of the City Council’s voting members, and shall be final.
7. Criteria for Subdivision Vested Rights Petition Approval
- a. Factors

The decision-maker shall decide the subdivision vested rights petition based upon the following factors:

 - i. The nature and extent of prior applications filed for the land subject to the petition;
 - ii. Whether any prior vested rights determinations have been made with respect to the property subject to the petition;

- iii. Whether any prior approved applications for the property have expired or have been terminated in accordance with State law or local ordinances;
 - iv. Whether current standards adopted after commencement of the project affect proposed use of the land, landscaping, open space or park dedication, lot size, lot dimensions, lot coverage or building size based upon the proposed application;
 - v. Whether any statutory exception applies to the standards in the current subdivision regulations from which the applicant seeks relief;
 - vi. Whether any prior approved applications relied upon by the applicant have expired; and
 - vii. Any other applicable provisions outlined in Chapter 245 or Section 43.002 of the Texas Local Government Code, or successor statutes.
- b. Conditions for a Pending Application
- If the claim of vested rights is based upon a pending application, subject to standards that have been superseded by current standards of this UDO, the decision-maker may condition any relief granted on the subdivision vested rights petition on the approval of the pending application.
8. Action and Record of Action on the Subdivision Vested Rights Petition
- a. Action
- The decision-maker may take any of the following actions:
- i. Deny the relief requested in the petition, and direct that the application shall be reviewed and decided under currently applicable standards; or
 - ii. Grant the relief requested in the petition, and direct that the related application be reviewed and decided in accordance with the standards contained in identified prior regulations; or
 - iii. Grant the relief requested in part, and direct that certain identified current standards be applied to the related application, while standards contained in identified prior regulations also shall be applied.
- b. Record
- The responsible official's report and the decision on the subdivision vested rights petition shall be recorded in writing in an order identifying the following:
- i. The nature of the relief granted, if any;
 - ii. The related application(s) upon which relief is premised under the petition;
 - iii. Current standards which shall apply to the related application for which relief is sought, if applicable;
 - iv. Prior standards which shall apply to the related application for which relief is sought, including any procedural standards, if applicable;
 - v. The statutory exception or other grounds upon which relief is denied in whole or in part on the petition; and
 - vi. To the extent feasible, subsequent related applications that are subject to the same relief granted on the petition.
9. Effect of the Final Petition Decision on Related Applications

- a. **Petition Decision Required Before Proceeding with Application**
A final decision on the subdivision vested rights petition must be achieved prior to further processing, and prior to any consideration of, or decision on, the related application.
- b. **Revision Made (if necessary) to Related Application after Petition Decision**
Following the City’s final decision on a petition, the applicant shall, if necessary, revise the related application such that it conforms to the City’s decision on the petition.
- c. **Related Applications with Revisions**
After submission of a revised related application, the decision-maker on the related application shall review and consider the revised application in accordance with the procedures for deciding that type of application, as outlined in this UDO, and in conformity with any relief granted.
- d. **Related Applications without Revisions**
If the relief granted on the petition is consistent with the related application on file, no revisions shall be necessary, and the related application shall be deemed submitted at the time of the final decision on the petition.

10. **Expiration and Extension of a Subdivision Vested Rights Petition**

- a. **Expiration**
Relief granted on a subdivision vested rights petition shall expire on occurrence of one of the following events:
 - i. The applicant fails to submit a revised application that is consistent with the relief granted, if any, within sixty (60) calendar days following the final decision on the petition;
 - ii. The application for which relief was granted on the petition is denied; or
 - iii. The application for which relief was granted on the petition expires.
- b. **Extension**
Extension of the date of expiration for the application for which relief was granted on a petition shall result in extension of the relief granted on the petition for the same time period.

11. **Dormant Projects**

- a. **Definitions**
For purposes of this section only:
 - i. **Dormant Project**
A dormant project shall meet the following criteria:
 - a) An Initial Permit does not have an expiration date; and
 - b) No progress towards completion has been made within the project.
 - ii. **Initial Permit**
Initial permit means any of the following types of approvals granted under these subdivision regulations, or any predecessor subdivision or development-related regulation or ordinance that was in effect prior to the adoption of this UDO:
 - a) Preliminary Plat,

- b) Construction Plans,
- c) Construction Release,
- d) Subdivision waivers to any requirement in these UDO subdivision regulations (per Section 314 Petition for a Subdivision Waiver), or
- e) Any other application that was approved subject to a schematic drawing illustrating the location, arrangement, orientation or design of development, lots or improvements on a site intended for development.

iii. Final Permit

Final permit means a final plat approved under these UDO subdivision regulations, or any predecessor subdivision or development-related regulation or ordinance that was in effect prior to the adoption of this UDO.

b. Expiration Date Established for an Initial Permit

Any application for an Initial Permit that was approved or filed two (2) years prior to the adoption date of this UDO, and was not subject to an expiration date shall expire on the effective date of this UDO.

c. Reinstatement of an Expired Initial Permit

- i. The property owner of the land subject to an Initial Permit that expires under b above may petition the City Council to reinstate such initial permit by filing a written petition within one (1) year following the effective date of this UDO.
- ii. The petition shall clearly state the grounds for reinstatement, and shall be accompanied by documentation the following:
 - a) As of two (2) years prior to the effective date of this UDO, one of the following events had occurred:
 - i) A final permit to continue toward completion of the project was submitted to the City for all or part of the land subject to the approved initial permit and was approved by the City, or was filed and was subsequently approved by the City;
 - ii) An application for a final permit to continue toward completion of the project was submitted to the City for all or part of the land subject to the expired initial permit, but such application was rejected on grounds of incompleteness (consistent with Texas Local Government Code, Chapter 245.005(c)(2), or as amended);
 - iii) Costs for development of the land subject to the initial permit, including costs associated with roadway, utility and other infrastructure facilities designed to serve the land in whole or in part, but exclusive of land acquisition costs, were incurred in the aggregate amount of five percent (5%) of the most recent appraised market value of the land;
 - iv) Fiscal security was posted with the City to guarantee performance of obligations required under these subdivision regulations, including the construction of required improvements associated with the proposed development, for all or a part of the land subject to the approved initial permit; or

- v) Utility connection fees for all or part of the land subject to the approved initial permit were paid to the City.
- iii. City Council Action on Reinstatement of a Dormant Project's Expired Initial Permit

The City Council may take one of the following actions:

 - a) Reinstatement of the expired initial permit without an expiration date, if it finds that the applicant has met any one of the criteria listed in ii.a) above.
 - b) Reinstatement of the initial permit for all or part of the land subject thereto, if it finds that the applicant has met any one of the criteria listed in ii.a) above, subject to expiration dates or other conditions that ensure that the remaining land that is not subject to an approved or pending final permit application will be developed in a timely fashion.
 - c) In granting relief under this provision, the City Council may require that development of such remaining land is subject to standards enacted after approval of the initial permit.
 - d) Deny the reinstatement petition, if it finds that the applicant has failed to meet any of the criteria in c) above); or
 - e) Reinstatement of the permit for only that part of the land subject to a pending final permit application, if it finds that the applicant has met the criteria in ii.a) above and the pending application subsequently was approved, and deny the reinstatement petition for the remaining land subject to the expired initial permit.

Section 311. Site Plans for Nonresidential Uses

A. Purpose

The purpose of the site plan process is to establish a procedure for coordinating and verifying improvements to properties. Through site plan review, zoning standards and other applicable municipal standards or ordinances that may apply to specific site development can be uniformly implemented by the City for nonresidential development. This process is intended to promote, among other items, the efficient and harmonious use of land, safe and efficient vehicular and pedestrian circulation, parking and loading, lighting, screening, open space, landscaping, and natural features.

B. Applicability

1. Requirement

No building permit shall be issued for any applicable developments or any on-site construction/development activity shall occur unless a site plan is first approved by the City.

2. Nonresidential Development Requiring Site Plans

- a. All nonresidential development within the City's corporate limits, except as provided in D below, require an approved site plan.
- b. Parking lot development, reconstruction, or reconfiguration of more than twenty (20) spaces requires an approved site plan.

3. Public Hearings

A public hearing on a site plan is not required unless a site plan is prepared in conjunction with a rezoning

application.

4. Effect

No certificate of occupancy shall be issued unless all construction and development conform to the site plan as approved by the City.

C. Approval and Process

1. The approval of a site plan related to a building permit or construction/development application requires approval by the Administrative Official.

2. Site Plan Process Overview

The purpose of the site plan process is to:

- a. Ensure compliance with adopted City development regulations and other applicable regulations that apply to the property for which the City has enforcement responsibility;
- b. Promote safe, efficient and harmonious use of land through application of City-adopted design standards and guidelines;
- c. Promote the vision established by the Comprehensive Plan;
- d. Ensure adequate public facilities to serve development;
- e. Coordinate and document the design of public and private improvements to be constructed;
- f. Prevent or mitigate adverse development impacts, including overcrowding and congestion;
- g. Aid evaluation and coordination of land subdivision, including the granting of easements, right-of-way, development agreements and provision of surety;
- h. Identify and address environmental concerns (floodplain, drainage, trees, topography, etc.); and
- i. Promote the public health, safety and welfare.

D. Site Plan Exempted Development

The following types of development are exempted from these requirements:

1. Agricultural uses or buildings on tracts ten (10) acres or greater; and
2. Temporary buildings for new construction

E. Submission of Site Plan Applications

1. Coordinating Official

Applications for approval of plans required by this section must be submitted to the Administrative Official.

2. Calendar of Official Processing Dates

A calendar of official processing dates for items requiring Staff review shall be published annually by the City.

3. Late Application Processing Date

All applications required by this section filed on a date other than an official processing date shall be processed according to the schedule established by the subsequent official processing date appearing on the calendar after the filing date and after the date of receipt of the application.

F. Fees, Forms and Procedures

1. Schedule of Fees

The fees relating to the site plan approval process shall be established by the fee schedule.

2. Delinquent Taxes

No site plan shall be approved for properties with delinquent City taxes.

3. Procedures, Forms and Standards

The Administrative Official shall establish procedures, forms and standards with regard to the content, format and number of copies of information constituting an application for a site plan.

G. Site Plan

1. Site Plan Application Procedure and Requirements

a. Site Plan Pre-Application

- i. Before preparing a site plan, the applicant may meet with the Administrative Official to allow the applicant to learn the general procedures for approval and to review the concept of the proposed development, if desired by applicant.
- ii. No application for a permit may be submitted to or accepted for filing with the Administrative Official during the meeting.

b. Site Plan General Application

The property owner shall file an application for the approval of a site plan. This application shall include the information listed on the site plan application form and checklist, which shall be created and maintained by the Administrative Official.

c. Site Plan Additional Requirements

The following plans shall be submitted with a site plan application and approval is necessary prior to final authorization for development:

- i. Final plat or replat
- ii. Engineering plans or construction plans,
- iii. Traffic Impact Analysis, if applicable,
- iv. Landscape plans,
- v. Flood Study, if required,
- vi. Other approvals as required by ordinance or resolution. or
- vii. Tax certificate

d. Site Plan Standards of Approval

i. Administrative Official Approval

The Administrative Official may approve, conditionally approve, or deny a site plan based upon the criteria listed below.

ii. Approval Criteria

- a) Conformance with the Comprehensive Plan and adopted design guidelines.

- b) Compliance with this UDO and other applicable regulations and previously approved, valid plans for the property.
 - c) The design and location of off-street parking and loading facilities to ensure that all such spaces are usable and are safely and conveniently arranged.
 - d) The width, grade and location of streets designed to accommodate prospective traffic and to provide access for firefighting and emergency equipment to buildings.
 - e) The use of landscaping and screening to provide adequate buffers to shield lights, noise, movement or activities from adjacent properties when necessary, and to complement the design and location of buildings and be integrated into the overall site design.
 - f) The location, size and configuration of open space areas to ensure that such areas are suitable for intended recreation and conservation uses.
 - g) Protection and conservation of soils from erosion by wind or water or from excavation or grading.
 - h) Protection and conservation of water courses and areas subject to flooding.
 - i) The adequacy of streets, water, drainage, wastewater, storm water facilities, garbage disposal and other utilities necessary for essential services to residents and occupants.
 - j) The design of adjacent public street improvements and right-of-way including existing or proposed deceleration lanes, median openings and left turn bays, location of driveways, drive aisles, cross access between internal developments, and access to properties adjacent to the subject site.
 - k) The City shall not take action on a site plan for property where City taxes are delinquent.
- e. Site Plan Effect
- i. Approval of a site plan is the City's authorization to apply for approval of building permits and to receive approval of engineering plans. Approval of a site plan does not give authorization for commencing construction.
 - ii. During the time the site plan remains valid, the City shall not apply any additional requirements concerning building placement, streets, drives, parking, landscaping or screening.
 - iii. Site plan approval is separate and distinct from other permits and approvals as may be required by the City and other regulatory agencies.
 - iv. Approval of a site plan shall not affect other applicable regulations concerning development and land use.
 - v. Except where authorized by ordinance, a site plan may not be used to approve a variance to development regulations.
 - vi. Where an approved plan conflicts with an adopted regulation and no variance or special exception is expressly approved, the regulation shall apply.
- f. Site Plan Lapse
- i. Two (2) Year Effective Period

- a) The approval of a site plan shall be effective for a period of two (2) years from the date of filing of the application with the Administrative Official. At the end of this time, the site plan shall expire unless the applicant demonstrates to the Administrative Official that progress has been made towards completion of the project for which the site plan was approved.
- b) Submission and receipt of approval of engineering plans and building permits prior to expiration of the site plan shall be evidence of progress towards completion.
- c) However, if engineering plans and permits have been approved only for a portion of the property or if the progress towards completion is only for a portion of the property and/or improvements, the site plan for the remaining property and/or improvements shall expire.

ii. Expired Site Plans

- a) For all expired site plans, the applicant shall be required to submit a new site plan subject to the existing regulations (see Section 311.G.1 above).
- b) Site plan approval shall expire upon completion of the improvements shown on the plan. Permits must remain valid during the construction process.
- c) Subsequent additional development, site modifications and redevelopment shall be considered a new project subject to the then existing ordinances, laws and regulations of the City.

H. Revocation of Site Plan Approval

The Administrative Official may revoke approval of a 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 or if it is determined that it was obtained using fraud or deceit.

I. Design Standards and Specifications

The following design standards and specifications, as they exist or may be amended, are required in addition to the design standards and specification set forth in this UDO:

- 1. Zoning Regulations;
- 2. Subdivision Regulations;
- 3. Fire Code;
- 4. Engineering Standards;
- 5. Any design standards and specifications approved by the City Council following the enactment of this provision; and
- 6. Building Code.

Section 312. Variances

A. Who May Request a Variance

Any applicant may request a variance to the strict interpretation of this Ordinance.

B. Hearing and Action by Zoning Board of Adjustment

After due notice, the Board of Adjustment shall hold a public hearing on an application for a variance. At the public hearing, the Board of Adjustment shall consider the application, the relevant support materials and the

public testimony given at the public hearing in light of the criteria below. After the close of the public hearing, the Board of Adjustment shall vote to approve, approve with conditions or deny the application for a variance, pursuant to the criteria below. (Also see Section 203.C.4).

C. Allowed Variances

In exercising its authority to grant a variance, the Board of Adjustment shall affirmatively find that one or more of the following circumstances applies.

1. Special circumstances resulting in unnecessary hardship

A variance may be granted where special circumstances exist on the property related to the size, shape, area, topography, surrounding conditions or location that do not generally apply to other property in the same zoning district, and that the circumstances are such that strict application of this Ordinance would create an unnecessary hardship or deprive the applicant of reasonable use of the land or building.

2. Overriding Public Interest

A variance may be granted if it addresses a recognized community concern or promotes an overriding public interest, including, but not limited to, the following:

- a. Preserving the natural environment; or
- b. Promoting maintenance or reuse of older urban or historic buildings.

3. Equity

A variance may be granted to permit modifications of height or setback regulations as may be needed to secure equity in the development of a parcel of land where it has been demonstrated that, due to the existence of legally nonconforming structures, a substantial proportion of the other properties in the same area and zoning district are legally enjoying the conditions that the applicant is requesting.

4. Literal Enforcement

A variance may be granted if it is found that the literal enforcement and strict application of this Ordinance will result in extraordinary circumstances inconsistent with the general provisions and intent of this Ordinance, and that, in granting the variance, the spirit of the ordinance will be preserved and substantial justice done. The Board of Adjustment shall state in their minutes the nature of the circumstance that justifies the variance.

D. Variances Not Allowed

In exercising its authority, the Board of Adjustment shall not grant a variance that would create any of the following effects:

1. The effect of the variance on the specific property would adversely affect the land use pattern as outlined by any City land use plan or policy.
2. The variance would be a material detriment to the public welfare or create injury to the use, enjoyment or value of property in the vicinity.
3. The variance is not the minimum variance that will relieve the proven hardship.
4. The variance would allow a use not allowed in the use table for the district in which the parcel is located.
5. The variance will relieve the applicant of conditions or circumstances that are caused by the illegal subdivision of land after the effective date of the subdivision regulations of this Ordinance, which subdivision of land caused the property to be unusable for any reasonable development under the existing regulations.

6. The variance will relieve the applicant of conditions or circumstances that are self-imposed.
7. The variance is grounded solely upon the opportunity to make the property more profitable or to reduce expense to the owner.
8. The variance will modify any condition imposed by the Planning and Zoning Commission or City Council as part of a conditional use or special use review.
9. The variance would not only affect a specific parcel, but would be of such general nature as to constitute, in effect, a change in zoning of the parcel or a larger area, or would merit an amendment to this Ordinance.

E. Variance Criteria

To approve an application for a variance, the Board of Adjustment shall make an affirmative finding that each and every one of the following criteria are met.

1. Special circumstances exist that are peculiar to the land or structure that are not applicable to other land or structures in the same zoning district and are not merely financial.
2. These special circumstances are not the result of the actions of the applicant.
3. Literal interpretation and enforcement of the terms and provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other land in the same zoning district, and would cause an unnecessary and undue hardship.
4. Granting the variance is the minimum action that will make possible the use of the land or structure which is not contrary to the public interest, and would carry out the spirit of this Ordinance and substantial justice.
5. Granting the variance will not adversely affect adjacent land in a material way.
6. Granting the variance will be generally consistent with the purposes and intent of this Ordinance.

F. Conditions

The Board of Adjustment may impose such conditions on a variance as are necessary to accomplish the purposes of this Ordinance, to prevent or minimize adverse impacts upon the public and neighborhoods, and to ensure compatibility of the site with its surroundings. These conditions may include but are not limited to limitations on size, bulk and location; standards for landscaping, buffering and screening, lighting and adequate ingress and egress; cash deposits, bonds and other guarantees of deposit; other on-site improvements; and limitations on the duration or hours of operation of an allowed use.

G. Effect of Variance

1. Issuance of a variance shall authorize only the particular variation which is approved in the variance. A variance shall run with the land.
2. Unless otherwise specified in the variance, an application to commence construction of the improvements that were the subject of the variance request must be applied for and approved within twelve (12) months of the date of the approval of the variance; otherwise, the variance shall automatically become null and void. Permitted time frames do not change with successive owners. Upon written request, only one extension of the twelve (12) month period may be granted by the Administrative Officer if it is determined that conditions of the site and immediately surrounding area are substantially unchanged.

Section 313. Special Exceptions

A. Purpose

The Board of Adjustment is authorized to hear and decide special exceptions to the zoning regulations that are not permitted by right in a particular district because of potential adverse effect, but which if controlled in the particular instance as to its relationship to the neighborhood and to the general welfare, may be permitted where specifically authorized by D below, and in accordance with the substantive and procedural standards of this Ordinance.

B. Special Exceptions Defined

A special exception is differentiated from a variance by the following:

1. No Hardship Required

A special exception does not require a finding of a hardship.

2. Specifically Allowed

Approval of a special exception by the Board is allowed only as specifically provided for and defined in these regulations.

C. Requests for a Special Exception

The Board may consider a special exception to the provisions of D below upon written request of the property owner.

D. Special Exception Authorized

After holding a public hearing as required in Section 302, the Board may consider a special exception for the following standards:

1. Nonconformities
2. Residential Setbacks
3. Interpret the Boundaries of a Zoning District
4. Off-Street Parking Requirements
5. Landscaping Requirements
6. Screening Requirements

Section 314. Petition for a Subdivision Waiver

A. Purpose

The purpose of a petition for a subdivision waiver to a particular standard or requirement with these UDO subdivision regulations, as such are applicable to plats or construction plans, is to determine whether or not such particular standard or requirement should be applied to an application.

B. Definitions

Subdivision waivers shall be classified as Minor Subdivision Waiver (see “Waiver, Minor Subdivision”) or Major Subdivision Waiver (see “Waiver, Major Subdivision”), as defined in Chapter 10. Definitions.

C. Decision-Maker

1. Minor Subdivision Waiver

a. Decision-Maker Authority

The Administrative Official shall act upon a Minor Subdivision Waiver listed as follows:

- i. Permit required for a screening fence or wall
- ii. Subdivision name requirements
- iii. Screening requirement between a nonresidential use and park and open space
- iv. Maximum alley length
- v. Right angles for side lot lines
- vi. Traffic impact analysis
- vii. Water lines extended to subdivision borders
- viii. Wastewater lines extended to subdivision borders
- ix. Sidewalks

b. Appeal of a Minor Subdivision Waiver Decision

i. Appeal Review and Recommendation

An appeal of the Minor Subdivision Waiver decision may be considered by the Planning and Zoning Commission.

ii. Appeal Decision

If further appeal is made, the City Council shall then act on such an appeal. (See J below).

2. Major Subdivision Waiver

a. Decision-Maker Authority

After review and recommendation from the Planning and Zoning Commission, the City Council shall decide a Major Subdivision Waiver.

D. Subdivision Waiver Applicability

1. Waiver of Standard or Requirement

- a. An applicant may request a subdivision waiver of a particular standard or requirement applicable to a preliminary plat, to construction plans, or where no preliminary plat application has been submitted for approval, to a final plat or a replat.
- b. A subdivision waiver petition shall be specific in nature, and shall only involve relief consideration for one particular standard or requirement.
- c. An Applicant may, if desired, submit more than one subdivision waiver petition if there are several standards or requirements at issue.
- d. For processing a subdivision waiver in relationship with a plat application, an applicant shall submit a waiver of right to 30-day action in accordance with Section 307.B.4 Waiver of Right to 30-Day Action.

2. Waiver Petition Acceptance

- a. A petition for a subdivision waiver shall not be accepted in lieu of a Subdivision Vested Rights Petition (see Section 310.B).

b. Financial hardship to the applicant shall not be deemed to constitute undue hardship.

5. Minimum Degree of Variation

No subdivision waiver shall be granted unless it represents the minimum degree of variation of requirements necessary to meet the needs of the applicant.

6. Violations and Conflicts

The decision-maker shall not authorize a subdivision waiver that would constitute a violation of, or conflict with, any other valid ordinance, code, regulation, master plan or Comprehensive Plan of the City.

7. Falsification of Information

a. Any falsification of information by the applicant shall be cause for the subdivision waiver request to be denied.

b. If the subdivision waiver request is approved based upon false information, whether intentional or not, discovery of such false information shall nullify prior approval of the subdivision waiver, and shall be grounds for reconsideration of the subdivision waiver request.

G. Burden of Proof

The applicant bears the burden of proof to demonstrate that the requirement for which a subdivision waiver is requested, if uniformly applied, imposes an undue hardship or disproportionate burden on the applicant. The applicant shall submit the burden of proof with the original submittal.

H. Subdivision Waiver Decision

1. The decision-maker shall consider the subdivision waiver petition and, based upon the criteria set forth in F above, shall take one of the following actions:

a. Deny the petition, and impose the standard or requirement as it is stated in these UDO subdivision regulations; or

b. Grant the petition, and waive in whole or in part the standard or requirement as it is stated in this UDO.

2. Decision Process for Minor Subdivision Waiver

The decision-maker shall deny or grant a request for a minor subdivision waiver concurrently with the decision of a preliminary plat, construction plans, final plat, or replat, as applicable.

3. Decision Process for Major Subdivision Waiver

a. Recommendation of the Planning and Zoning Commission

i. The Planning and Zoning Commission shall consider the subdivision waiver request at a public meeting no later than thirty (30) calendar days after the date on which the notice of subdivision waiver is submitted to the Administrative Official.

ii. The Planning and Zoning Commission shall recommend to the City Council deny of grant a request for a subdivision waiver by simple majority vote.

b. Decision by City Council

- i. After the recommendation from the Planning and Zoning Commission has been made, the City Council shall consider the subdivision waiver request at a public meeting no later than thirty (30) calendar days after the date on which the Planning and Zoning Commission's recommendation was made.
 - ii. The City Council deny or grant a request for a subdivision waiver by a 5/7 (e.g., super-majority) vote.
 - iii. The decision of the City Council is final.
 - I. Notification of Decision on Petition – 14 Days
The applicant shall be notified of the decision on the subdivision waiver by the City Council within fourteen (14) calendar days following the decision.
 - J. Minor Subdivision Waiver Appeal
 1. Initiation of an Appeal
 - a. The applicant may appeal a minor subdivision waiver decision of any Administrative Official, as allowed within these subdivision regulations.
 - b. The written request to appeal shall be submitted to the Administrative Official within thirty (30) calendar days following the denial decision.
 2. Recommendation of the Planning and Zoning Commission
 - a. The Planning and Zoning Commission shall consider the appeal at a public meeting no later than thirty (30) calendar days after the date on which the notice of appeal is submitted to the Administrative Official.
 - b. At this meeting, new information may be presented and considered, if available, that might alter the previous decision to deny the minor subdivision waiver.
 - c. The Planning and Zoning Commission shall recommend to the City Council to affirm, modify, or reverse the previous decision by simple majority vote.
 3. Appeal to City Council
 - a. The applicant, the Administrative Official, or four (4) members of City Council may appeal to the Planning and Zoning Commission's decision by submitting a written notice of appeal to the Administrative Official within thirty (30) calendar days following the Planning and Zoning Commission's decision.
 - b. After the recommendation from the Planning and Zoning Commission has been made, the City Council shall consider the appeal at a public hearing no later than thirty (30) calendar days after the date on which the Planning and Zoning Commission's recommendation was made.
 - c. The City Council may affirm, modify, or reverse the decision by simple majority vote.
 - d. The decision of the City Council is final.
 - K. Effect of Approval
 1. Submission and Processing
Following the granting of a subdivision waiver, the applicant may submit or continue the processing of a plat or construction plans, as applicable.

2. Expirations

The subdivision waiver granted shall remain in effect for the period the plat or construction plans are in effect, and shall expire upon expiration of either or both of those applications.

3. Extensions

Extension of those applications shall also result in extension of the subdivision waiver.

Section 315. Special Use Permit (SUP)

A. Purpose

Special use permits (SUPs) allow for review of specified uses that may be appropriate in designated areas, provided that consideration is given to conditions that will minimize any negative impacts of the use. A special use permit should be approved if these conditions can be met.

B. Who May File

An application for special use approval shall be submitted by the owner or an agent authorized by affidavit to act on the owner's behalf, unless initiated by City officials.

C. Submission of Application

A complete application shall be submitted to the Administrative Official along with the appropriate fee. The Administrative Official may require an application for special use approval to be accompanied by a site plan of existing and proposed development of the affected site.

D. Applicable Development Standards

Unless otherwise specified in this Ordinance, no special use approval shall be granted for any use that does not conform to the dimensional standards of the district in which it is located. Each special use shall also be subject to any specific use requirements set forth in this Ordinance.

E. Review by Administrative Official

After determining that the application is complete, the Administrative Official shall schedule a public hearing before the Planning and Zoning Commission.

F. Hearing and Recommendation by Planning and Zoning Commission

1. The Planning and Zoning Commission shall, after appropriate notice, conduct a public hearing on each request for approval of a special use.
2. At the public hearing, the Planning and Zoning Commission shall consider the application, any pertinent comments by City staff, other relevant support materials and public testimony given at the public hearing.
3. After the close of the public hearing, the Planning and Zoning Commission shall recommend that the City Council approve the request, approve the request with additional conditions, or deny the request. The Planning and Zoning Commission may propose such conditions as are necessary to prevent or minimize adverse effects on other property in the neighborhood, including, but not limited to: screening, buffer zones, limitations on size, bulk and location, provision of adequate ingress and egress, duration of special use approval, and hours of operation for the special use so allowed.

G. Hearing and Action by City Council

1. The City Council shall, after appropriate notice, conduct a public hearing on each request for approval of a special use.

2. At the public hearing, the City Council shall consider the application, any pertinent comments by City staff, the Planning and Zoning Commission recommendation, other relevant support materials and public testimony given at the public hearing.
3. After the close of the public hearing, the City Council shall approve the request, approve the request with additional conditions, or deny the request. The Council may attach such conditions to a special use approval as are necessary to prevent or minimize adverse effects on other property in the neighborhood, including, but not limited to: screening, buffer zones, limitations on size, density and location, provision of adequate ingress and egress, duration of special use approval, and hours of operation of the special use.
4. Where written protest against a proposed special use is made and signed by
 - a. The owners of twenty (20) percent or more of the area subject to the special use; or
 - b. The owners of twenty (20) percent or more of the area within two hundred (200) feet of the affected area,

Then the proposed special use shall require a favorable vote of at least three-fourths (3/4) of all the members of the City Council to become effective.

H. Special Use Approval Criteria

Approval of a special use by the Planning and Zoning Commission and City Council shall be based upon the following criteria.

1. Impacts Minimized

Whether and the extent to which the site plan minimizes adverse effects, including adverse visual impacts, on adjacent properties.
2. Consistent with this Ordinance

Whether and the extent to which the proposed special use would conflict with any portion of this Ordinance, including the applicable zoning district intent statement.
3. Compatible with Surrounding Area

Whether and the extent to which the proposed special use is compatible with existing and anticipated uses surrounding the subject land.
4. Traffic Circulation

Whether and the extent to which the proposed special use is likely to result in extraordinarily prolonged or recurrent congestion of surrounding streets, especially minor residential streets.
5. Effect on Natural Environment

Whether and the extent to which the proposed special use would result in significant adverse impacts on the natural environment, including but not limited to water or air quality, noise, storm water management, wildlife, vegetation, wetlands and the practical functioning of the natural environment.
6. Community Need

Whether and the extent to which the proposed special use addresses a demonstrated community need.
7. Development Patterns

Whether and the extent to which the proposed special use would result in a logical and orderly pattern of urban development in the community.

I. Expiration of a Special Use Permit Site Plan

Approval of an SUP Site Plan shall be void if a building permit is not issued and construction begun within two (2) years of the granting of the SUP.

J. Violation of Permit Requirements

Any violation of the requirements of a special use permit may be considered grounds for immediately voiding the special use permit.

Section 316. Planned Unit Development (PUD)

A. Applicability

The owner of any tract of land may request a rezoning as a planned unit development (PUD). A proposed site plan shall be submitted indicating density of residential, commercial and/or industrial areas, along with the location of all proposed streets, alleys, protective screening and open spaces.

B. Review by Administrative Official

After determining that the application is complete, the Administrative Official shall schedule a public hearing before the Planning and Zoning Commission.

C. Review by Planning and Zoning Commission

The Planning and Zoning Commission shall, after appropriate notice, conduct a public hearing on each request for approval of a planned unit development. After considering the application, pertinent comments by City staff, other relevant support materials and public testimony given at the public hearing, and after reviewing the site plan in accordance with the criteria listed in this section, the Planning and Zoning Commission shall recommend that the City Council rezone to PUD, subject to approval of the submitted site plan; recommend that the City Council rezone to PUD, subject to modifications to the submitted site plan; or recommend that the City Council deny the request.

D. Hearing and Action by City Council

1. The City Council shall, after appropriate notice, conduct a public hearing on each request for approval of a planned unit development.
2. At the public hearing, the City Council shall consider the application, any pertinent comments by City staff, the Planning and Zoning Commission recommendation, other relevant support materials and public testimony given at the public hearing.
3. After the close of the public hearing, the City Council shall rezone to PUD, subject to the submitted site plan; rezone to PUD, subject to modifications to the submitted site plan; or deny the request. The Council may attach such conditions to a planned unit development approval as are necessary to prevent or minimize adverse effects on other property in the neighborhood, including, but not limited to: limitations on size, density and location, provision of adequate ingress and egress, duration of special use approval, and hours of operation of the planned unit development.
4. Where written protest against a proposed planned unit development is made and signed by
 - a. The owners of twenty (20) percent or more of the area subject to the special use; or
 - b. The owners of twenty (20) percent or more of the area within two hundred (200) feet of the affected area,

Then the proposed special use shall require a favorable vote of at least three-fourths (3/4) of all the members of the City Council to become effective.

E. Conditions

A planned unit development granted under these provisions shall be considered as an amendment to this Ordinance as applicable to such property. In granting such planned unit development the City Council may impose or amend all conditions recommended by the Planning and Zoning Commission, plus additional conditions considered appropriate by the City Council.

F. PUD Concept Plan as Preliminary Plat

After initial approval of a PUD by the City Council, the Planning and Zoning Commission is hereby authorized to accept a PUD site plan as a preliminary plat. A final PUD will be handled as would any final plat.

G. Expiration of a PUD Site Plan

Approval of any PUD site plan shall be void if construction has not begun within two (2) years from the time of approval of the final PUD (final plat).

H. Site Plan Modifications

In no case shall an approved site plan be amended nor the area of the total planned unit development be reduced once a portion has been constructed without first resubmitting the changes as a new application for site plan approval or rezoning, as appropriate.

I. General PUD Design Criteria

All PUDs shall be designed in accordance with the following criteria.

1. The arrangement of developed uses on the site shall properly consider significant natural features and drainage patterns, views, roadway access and surrounding land uses.
2. Clustering of development sites, especially buildings, is encouraged so as to preserve natural features and provide usable common open space.
3. The circulation system shall be integrated and coordinated, with complete interconnection.
4. The street, drainage and utility systems shall be designed to accommodate the overall demand of the PUD.
5. Provision shall be made for ownership and maintenance of common open space through a homeowners association or other similar mechanism.

J. Residential PUD Density and Design Criteria

Density and design criteria for a residential planned unit development shall be as follows:

1. A Residential PUD shall be at least six (6) residential lots or a two (2) acre tract of land.
2. Residential uses shall comprise eighty (80) percent or more of the gross area of the development, with the remaining twenty (20) percent or less being used for nonresidential uses.
3. The minimum lot size, lot widths and yard areas shall be established by the Planning and Zoning Commission in accordance with a site plan approved for the development.
4. The height of buildings shall conform to Chapter 4. District Regulations.
5. Row houses, townhouse, or other attached dwellings shall contain no more than ten (10) units per building.
6. The uses or arrangement of uses shall not have a detrimental effect on adjacent properties.

7. All common open space shall require protective covenants running with the land, deed or trust; or shall be dedicated to the public as a park.

(Ord No. 2079, 11-5-13)

K. Approval Criteria

A PUD concept plan and rezoning shall be approved only if the following criteria are all met.

1. The proposal is consistent with the City’s Comprehensive Plan.
2. The PUD is necessary to address a unique situation or represents a substantial benefit to the City, compared to what could have been accomplished through strict application of the otherwise applicable zoning district standards.
3. The proposed plan mitigates any potential significant adverse impacts to the maximum practical extent.

Section 317. Subdivision

A. Subdivision Classifications. The owner of a tract of land located within the city limits or in the extraterritorial jurisdiction who divides the tract in two or more parts to lay out a subdivision of the tract, to lay out suburban, building, or other lots, or to lay out streets, alleys, squares, parks, or other parts of the tract intended to be dedicated to public use or for the use of purchasers or owners of the lots fronting on or adjacent to the streets, alleys, squares, parks, municipal utilities, or other parts must have a plat of the subdivision prepared.

1. **Amended Plat.** The relocation of common boundaries between adjacent lots which does not create additional lots, leave existing lots with any substandard dimensions, or require the extension of municipal utilities.
2. **Minor Subdivision.** A subdivision in which six lots or less are created and no dedication of public right-of-way is made.
3. **Major Subdivision.** Any subdivision which is not a Minor Subdivision or Amended Plat.
4. **Aggregation of Platted Lots.** See paragraph H below.

(Ord No. 2079, 11-5-13)

B. Items to Be Shown on Plats

1. Preliminary Plat: Preliminary plats shall be drawn to a convenient scale of not more than one hundred (100) feet to an inch and shall show the following information (on the plat or supporting document where so specified) for the area to be platted and all land within two hundred (200) feet of the outer boundary of the subdivision.
 - a. Proposed Name: The proposed name shall not duplicate the name of any plat previously recorded within San Patricio County.
 - b. Project Ownership: Name and address, including telephone number, of legal owner, or agent, of property, and citation of last instrument conveying title to each parcel of property involved in the proposed subdivision, giving grantor, grantee, date, and land records reference; and,
 - i. Verification of payment of property taxes.
 - ii. Existing covenants on the property, if any.
 - c. Adjacent Ownership: Names of adjoining property owners.

- d. Professional Firms: Name and address, including confirmed current professional Texas credentials, telephone number, of the professional person(s) responsible for subdivision design, for the design of public improvements, surveys and any environmental reports.
- e. Title Block: Graphic and numerical scale, north arrow and date.
- f. Description: Legal description of the subdivision outer boundary.
- g. Vegetation: Existing trees or other existing major plant life, if any.
- h. Encumbrances: Location of existing property lines, existing easements, rights-of-way and watercourses.
- i. Topography: The plat map shall show the existing elevations at two-foot intervals.
- j. Circulation: Location, width and names of all existing or platted streets or other public ways within or immediately adjacent to the tract, plus all proposed streets, sidewalks and pedestrian-bicycle paths.
- k. Utilities, Existing: Location, sizes, elevations and slopes of existing sewers, water mains, gas and pipelines and culverts and other underground structures and easements within the tract and immediately adjacent thereto, and utility poles on or immediately adjacent to the site.
- l. Utilities, Proposed: Proposals for connection with existing cable TV, electric, gas and telephone systems, public water and sewage systems, or alternative means of providing sanitary sewage disposal if the City grants a waiver under state law. Appropriate covenants, easements and other restrictions shall be shown.
- m. Storm Water Management Plan: Preliminary provisions for collecting and discharging surface water drainage.
- n. Soils: Soil types as indicated in the U.S. Soil Conservation Survey of San Patricio County.
- o. Environmentally Sensitive Lands: The location of any flood hazard areas or wetlands and all applicable environmentally sensitive areas shall be shown and impact reports provided as required by State and/or Federal law.
- p. Lots: Location, dimensions and areas of all proposed or existing lots.
- q. Setbacks: All setback lines based upon the applicable zoning district. (A typical lot plat is acceptable.)
- r. Recreational and Public Uses: The approximate location, dimensions and area of all parcels of land proposed to be set aside for private or public recreational or park use or other public use. Land to be dedicated to the City shall be so indicated.
- s. Common Areas: Proposed ownership and maintenance provisions of any such areas.
- t. Other Holdings: Whenever the preliminary plat covers only a part of an applicant's contiguous holdings, the applicant shall submit, at the scale of no more than two hundred (200) feet to the inch, the proposed area layout and street system of the subject plat together with the future streets, utilities and storm water systems of the remaining portion of the tract.
- u. Phasing: If the plat is to be developed in phases, such phasing shall be shown.
- v. Vicinity Map: General location map showing the proposed platted area relative to the community.
- w. Survey: Sufficient data acceptable to the City Engineer to determine readily the location, bearing and length of all lines.

- x. Land Use: Indication of the proposed use of any lot other than a single-family detached lot, e.g. multifamily, commercial, office, etc.
- y. Block and Lot Numbers: Blocks shall be consecutively numbered or lettered in alphabetical order. The blocks in numbered additions to subdivisions bearing the same name shall be numbered or lettered consecutively throughout the several additions. All lots in each block shall be consecutively numbered. Out-lots shall be lettered in alphabetical order.
- z. TxDOT Approval: Proof of Texas Department of Transportation approval for driveway locations and spacing shall be indicated on the face of the preliminary plat, if applicable.

(Ord No. 2079, 11-5-13)

2. Final Subdivision Plat

The final subdivision plat (major or minor) shall be presented at the same scale and consistent with the preliminary plat (including any conditions of approval). The final subdivision plat must meet the following in addition to items required by preliminary plat:

- a. Notation of any covenants and self-imposed restrictions, and locations of any building setback lines proposed to be established in this manner, if required by the City in accordance with these regulations.
- b. Lots numbered as approved by the City Engineer.
- c. Streets named as approved by the City Engineer.
- d. All monuments erected, corner, and other points established in the field in accordance with Chapter 970, VTCA.
- e. Executed mortgage approval and acknowledgment.
- f. The final subdivision plat shall be prepared by a land surveyor licensed by the State of Texas.

3. Subdivision Construction Plans

Construction plans shall be prepared for all required improvements. Plans shall be drawn at a scale of no more than one inch equals fifty (50) feet, and map sheets shall be of convenient size approved by the City Engineer. Upon completion of the improvements, the engineer shall provide the city with as-built plans. The city shall be supplied plans in a format and quantity as determined by the Administrative Official. The Developer's Engineer shall also supply the city with the construction costs (labor and material) of the water, sewer, storm sewer, and street improvements. In addition to the design requirements of this Section, the following shall be shown:

- a. Streets

Profiles showing existing and proposed elevations along the centerline of all roads. Where a proposed road intersects an existing road or roads, the elevation along the centerline of the existing road or roads within one hundred (100) feet of the intersection shall be shown. Radii of all curves, lengths of tangents, and central angles on all streets shall be shown. Plans and profiles showing the locations and typical cross section of street pavements, including curbs and gutters, sidewalks, drainage easements, servitude, rights-of-way, manholes, and catch basins. Unless otherwise allowed, all street sections shall be level and symmetrical.
- b. Other Public Improvements

The locations of bicycle paths, street trees, the street lighting and electrical plan, and street signs; the

location, size and invert elevations of existing and proposed sanitary sewers, storm water drains, swales, catch basins, fire hydrants showing connections to any existing or proposed utility system; and exact location and size of all water, gas or other underground utilities or structures.

c. Other Governmental Permits

If the public improvement plans require permits from County, State or Federal agencies, the applicant shall obtain such permits prior to City approval of the construction plans.

d. Grading Plan

Specifications and references required by the City's Construction Standards and Specifications (adopted by separate Ordinance) relative to the site grading plan for the entire subdivision.

e. Engineer

Title, name, address, seal, and signature of the registered professional engineer responsible for the above.

4. Final Engineering Report

The final plat shall be accompanied by an engineering report bearing the signed and dated seal of a professional engineer registered in the State of Texas. The engineering report shall discuss the availability and methodology of providing water facilities and wastewater treatment service to individual lots within the subdivision. A detailed cost estimate per lot acceptable to the City shall be provided for those unconstructed water supply and distribution facilities and for wastewater collection and treatment facilities, which are necessary to serve each lot of the subdivision. The plan shall include a construction schedule for each significant element needed to provide adequate water or wastewater facilities. If financial guarantees are to be provided under E below, the schedule shall include the start dates and completion dates.

a. Public Water Systems

i. Where water supplies are to be provided by an existing public water system, the subdivider shall furnish an executed contractual agreement in substantially the form attached in Appendix 1A between the subdivider and the retail public utility to the effect that the retail public utility has or will have the ability to supply the total flow anticipated from the ultimate development and occupancy of the proposed subdivision for a minimum of thirty (30) years and that the subdivider has provided for the payment of costs or fees for the connection of each individual lot to the public water system, including water meters, water acquisition fees, or other necessary expenses required by the retail public utility. Before final plat approval, plans and specifications for the proposed water facilities shall have been approved by all entities having jurisdiction over the proposed project, which may include the TCEQ and the county health department in addition to the responsible departments of the City. If groundwater is to be the source of the water supply, the final engineering report shall include a groundwater availability study, which shall include comments regarding the long term (thirty [30] years) quantity and quality of the available groundwater supplies relative to the ultimate needs of the subdivision.

- ii. Where there is no existing retail public utility to construct and maintain the proposed water facilities, the subdivider shall establish a retail public utility and obtain a Certificate of Convenience and Necessity (CCN) from the TCEQ and include evidence of the CCN issuance with the plat. Before final plat approval, plans and specifications for the proposed water facilities shall have been approved by all entities having jurisdiction over the proposed project. If ground water is to be the source of the water supply, the final engineering report shall include a groundwater availability study which shall include an analysis of the long term (thirty [30] years) quantity and quality of the available groundwater supplies relative to the ultimate needs of the subdivision. If surface water is the source of supply then the final engineering report shall include evidence that sufficient water rights have been obtained and dedicated, either through acquisition or wholesale water supply agreement that will provide a sufficient supply to serve the needs of the subdivision for a term of not less than thirty (30) years.
- b. Non-Public Water System

Where individual wells are proposed for the supply of drinking water to residences, the final engineering report shall include the quantitative and qualitative results of sampling the test wells in accordance with Section 614.B.4. The results of such analyses shall be made available to the prospective property owners. If the water quality of the test well required pursuant to Section 614.B.4 does not meet the water quality standards as set forth in that section without treatment by an identified and commercially available water treatment system, then the final report must state the type of treatment system that will treat the water produced from the well to the specified water quality standards, the location of at least one commercial establishment within the county at which the system is available for purchase, and the cost of such system, the cost of installation of the system, and the estimated monthly maintenance cost of the treatment system. The engineer shall issue a statement concerning the availability of groundwater supplies to serve the fully developed subdivision over the next thirty (30) years. Such statement may be based on information available from the Texas Water Development Board's Office of Planning. The description of the required sanitary control easement shall be included.
- c. Organized Sewerage Facilities
 - i. Where wastewater treatment is to be provided by an existing retail public utility, the subdivider shall furnish evidence of a contractual agreement in substantially the form attached in Appendix 1B between the subdivider and the retail public utility to the effect that the retail public utility has or will have the ability to treat the total flow anticipated from the ultimate development and that the subdivider has paid the cost of all fees associated with connection to the wastewater collection and treatment system have been paid so that service is immediately available to each lot. Before final plat approval, an appropriate permit to dispose of wastes shall have been obtained from the TCEQ and plans and specifications for the proposed wastewater collection and treatment facilities shall have been approved by all entities having jurisdiction over the proposed project.
 - ii. Where there is no existing retail public utility to construct and maintain the proposed sewerage facilities, the subdivider shall establish a retail public utility and obtain a CCN from the TCEQ. Before final plat approval, a wastewater treatment permit authorizing the treatment of the wastewater for the ultimate build-out population of the subdivision shall have been obtained from the TCEQ and plans and specifications for the proposed sewerage facilities shall have been approved by all entities having jurisdiction over the proposed project.

d. On-Site Sewerage Facilities

Where private on-site sewerage facilities are proposed, the final engineering report shall include planning materials required by 30 TAC, §285.4(c), or as amended, including the site evaluation described by 30 TAC, §285.30, or as amended, and all other information required by applicable OSSF regulations.

5. Nonresidential Subdivision

Nonresidential subdivisions are governed by the standards of this Ordinance in concert with other applicable City Ordinances.

a. Driveways and other points of access to and from arterial, and collectors must be approved and shall be designed in accordance with sound planning and engineering principles which promote the public health, safety and general welfare.

b. Pedestrian ways, sidewalks and fencing are required improvements for public safety.

C. Preliminary Plat, Major Subdivision.

1. Pre-Application Conference

Owner Representation. An application for approval of a plat shall be filed by the record owner of the property to be subdivided or the duly authorized agent of the record owner. Before preparing the preliminary plat for a subdivision, the applicant must discuss with Administrative Official the procedures and requirements of this Ordinance. A rough preliminary or "sketch plan" of the area to be subdivided shall be required for this procedure.

2. Application Procedure and Requirements

After receiving direction from City Staff, an application shall be submitted to the City on forms provided for that purpose and in the quantity specified thereon. The application shall be accompanied by twelve (12) copies of the preliminary plat.

3. Staff Review

After receipt of application, the City Staff shall review the preliminary plat, determine if the application is complete in accordance with Section 307 Application Completeness and Expiration, and if the application is deemed complete, shall render a recommendation to the Planning and Zoning Commission at the next regularly scheduled meeting of the Planning and Zoning Commission.

4. Planning and Zoning Commission

After reviewing the preliminary plat along with staff's recommendations, the Planning and Zoning Commission will advise the applicant of the specific changes or additions, if any, it will require in the layout and required improvements as a prerequisite to the preliminary plat approval. The Planning and Zoning Commission may approve, approve with conditions or reject the preliminary plat. Approval shall constitute authorization for the applicant to prepare and submit construction plans and a final plat to the Planning and Zoning Commission. Should the preliminary plat be rejected, the developer may appeal to the City Council under the procedures outlined in paragraph P below.

5. Effective Period of Preliminary Plat Approval

A preliminary plat shall be effective for a period of six months, at the end of which time, a final plat shall have been submitted in accordance with paragraph D below. An extension of the preliminary plat for not more than six months may be granted by the Planning and Zoning Commission prior to the expiration of the initial preliminary plat approval. This provision shall also apply to the first phase of a sectionalized

subdivision (see paragraph G below).

6. Plat Amendment

A preliminary plat shall be amended by the same procedure outlined in Section 317, except that a vote of one more than a simple majority of Planning and Zoning Commission quorum present shall be required for such change.

7. Resubmission of Expired Plat

Any expired plat that is resubmitted shall be subject to any amendments to this Ordinance adopted prior to resubmission.

D. Final Plat, Major or Minor Subdivision

1. Application Procedure and Requirements. Owner Representation. An application for approval of a plat shall be filed by the record owner of the property to be subdivided or the duly authorized agent of the record owner. Following the approval of the preliminary plat for major subdivisions, or following a pre-application conference for minor subdivisions, the applicant shall submit a final plat. It shall be accompanied by the following:

- a. A copy of the approved Preliminary Plat (for Major Subdivisions) or a copy of a survey of the property showing all adjacent owners (for Minor Subdivisions).
- b. Final Plat: five (5) copies for initial review, twelve (12) copies for Planning and Zoning Commission approval.
- c. Subdivision Construction Plans: three copies including drainage plans for review and approval by the Administrative Official (if public improvements are to be constructed).
- d. Dedications
- e. Tax certificate
- f. All 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 Manager.
- g. Utility Verification Letters showing that the electric, cable, and other utility providers have reviewed the plat and take no exception.
- h. Geotechnical report per Section 607.J.
- i. Geometric closure report.
- j. Texas Department of Transportation driveway permit, if applicable.

(Ord No. 2079, 11-5-13)

2. Staff Review

The City Staff shall review the Final Plat against the Preliminary Plat along with construction plans, determine if the application is complete in accordance with Section 307 Application Completeness and Expiration, and if the application is deemed complete, shall render a recommendation to the Planning and Zoning Commission at the next regularly scheduled meeting. In the event the final plat substantially changes* from the approved preliminary plat, both plats shall be submitted, through application, to the Planning and Zoning Commission for re-evaluation. Copies of the plats and construction plans shall be available for public inspection in the Building Department.

3. Planning and Zoning Commission Action

After reviewing the final plat along with the Administrative Official's recommendations, the Planning and Zoning Commission may approve, approve with conditions or reject the final plat. Approval shall constitute the City's acceptance of public dedications and that the proposed lots comply with this Ordinance. Except as allowed in paragraph E below, the plat shall not be signed or recorded until all public improvements have been installed and all conditions of the plat approval have been met.

4. Appeal to City Council

Should the plat be rejected by the Planning and Zoning Commission, the applicant may appeal to the City Council in accordance with paragraph P below.

5. Effective Period of Final Plat Approval

An approved final plat shall be effective for a period of twelve (12) months, at the end of which time improvements shall have started. Should improvements not be started within the allotted time then both the final and the preliminary plat shall become null and void. Additional extensions of six (6) months may be requested in writing, prior to the expiration of the original approval period, to the Planning and Zoning Commission. This shall also apply to the first phase of a sectionalized subdivision.

6. Ordinance Amendments

Every plat shall conform to the appropriate regulations applicable at the time of final approval, except that any final plat that has received preliminary approval shall be exempt from any subsequent amendments to this Ordinance rendering the plat nonconforming as to bulk or use; provided that final approval is obtained as outlined in this paragraph D.

E. Financial Guarantees for Improvements

1. Applicability

If an adequate public or non-public water system or wastewater facility is not available from the City or another entity, or are not constructed by the subdivider, to serve lots intended for residential purposes of five (5) acres or less at the time final plat approval is sought, then the City shall require the owner of the subdivided tract to execute an agreement with the City secured by a bond or other alternative financial guarantees such as a cash deposit or a letter of credit. Lots of five (5) acres or less are presumed to be for residential purposes unless the land is restricted to nonresidential uses on the final plat and all deeds and contracts for deeds.

2. Bonds

The bond shall meet the following requirements:

- a. The bond or financial guarantee shall be payable to the City.
- b. The bond or financial guarantee shall be in an amount determined by the City to be adequate to ensure proper construction or installation of the public or nonpublic water facilities, and wastewater facilities to service the subdivision, including reasonable contingencies, but in no event shall the amount of the bond be less than the total amount needed to serve the subdivision as established by the engineer who certifies the plat.
- c. The bond shall be executed with sureties as may be approved by the City. The City shall establish criteria for acceptability of the surety companies issuing bonds that include but are not limited to:
 - i. Registration with the Secretary of State and be authorized to do business in Texas; and
 - ii. Authorization to issue bonds in the amount required by the City Council; and

- iii. Rating of at least B from Best's Key Rating Guide; or if the surety company does not have any such rating due to the length of time it has been a surety company, the surety company must demonstrate eligibility to participate in the surety bond guarantee program of the Small Business Administration and must be an approved surety company listed in the current United States Department of Treasury Circular 570. Such bonds shall meet the criteria contained in the rules and regulations promulgated by the United States Department of Treasury.
- d. The bond shall be conditioned upon construction or installation of water and wastewater facilities meeting the criteria established by Chapter 6. Subdivision Design and Improvements and upon construction of facilities within the time stated on the plat, or on the document attached to the plat for the subdivision, or within any extension of time granted by the City.

3. Letter of Credit

A letter of credit shall meet the following requirements:

- a. Any letter of credit submitted as a financial guarantee for combined amounts greater than \$10,000 and less than \$250,000 must be from financial institutions which meet the following qualifications:
 - i. Bank qualifications

Must be federally insured; Sheshunoff rating must be 10 or better and primary capital must be at least 6.0% of total assets; and total assets must be at least \$25 million dollars.
 - ii. Savings and loan association qualifications

Must be federally insured; tangible capital must be at least 1.5% of total assets; and total assets must be greater than \$25 million dollars; or tangible capital must be at least 3.0% of total assets if total assets are less than \$25 million dollars; and Sheshunoff rating must be 30 or better.
 - iii. Other financial institutions' qualifications

The letter of credit must be 110% collateralized by an investment instrument that would meet the qualifications for a municipal investment; the investment instrument must be registered in the City's name and the City must receive safekeeping receipts for all collateral before the letter of credit is accepted.
- b. Any letter of credit submitted as a financial guarantee for combined amounts greater than \$250,000 must be from financial institutions which meet the following qualifications:
 - i. Bank qualifications

Must be federally insured; Sheshunoff rating must be 30 or better and primary capital must be at least 7.0% of total assets; and total assets must be at least \$75 million dollars.
 - ii. Savings and loan association qualifications

Must be federally insured; tangible capital must be at least 3.0% of total assets and total assets must be greater than \$75 million dollars; or tangible capital must be at least 5.0% of total assets if total assets are less than \$75 million dollars; Sheshunoff rating must be 30 or better.
 - iii. Other financial institutions' qualifications

The letter of credit must be 110% collateralized by an investment instrument that would meet the qualifications for a municipal investment; the investment instrument must be registered in the City's name and the City must receive safekeeping receipts for all collateral before the letter of credit is accepted.

- c. The letter of credit shall list as sole beneficiary the City. The form of the letter of credit shall be modeled after the form in Exhibit A to this Ordinance.
 - d. The letter of credit shall be conditioned upon installation or construction of water and wastewater facilities meeting the standards established under Chapter 6. Subdivision Design and Improvements and upon construction of facilities within the time stated on the plat, or on the document attached to the plat for the subdivision, or within any extension of time granted by the Administrative Official.
 - 4. Financial Guarantee

The City will determine the amount of the bond, letter of credit, or cash deposit required to ensure proper construction of adequate water and wastewater facilities in the subdivision.
 - 5. Alternative to City Accepting a Financial Guarantee

The City may approve a final plat under this section without receiving a financial guarantee in the name of the City if:

 - a. The property being subdivided lies wholly within the jurisdiction of the county;
 - b. The property being subdivided lies wholly within the extraterritorial jurisdiction of a municipality; and
 - c. The City has executed an interlocal agreement with the County that imposes the obligation on the County to:
 - i. Accept the bonds, letters of credit, or other financial guarantees, that meet the requirements of this section;
 - ii. Execute the construction agreement with the subdivider; and
 - iii. Assume the obligations to enforce the terms of the financial guarantee under the conditions set forth therein and complete construction of the facilities identified in the construction agreement.
- F. Signing and Recording of Final Plat
 - 1. Signing

When installation of improvements is required, the Chairman of the Planning and Zoning Commission and the Administrative Official shall endorse approval on the plat only after all conditions of the approval have been satisfied and all improvements satisfactorily completed or a guarantee for their improvement has been accepted by the City. There shall be written evidence that the required public facilities have been installed or guaranteed in a manner satisfactory to the City provided by the developer's engineer and approved by the City Engineer.
 - 2. Recording
 - a. The Chairman and the Administrative Official shall sign the original of the subdivision plat. The applicant shall then record said plat with the County Clerk.
 - b. No building permits shall be issued until the final recorded plat has been provided to the City in a format and quantity as determined by the Administrative Official.
 - c. There shall be compliance with all requirements of this Ordinance and applicable Texas laws.
- G. Sectionalizing or Phasing

Prior to granting approval of a subdivision plat, the Planning and Zoning Commission may permit the plat to be divided into two (2) or more sections to assure the orderly development of the plat. In the event of approval of sectionalizing, the entire subdivision preliminary plat, including all sections, shall be filed with the Planning and

Zoning Commission for preliminary plat approval. The final plat may contain one or more of the approved sections for the Planning and Zoning Commission's consideration. A final plat for the subsequent phase shall be submitted within twenty-four (24) months from the date that the preceding plat was recorded. Additional extensions may be requested in writing by the developer (see paragraph C.5 above). Written approval may be granted by the Planning and Zoning Commission.

H. Aggregation of Platted Lots

When multiple platted lots from an existing subdivision are aggregated for the purpose of constructing a single building or project, an amended plat or replat shall not be required where no modification of any easement or right-of-way is involved. This exception shall not be construed as a waiver of any other requirement of this Ordinance, or of any recorded restrictions. The integrated tract shall thereafter be considered as a single lot for the purposes of this Ordinance. (For an integrated tract to be considered as a single lot without platting it as such, a structure must be placed over all interior lot lines or must maintain the minimum setback from any interior lot line that the structure is not built over.)

I. Amended Plats

Amended plats, as described in paragraph A above, may (at the discretion of the Administrative Official) be approved administratively. Where a plat amendment entails significant discretionary decision-making, the Administrative Official shall forward it for review at the next regularly scheduled Planning and Zoning Commission meeting in accordance with the provisions for a Final Plat. All plat amendments shall be conducted as follows.

1. Owner representation

An application for approval of a plat shall be filed by the record owner of the property to be subdivided or the duly authorized agent of the record owner. Applications to amend a plat shall be filled out on forms provided by the City for that purpose, be accompanied by the appropriate fees, and include the following:

- a. A property deed along with a surveyor's detailed drawing of each adjoining property owner's lot or parcel of land so affected.
- b. Each deed shall describe all ownership of acquired property.
- c. The survey shall show all new boundaries of the plat, along with the boundaries of all of the affected lots, including previous lot lines.

2. The application for a plat amendment shall be reviewed by City Staff as to compliance with all applicable City codes and ordinances. If in compliance, the application shall be signed by any affected property owners, the City Manager or designee and notarized before the City Secretary.

3. Recording of said documents shall follow procedures outlined under paragraph F.2 above, excluding the Chairman's signature requirement.

4. The adjusted property boundaries shall be so noted on the Official Zoning Map of the City.

J. Prerequisites to Approval

Final plat approval shall not be granted unless the subdivider has accomplished the following:

1. Dedicated the sites for the adequate water and wastewater treatment facilities to the appropriate political subdivision or investor-owned utility responsible for operation and maintenance of the facilities; and provided evidence that the water facilities and wastewater facilities have been constructed and maintained in accordance with the criteria established within these rules and the approvals from the Texas Health Department and Texas Commission on Environmental Quality, as appropriate, of the plans and specifications for such construction, including any change orders filed with these agencies; or
2. Obtained all necessary permits for the proposed water facilities and wastewater facilities and has entered into a financial agreement with the City secured by a bond or other alternative financial guarantee such as a cash deposit or letter of credit for the provision of water and sewerage facilities with the bond or financial guarantee meeting the criteria established in paragraph E above.

K. Time Extensions for Providing Facilities

1. Reasonableness

The City may extend, beyond the date specified on the plat or on the document attached to the plat, the date by which the required water and sewer service facilities must be fully operable if:

- a. Any financial guarantees provided with the final plat as originally submitted are effective for the time of the requested extension or new financial guarantees that comply with E above are submitted which will be effective for the period of the extension; and
- b. The City finds the extension is reasonable and not contrary to the public interest.

2. Timeliness

If the facilities are fully operable before the expiration of the extension period, the facilities are considered to have been made fully operable in a timely manner.

3. Unreasonableness

An extension is not reasonable if it would allow a residence in the subdivision to be inhabited without water or sewer services that meet the standards of Chapter 6. Subdivision Design and Improvements.

L. Maintenance Bond and Performance Bond

The contractor or developer shall provide a one year maintenance bond and performance bond (or similar instruments as approved by the City Engineer) on all construction required by the final plat and construction drawings. The bonds shall be in an amount equal to one hundred (100) percent of the construction costs, or a lesser amount set by the City Manager. This one-year period shall begin upon final acceptance of all improvements by the City. Any defects in materials or workmanship shall be corrected to satisfy the City during this period.

M. Administration

The Planning and Zoning Commission of the City shall administer the regulations and the process associated with this Section.

1. Variations and Exceptions

Whenever the tract to be subdivided is of such unusual size or shape or is surrounded by such development of unusual conditions that the strict enforcement of the regulations would entail practical difficulties or unnecessary hardships, the Planning and Zoning Commission, after public hearing and after report by staff, may vary or modify the proposed subdivision in such a way that the subdivider is allowed to develop their property in a reasonable manner, but at the same time, the public welfare and interest of the City of Portland and San Patricio County are protected and the general intent and spirit of the regulations

preserved.

2. Transfer or Sale of Land

No person owning land composing a subdivision, nor his or her agent, shall transfer or sell or contract for the transfer or sale any lot or parcel of land located within such subdivision by reference to, or exhibition of, or by any other use of a plat of such subdivision, before such final plat has been approved, filed and recorded as provided in this Ordinance. The description of such lot or parcel by metes and bounds in any contract or instrument of transfer or other documents used in the process of selling or transferring same shall not exempt such owner or agent from the penalties provided herein.

N. Construction in the Subdivision

1. Construction of Public Improvements

Prior to the installation of any improvements, the developer shall obtain written approval from the City Manager or designee. This approval shall authorize the construction of only those improvements contained with the subdivision construction plans, with the exception of utilities such as electric, gas, cable and telephone that are not required as part of the construction plans. Upon completion of the installation of any or all improvements, the City Manager or designee shall file notification in the City files that the installation has been inspected and it is in compliance with the approved improvement plans, as far as he is able to determine. This shall not relieve the developer of his responsibility in cases of improper or faulty construction, substitution of inferior materials, or unapproved deviations from the improvement plans as approved by the City.

2. Building Permits

No building or occupancy permit shall be issued for any lot hereafter platted unless such plat has been approved, filed and recorded in accordance with the requirements of this Ordinance. Exceptions are as follows:

- a. In a subdivision where completion of improvements is required, the City may permit construction of model homes in a portion of the subdivision involving up to twenty-five (25) percent of the total lots within each subdivision or phase. No certificate of occupancy shall be issued until final plat recording. Adequate access into the development for the model home(s), including police and fire equipment, shall be completed prior to the issuance of any building permit.

O. Enforcement

1. No deed or other instrument of transfer of real property in the Planning Area shall be accepted by the County Clerk for record unless said deed or instrument of transfer is for a lot or other platted area recorded or accompanied by a plat approved by the City of Portland, unless expressly exempted in Section 212.004, Texas Local Government Code, or as amended.
2. The City shall have the authority to inspect subdivision improvements within the Planning Area. Such inspection shall be facilitated through the Administrative Official or any other person designated by the City Manager.

P. Appeals

To appeal a decision by the Planning and Zoning Commission or City Council to deny a request for plat approval, the applicant must file a written request with the City within fifteen (15) days of such decision to have a hearing before the appropriate authority as stipulated below:

1. To appeal a decision of the Planning and Zoning Commission

Appeal shall be made before the City Council.

2. To appeal a decision of the City Council

After a period of six (6) months from an original appeal, a one-time appeal may be made again before the City Council, in which case such decision shall be final. Any subsequent appeal may be made before a court of law.

3. Variations and Exceptions

See M.1 above for variations and exceptions.

Q. Vacation of Plats

The City may from time to time vacate recorded plats in accordance with the rules and regulations of this Ordinance, the City Charter and State Statutes.

Section 318. Amendments to Text or Official Zoning Map

A. Who May File

1. Text Amendment

An application for amendment of the text of this Ordinance may be filed by the Administrative Official, City Manager, Planning and Zoning Commission or City Council.

2. Map Amendment

An application for an amendment of the Official Zoning Map (including any amendment required by other procedures in this Chapter) shall only be filed by the following persons:

- a. A person, firm or corporation that, together or separately, is the owner of the subject property.
- b. An authorized representative of such a person, firm or corporation. A notarized affidavit shall be required from the property owner designating such a representative.
- c. The City Council or Planning and Zoning Commission, acting of its own volition or at petition of the public. A resolution to initiate the amendment process shall appear in the minutes of the official body initiating the request.

B. Submission of Application

1. A complete application for amendment to the text of this Ordinance or the Official Zoning Map shall be submitted to the Administrative Official, along with the appropriate fee.
2. All zoning requests must include submittal of development plans or an engineered site plan.

C. Review by Administrative Official

After determining that the application is complete, the Administrative Official shall schedule a public hearing before the Planning and Zoning Commission.

D. Hearing and Recommendation by Planning and Zoning Commission

1. The Planning and Zoning Commission shall, after required notice, conduct a public hearing on each request for an amendment of the Official Zoning Map or text of this Ordinance.
2. At the public hearing, the Planning and Zoning Commission shall consider the application, comments and recommendations of City staff, other relevant support materials and public testimony given at the public hearing.

3. After the close of the public hearing, the Planning and Zoning Commission shall recommend that the City Council approve, approve with modifications, or deny the proposed amendment based on the criteria in paragraph G below.
4. A tie vote by the Planning and Zoning Commission on any proposed amendment to the Official Zoning Map or the text of this Ordinance shall be forwarded without recommendation to the City Council.

E. Hearing and Action by City Council

1. After receipt of the recommendation from the Planning and Zoning Commission, and after appropriate notice, a public hearing shall be held by the City Council before adopting any proposed change.
2. At the public hearing, the City Council shall consider the application, comments and recommendations by City staff, the Planning and Zoning Commission recommendation, other relevant support materials and public testimony given at the public hearing.
3. The City Council may approve, approve with modifications, or deny the proposed amendment.
4. Where written protest against an amendment is made and signed by
 - a. The owners of twenty (20) percent or more of the area subject to the zone change to be affected; or
 - b. The owners of twenty (20) percent or more of the area within two hundred (200) feet of the affected area,

Then the proposed amendment shall require a favorable vote of at least three-fourths (3/4) of all the members of the City Council to become effective. The area of rights-of-way and street shall be included in any computation of land area under this subsection.

F. Appeal

Appeal of an amendment to the text of this Ordinance or the Official Zoning Map by an affected party shall be made within thirty (30) days of the final action by the City Council to the Circuit Court of San Patricio County.

G. Amendment Criteria

The wisdom of amending the text of this Ordinance or the Official Zoning Map is a matter committed to the sound legislative discretion of the City Council and is not controlled by any one factor. In determining whether to adopt, adopt with modifications or deny the proposed amendment, the City Council shall consider the following factors.

1. **Compatible with Plans and Policies**
Whether the proposed amendment is compatible with the Comprehensive Plan and any other land use policies adopted by the Planning and Zoning Commission or City Council.
2. **Consistent with this Ordinance**
Whether and the extent to which the proposed amendment would conflict with any portion of this Ordinance.
3. **Compatible with Surrounding Area**
Whether and the extent to which the proposed amendment is compatible with existing and proposed uses surrounding the subject land and is the appropriate zoning district for the land.
4. **Changed Conditions**
Whether and the extent to which there are changed conditions that require an amendment.

5. Effect on Natural Environment

Whether and the extent to which the proposed amendment would result in significant adverse impacts on the natural environment, including but not limited to water and air quality, noise, storm water management, wildlife, vegetation, wetlands and the practical functioning of the natural environment.

6. Community Need

Whether and the extent to which the proposed amendment addresses a demonstrated community need.

7. Development Patterns

Whether and the extent to which the proposed amendment would result in a logical and orderly pattern of urban development in the community.

H. Development Inconsistent with Future Land Use Plan

Where proposed development is not consistent with the City's Future Land Use Plan, a concurrent Comprehensive Plan amendment shall be processed and approved prior to approval of the amendment to the Official Zoning Map.

Section 319. **Re-Application for Zoning Change Request**

See City Charter, subsection (e) of Section 6.04 Power and Duties of the Planning and Zoning Commission.

Chapter 4. District Regulations

Section 401. Establishment of Districts

A. For the purpose of this Ordinance, the City of Portland is hereby divided into the following districts:

Base Zoning Districts
R-2, Single-Family Residential
R-6, Single-Family Residential
R-7, Single-Family Residential
R-8, Single-Family Residential
R-8D, Two-Family Residential
R-15, Townhouse Residential
RMH, Manufactured Housing
R-20, Multifamily Residential
RST, Multifamily Resort
P, Professional Office
C-R, Retail Commercial
C-G, General Commercial
OT-1, Olde Town Residential
OT-2, Olde Town Mixed Use
I, Industrial
Special Purpose Districts
PUD, Planned Unit Development

(Ord No. 2094, 10-9-14)

B. The location and boundaries of the districts established here are shown on the Official Zoning Map, which is hereby incorporated into this Ordinance. The Map, together with all its notations, references and other information and any amendments, shall be as much a part of this Ordinance as if fully set forth and described here. The Official Zoning Map is on file in the Office of the City Secretary, and copies are available from the Building Department.

Section 402. Official Zoning Map

A. It shall be the duty of the Administrative Official to keep the Official Zoning Map current by entering on such map any changes which the City Council may from time to time order by amendments to this Ordinance and the Map.

B. The City Secretary, upon the adoption of this Ordinance shall affix a certificate identifying the Map as the “Official Zoning Map of the City of Portland” with the appropriate effective date.

Section 403. Rules for Interpretation of Boundaries

Where uncertainty exists with respect to the boundaries of the various districts as shown on the Official Zoning Map, the following rules apply:

- A. The district boundaries are either streets or alleys unless otherwise shown, and where the district designated on the Map is bounded approximately by street or alley lines, the street or alley shall be construed to be the boundary of the district.
- B. Where property has been divided into blocks and lots, the district boundaries shall be construed to be the lot lines, and where the districts designated on the Map are bounded approximately by lot lines, the lot lines shall be construed to be the boundary of the districts.
- C. In any un-subdivided property, the district boundary lines on the Map shall be determined by use of the scale appearing on the map. The property being subdivided shall adhere to the district boundary lines on the Map.
- D. Where the streets, alleys, or lot lines on the ground differ from lines as shown on the Map, the streets, alleys, or lot lines on the ground shall control.

Section 404. Newly Annexed Areas

- A. All territory annexed to the City of Portland after the effective date of this Ordinance shall be initially classified in accordance with the City of Portland Comprehensive Plan until permanently zoned by the City Council. Property that is designated “BB” on the Comprehensive Plan’s “Figure 25. Recommended Single Family Densities” shall be temporarily classified as R-2, Single-Family Residential. Property that is designated as “A” or “B” on the “Figure 25. Recommended Single Family Densities” shall be initially classified as R-6, Single-Family Residential. Any property not listed on the “Figure 25. Recommended Single Family Densities” shall be classified as R-6, Single-Family Residential. Permanent zoning may be approved simultaneously with annexation.

(Ord No. 2094, 10-9-14)

- B. If permanent zoning is not approved at the time of annexation, then as soon as practicable after annexation of any territory, the Planning and Zoning Commission shall recommend to the City Council a plan for permanent zoning in the area.
- C. The procedure to be followed for the modification of temporary zoning shall be the same as for any other modification of the Official Zoning Map.

Section 405. Zoning District Intent Statements

- A. Purpose

Zoning district intent statements are provided for the following purposes:

1. To indicate the general nature of permitted and prohibited uses;
 2. To indicate the nature and intensity of uses permitted;
 3. To assist with interpretation of ordinance requirements applicable to a specific zoning district;
 4. To indicate the necessity for adequate public services, including roads, potable water, sanitary sewer, drainage, etc.; and
 5. To minimize or mitigate any adverse impacts, such as noise, dust, glare, vibration, etc., between and among uses located within the same zoning district.
- B. R-2, Single-Family Residential, R-6, Single-Family Residential, R-7, Single-Family Residential, and R-8, Single-Family Residential Districts
- The intent of these districts is to provide, consistent with the City's comprehensive plan, for the location of

single-family residential uses in areas where such uses will be protected from commercial and industrial intrusions and compatible with surrounding land uses. The maximum density for R-2, Single-Family Residential shall be two (2) dwellings per acre; R-6, Single-Family Residential shall be six (6) dwelling units per acre, for R-7, Single-Family Residential, seven (7) units per acre, and for R-8, Single-Family Residential, eight (8) units per acre.

(Ord No. 2094, 10-9-14)

C. R-8D, Two-Family Residential District

The intent of this district is to provide, consistent with the City's comprehensive plan, for the location of single-family dwellings and two-family dwellings (duplexes) in areas where such uses will be protected from and compatible with surrounding land uses. The R-8D, Two-Family Residential district may be used as a transitional district between the R-6, Single-Family Residential, R-7, Single-Family Residential, or R-8, Single-Family Residential districts and higher density residential districts. The maximum density for the R-8D, Two-Family Residential district shall be eight (8) dwelling units per acre.

D. R-15, Townhouse Residential District

The intent of this district is to provide, consistent with the City's comprehensive plan, the location of townhouse units on individual platted lots, in areas where such uses will be protected from and compatible with surrounding land uses. The R-15, Townhouse Residential district may be used as a transitional district between the R-6, Single-Family Residential, R-7, Single-Family Residential, or R-8, Single-Family Residential districts and higher density residential or nonresidential districts. The maximum density for the R-15, Townhouse Residential district shall be fifteen (15) dwelling units per acre.

E. RMH, Manufactured Housing District

The intent of this district is to recognize, consistent with the City's comprehensive plan, locations where manufactured housing is compatible with surrounding residential and nonresidential land uses. The maximum density for the RMH, Manufactured Housing district is six and one-half (6.5) dwelling units per acre. This district may be used as a buffer between other residential districts and nonresidential districts.

F. R-20, Multifamily Residential District

The intent of this district is to recognize, consistent with the City's comprehensive plan, locations where multifamily housing is compatible with surrounding residential and nonresidential land uses. The maximum density for the R-20, Multifamily Residential district shall be twenty (20) units per acre. This district may be used as a transitional district between lower density residential districts and nonresidential districts.

G. RST, Multifamily Resort District

The intent of this district is to provide, consistent with the City's comprehensive plan, locations for high density single-family and multifamily residential uses, hotel and motel accommodations, marinas, and other recreational facilities for residents and visitors. The maximum density for single-family and two-family units in the RST, Multifamily Resort district shall be nine (9) units per acre, and twenty-five (25) units per acre for multifamily dwelling units. The maximum density for hotel/motel rooms shall be twenty-five (25) rooms per acre.

H. P, Professional Office District

The intent of this district is to provide, consistent with the City's comprehensive plan, locations for professional offices, medical facilities, limited retail uses and even more limited commercial activities.

I. C-R, Retail Commercial District

The intent of this district is to provide, consistent with the City's comprehensive plan, locations for retail uses throughout the community without the intrusion of more intensive general commercial uses.

J. C-G, General Commercial District

The intent of this district is to provide, consistent with the City's comprehensive plan, locations for retail and commercial activities of a more intense nature that serve the general community.

K. OT-1, Olde Town Residential District

The intent of this district is to recognize, consistent with the City's comprehensive plan, the unique potential of this historic center of the community, to promote low density residential development and permit medium to high density residential development when conditions are suitable. The maximum residential density for the OT-1, Olde Town Residential district shall be twenty (20) units per acre. Overnight accommodations are prohibited in their entirety within the OT-1, Olde Town Residential district.

L. OT-2, Olde Town Mixed Use District

The intent of this district is to recognize, consistent with the City's comprehensive plan, the unique potential of this historic center of the community, and to encourage retail, entertainment, commercial and residential activities to attract both tourists and residents. Uses that do not create activity, such as warehousing or industrial uses, are discouraged. The maximum residential density for the OT-2, Olde Town Mixed Use district shall be twenty (20) units per acre.

M. I, Industrial District

The intent of this district is to provide, consistent with the City's comprehensive plan, locations for light industrial, light manufacturing, and commercial activities that are either too intensive for more restrictive zoning districts or create nuisances. I, Industrial districts are to be located adjacent to major transportation facilities, including freeways, arterials, collectors, railroads, etc. I, Industrial districts are to provide additional setback or buffer areas to minimize objectionable impacts on adjacent property.

N. PUD, Planned Unit Development District

The intent of this district is to encourage, consistent with the City's comprehensive plan, the use of innovative and creative development techniques to benefit the City and to provide a mixture of residential and nonresidential uses in a manner that preserves natural resources, encourages non-vehicular circulation, provides a sense of community, and allows the use of flexible development standards.

Section 406. Permitted Use Table

The table in this section shall be used to determine the uses which are allowed in each district.

“P” indicates that the use is permitted by right and only a Building Permit or a Certificate of Occupancy is required (see Section 305 and Section 306).

“SP” indicates that the use requires a Special Use Permit before a Building Permit or Certificate of Occupancy can be issued. The procedure for obtaining a Special Use Permit is set forth in Section 315.

If the space is blank, the use is not permitted in that district.

[This Permitted Use Table shall not supersede or negate any other City, County, State, or Federal Statute which regulates certain activities. See Section 105.]

Use	Residential								Special			Nonresidential			
	R-2	R-6	R-7	R-8	R-8D	R-15	RMH	R-20	RST	OT-1	OT-2	P	C-R	C-G	I
RESIDENTIAL															
Single-Family Dwelling	P	P	P	P	P				P	P	P				
Two-Family Dwelling					P				SP	SP	SP				
Townhouse						P			P	P	P				
Caretaker Quarters											P				
Manufactured Home							P				SP				
Home Occupation Type 1	P	P	P	P			P	SP	P	P	P	SP			
Home Occupation Type 2							SP		SP	SP	P	SP			
Multifamily Dwelling								P		SP	SP				
Assisted Living Facility	SP	SP	SP	SP	SP	SP		P	SP	SP	P	P	SP	P	
Nursing/Convalescent Home								P	SP	SP	P	P	SP	P	
Community Home	P	P	P	P	P	P	P	P	P	P	P	SP	SP	SP	
Group Home	SP	SP	SP	SP	SP	SP		SP	SP	SP	P	SP	SP	SP	
INSTITUTIONAL/CIVIC/UTILITY															
Agriculture, Farming, Ranching	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Airport, Landing Strip, Helipad, Heliport									SP			SP	SP	SP	
Cemetery									P					P	
Civic Organization, Private								SP	SP	SP	P	P	SP	P	
Municipal Office or Building	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Hospital								SP	SP		P	P	SP	P	
Medical Clinic or Medical Office									SP		P	P	P	P	
Recycling Center															P
Religious Institution	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
School, Elementary or Secondary	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
School, College or Vocational	SP				SP	SP	SP	SP	SP	SP	P	P	P	P	P
Telecommunication Tower, Commercial											SP	SP	SP	SP	SP
Telecommunication Tower, Governmental	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Electric Utility Substation	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Water/Wastewater Treatment Facility											SP	SP	SP	SP	P
ENTERTAINMENT/RECREATION															
Adult Entertainment															SP
Amusement Redemption Machine Establishment											P				P
Arena, Stadium, Auditorium														SP	P
Dance Hall, Private Club									SP		SP		SP	SP	
Bowling Alley											P	SP	P	P	
Community Center or Recreation Facility, Private	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	P		SP		
Entertainment, Indoor									SP		P	SP	P	P	SP
Entertainment, Outdoor, Temporary, Commercial, Recreation or Amusement									SP	SP	SP	SP	SP	SP	SP
Golf Course, Country Club	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Gun Range, Indoor or Outdoor											SP			SP	P
Park, Recreation Area, Water Supply	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P

Use	Residential								Special			Nonresidential			
	R-2	R-6	R-7	R-8	R-8D	R-15	RMH	R-20	RST	OT-1	OT-2	P	C-R	C-G	I
Recreation Vehicle Park									SP	SP	SP				
Stable, Riding									SP		SP				
Theater											P	SP	P	P	
OVERNIGHT ACCOMMODATIONS															
Bed and Breakfast					SP	SP		SP	SP		P				
Boarding House								SP	SP		P				
Hotel, Motel, Inn								SP		P	SP	P	P		
Short Term Rental								SP		P					
COMMERCIAL/RETAIL															
Bank											P	P	P	P	
Convenience Store									SP		P	P	P	P	P
Contractor's Professional Office											P			P	P
Day Care (5 or more)									SP		P	P			
Farm Equipment Sales														P	P
Flea Market											SP			P	P
Fuel Sales, Gas Station											P	SP	P	P	P
Laundry, Self-Service											P	SP	SP	P	
Liquor Store													P	P	
Manufactured Housing Sales															P
Marina									P		SP			P	P
Mortuary, Funeral Home									SP		P	P	P	P	
Office, Professional									SP		P	P	P	P	
Office Showroom													SP	P	P
Office Warehouse														P	P
Parking Lot, Commercial									SP	SP	P	P	P	P	P
Pawn Shop															P
Personal Services									SP		P	P	P	P	
Quick Printer, Copy Shop, Quick Signs									SP		P	P	P	P	
Repair-- Shoe, Appliance, Electronic									SP		P	P	P	P	P
Restaurant									SP	SP	P	SP	P	P	
Retail, General									SP		P	P	P	P	
Smoker Shop															P
Storage, Self-Service or Mini-Storage											SP				P
Studio, Professional									SP		P	P	P	P	
Tattoo Parlor															P
Vehicle Parts Sales											P	SP	P	P	P
Vehicle Service, Limited: when located less than 60' from a residential property line												SP	P	P	P
Vehicle Service, Limited: when located at least 60' from a residential property line											P	SP	P	P	P
Vehicle Service, General: when located less than 60' from a residential property line														P	P
Vehicle Service, General: when located at least 60' from a residential property line											P		P	P	P
Vehicle Sales											P		SP	P	P
Veterinarian/Animal Hospital (with indoor kennels only)									SP		P	P	SP	P	P

Use	Residential								Special			Nonresidential			
	R-2	R-6	R-7	R-8	R-8D	R-15	RMH	R-20	RST	OT-1	OT-2	P	C-R	C-G	I
Veterinarian/Animal Hospital or Kennel with outdoor kennels									SP		SP	SP	SP	SP	P
INDUSTRIAL															
Manufacturing, Light														SP	P
Manufacturing, Heavy															P
Mining, Excavation															SP
Storage Yard											SP				P
Warehouse, Freight Movement															SP
Wholesale Trade														SP	P

(Ord No. 2079, 11-5-13; Ord No. 2087, 5-6-14; Ord No 2094, 10-9-14)

Section 407. Unlisted Uses

When a proposed use is not listed in the Permitted Use Table, the Administrative Official shall determine if the proposed use is allowed in a particular district, and if the proposed use requires a Special Use Permit. In order to do that, the Administrative Official shall use the intent statement of the particular district the proposed use would be conducted in and compare the characteristics of the proposed use to the other uses listed in the same district of the Permitted Use Table. Comparisons of proposed and listed uses shall focus on the following characteristics:

- A. Relative amount of site area or floor space and fixed equipment.
- B. Relative amounts of sales.
- C. Type of customers.
- D. Relative number of employees.
- E. Days and hours of operation.
- F. Building and site arrangement.
- G. Vehicles, rolling equipment, trailers and portable equipment used.
- H. Relative number of vehicle trips generated and parking.
- I. Building and site storage.
- J. Likely impact on surrounding properties.
- K. Whether the activity is likely to be found independent of the other uses on the site.

Section 408. Accessory Uses

Accessory uses are allowed by right in conjunction with a principal use. Accessory uses are subject to the same regulations as the principal use.

Section 409. District Dimensional Standards

- A. The area, width, required yards and maximum height regulations for each district are shown in the following table.

District	Min. Lot Area and Area Per Unit (SF)		Minimum Average Lot Width and Required Yards (Feet)				Max. Bldg. Height
	Lot Area	Area/Unit	Width	Front	Side	Rear	Feet
R-2, Single-Family Residential	20,000	20,000	100	35	15	25	35
R-6, Single-Family Residential	7,000	7,000	65	25	6	20	35
R-7, Single-Family Residential	6,000	6,000	60	25	5	15	35
R-8, Single-Family Residential	5,000	5,000	50	20	5	15	35
R-8D, Two-Family Residential	10,000	5,000	75	20	7.5	15	35
R-15, Townhouse Residential	12,000	2,900	100	25	10	5	35
RMH, Manufactured Housing	6,600	6,600	60	20	10	10	15
R-20, Multifamily Residential	15,000	2,180	100	25	7.5	20	35
RST, Multifamily Resort	20,000	--	--	20	15	20	--
OT-1, Olde Town Residential	5,000	--	--	20	5	15	35
OT-2, Olde Town Mixed Use	5,000	--	--	10	5	5	--
P, Professional Office	5,000	--	50	20	5	15	35
C-R, Retail Commercial	7,500	--	50	20	0 ¹	0 ¹	--
C-G, General Commercial	7,500	--	50	20	0 ¹	0 ¹	--
I, Industrial	7,500	--	50	20	0 ¹	0 ¹	--

(Ord No. 2094, 10-9-14)

NOTES:

-- = no applicable regulations.

¹ See Section 410 and Section 709.

B. Easements

No building or structure (other than fences and driveways legally permitted in advance) shall be erected or maintained closer than three (3) feet to any rear yard easement (see Section 410.H below). No building or structure (other than fences and driveways legally permitted in advance) shall be erected or maintained in any easement. Exceptions follow:

1. Accessory buildings no larger than one hundred twenty (120) square feet in area may be placed in easements in which there are no City utilities, with the written consent of all other entities operating utilities within such easements and a permit.
2. The City Council may authorize other exceptions on a case by case basis through the execution of a use privilege agreement.

C. Multiple Buildings on a Single Lot

More than one industrial, commercial, or institutional building may be erected upon a single lot or tract, but the yards and open spaces required around the boundaries of the lot or tract shall not be encroached upon by any such buildings nor shall there be any change in the intensity of use regulations.

- D. Government buildings, school buildings, necessary utility structures, churches and similar institutional facilities may exceed the maximum building height of the zoning districts in which they are located.
- E. Chimneys, cooling towers, elevators, bulkheads, water towers, stacks, stage towers, ornamental towers and similar structures may exceed the maximum building height of the zoning districts in which they are located if approved by the Administrative Official.
- F. Nonresidential buildings in the RST, Multifamily Resort, P, Professional Office, C-R, Retail Commercial, C-G, General Commercial and I, Industrial districts that exceed a height of ten (10) feet shall increase their side and/or rear setbacks two (2) additional feet for every one (1) foot of additional height if single-family dwellings about the lots on which they are located.

Section 410. Supplementary Yard Regulations

The following regulations supplement or modify the regulations in Section 409.

A. Structures in Required Yards

Every part of a required yard shall be open to the sky and unobstructed, except as expressly set forth below.

- 1. Ordinary projection of sills, belt courses, cornices, eaves and ornamental features may encroach a maximum of twenty-four (24) inches into required yards.
- 2. Accessory buildings may encroach into required yards as regulated by H below.

B. Measurement of Yard Line

Where the road is curved, the setback (yard) line shall be parallel to the curve of the road and not a straight line.

C. Platted Building Lines

Where a building line has been established by a properly recorded subdivision plat and such building line is different than the required yard established in the table above, the front, side and rear yards shall comply with the building line established by the plat.

D. Front Yards and Corner Lots

- 1. No structure shall be permitted in a required front yard except for the following.
 - a. Driveways and walks connecting the building with the public right-of-way;
 - b. Other required incidental structures such as mailboxes, lighting fixtures, and similar structures; and
 - c. In the R-2, Single-Family Residential, R-6, Single-Family Residential, R-7, Single-Family Residential, R-8, Single-Family Residential, R-8D, Two-Family Residential and RST, Multifamily Resort (Single and Two Family dwellings only) districts, structures (driveways and walks) permitted in the front yard shall not cover more than sixty-five (65) percent of the front yard.

(Ord No. 2094, 10-9-14)

2. Setback Averaging

When thirty (30) percent or more of the lots within a single block and on the same side of the street are improved with buildings that observed a smaller front yard than specified for the district, then any new building may be located between the point closest to the street line of the building on either side of the proposed building and the established front yard line for the district. This standard shall not apply where platted building lines exist.

3. Double Frontage Lots

Double frontage lots, as defined in Chapter 10. Definitions, must have the required front yard on both streets. This requirement shall not apply to existing lots of record or lots, which are in a subdivision described in Section 109.A.

4. Corner Lots

a. A corner lot shall have one front yard as required by the table above, and a side yard adjacent to the street of not less than fifteen (15) feet, except in the R-8, Single-Family Residential, OT-1, Olde Town Residential, and OT-2, Olde Town Mixed Use districts, where only a ten (10) foot side yard shall be required. A side yard adjacent to a street may be reduced as necessary to maintain a forty (40) foot width between side yards, however in no case shall the side yard be reduced to less than five (5) feet. No accessory building shall project beyond the required yard line along any street. No structure shall be built within the "vision triangle" as defined in Chapter 10.

5. Garage Access for Corner Lots

Where a garage entrance accesses directly (straight in) upon a side street, the building line for the garage structure shall be a minimum of twenty (20) feet from the side street property line. When a corner lot abuts a major thoroughfare or arterial street, there shall be no driveway or garage entrance on such street.

E. Side Yards

1. A side yard shall be provided on each side of a building in accordance with Section 409, except on a lot of record where the requirement in the table above would reduce the width between setbacks to less than forty (40) feet. In such case, the side yards may be reduced as necessary to maintain the minimum forty (40) foot width between side yards, but in no case shall the side yard be reduced to less than five (5) feet.
2. For the purpose of side yard regulations, a two-family or multifamily dwelling shall be considered as one building occupying one lot.
3. No structure shall be permitted in a required side yard except for the following:
 - a. Driveways and walks;
 - b. Fences in accordance with Section 707; and
 - c. Accessory buildings in accordance with H.7 below

F. Rear Yards

1. When a lot of record at the time of passage of this Ordinance is smaller than herein required, the rear yard shall either be in accord with Section 409, or not less than twenty (20) percent of the depth of the lot, whichever amount is smaller.
2. Accessory buildings may be placed in the required rear yard in accordance with H below.
3. In the R-2, Single-Family Residential, R-6, Single-Family Residential, R-7, Single-Family Residential, R-8, Single-Family Residential, R-8D, Two-Family Residential, and RST, Multifamily Resort (Single and Two Family dwellings only) districts, structures (porches, patios, walks, driveways, accessory buildings and swimming pools) permitted in the rear yard shall not cover more than forty (40) percent of the rear yard without a drainage plan approved by the Administrative Official.

(Ord No. 2094, 10-9-14)

G. Swimming Pools

No swimming pool shall be constructed until a permit for the principal use or structure has been obtained. The outside walls of a swimming pool or hot tub shall not project beyond the required yard line along any street. The outside walls of a swimming pool or hot tub must be at least three (3) feet from side and rear property lines. The outside walls of an in-ground swimming pool or hot tub shall also keep at least one (1) foot of horizontal distance to each one (1) foot of depth from any structure, easement, or property line (unless plans and a report are prepared by a Professional Engineer).

H. Accessory Buildings

1. Accessory buildings shall not be constructed until a permit for the principal use or structure has been obtained.
2. Accessory buildings shall not be used for dwelling purposes.
3. Detached accessory buildings shall not exceed twelve (12) feet in height unless the properties upon which they are being constructed are one (1) acre in area or larger. Detached accessory buildings being constructed upon such acreage lots shall not exceed twenty (20) feet in height.
4. Accessory buildings (attached or detached) may occupy up to twenty-five (25) percent of the required rear yard.
5. Accessory buildings shall not project beyond the required front or side yard line along any street.
6. Attached accessory buildings shall maintain the same side yard setback as required for the main structure.
7. A detached accessory building located in the rear yard of a property shall not be located closer than three (3) feet from the side or rear property line. When there is not a required side or rear yard, the building may be placed up to the property line. (see Section 409.B).

Chapter 5. Supplementary Use Standards

Section 501. Adult Entertainment

Adult entertainment shall be subject to the following standards:

A. Separation from Other Adult Entertainment Uses

The building housing an adult entertainment establishment shall not be located within one thousand (1,000) feet of any other adult entertainment use. This area shall be defined by a radius of one thousand (1,000) feet from the center point of the subject building.

B. Separation from Other Uses

The building housing an adult entertainment establishment shall be located at least one thousand (1,000) feet from the following uses:

1. Religious assembly,
2. Park,
3. Library,
4. Cultural service,
5. Child care center,
6. Elementary or secondary school, or
7. Community center.

C. Prohibited Activities

An adult entertainment use shall not be conducted in any manner that provides the observation of any material depicting, describing or relating to “specified sexual activities” or “specified anatomical areas,” from any public right-of-way. This provision shall apply to any display, decoration or show window.

Section 502. Bars, Saloons, Lounges and Dance Halls, Private Clubs

These uses are permitted in accordance with the use table, provided such uses are a minimum of three hundred (300) feet from any church, school or hospital, or any R-2, Single-Family Residential, R-6, Single-Family Residential, R-7, Single-Family Residential, R-8, Single-Family Residential, or R-8D, Two-Family Residential district boundary. All such uses shall meet the licensing requirements of the Texas Alcoholic Beverage Commission (TABC).

(Ord No. 2094, 10-9-14)

Section 503. Entertainment or Amusement, Indoor or Outdoor

A. Any commercial entertainment or amusement, including bowling alleys, shall be located at least one hundred (100) feet from any residential district boundary. An Amusement Redemption Machine Establishment shall be subject to these additional requirements:

1. Separation from Other Amusement Redemption Machine Establishments

An Amusement Redemption Machine Establishment shall not be located within three hundred (300) feet of any other Amusement Redemption Machine Establishment. This distance shall be measured from property

line to property line (including off-site parking lots).

2. Separation from Other Uses

An Amusement Redemption Machine Establishment shall be located at least three hundred (300) feet from the following uses: residential, religious assembly, library, cultural service, child care center, elementary or secondary school, or community center. This distance shall be measured from property line to property line (including off-site parking lots).

B. Amusement Redemption Machine Defined

1. Definitions

- a. Amusement Redemption Machine: An amusement redemption machine is a skill or pleasure coin-operated machine that is designed, made and adapted solely for bona fide amusement purposes, and that by operation of chance or a combination of skill and chance affords the user, in addition to any right of replay, an opportunity to receive exclusively non-cash merchandise prizes, toys, novelties, or a representation of value redeemable for those items.
- b. Amusement Redemption Machine: Included in the foregoing, an amusement redemption machine is any electronic, electromechanical, or mechanical contrivance designed, made, and adapted solely for bona fide amusement purposes if the contrivance rewards the player exclusively with noncash merchandise, prizes, or novelties, or a representation of value redeemable for those items, that have a wholesale value available from a single play of the game or device of not more than ten (10) times the amount charged to play the game or device once or five dollars (\$5.00), whichever is less.
- c. Coin-Operated Machine: A coin-operated machine includes a machine or device operated by the payment or insertion of paper currency or any other consideration.
- d. Representation of Value: A representation of value includes cash paid under authority of sweepstakes contests as provided in the Texas Business and Commerce Code, Chapter 43[B], or a gift certificate or gift card that is presented to a merchant in exchange for merchandise.

2. Excluded Machines: An amusement redemption machine does not include:

- a. A machine that awards the user non-cash merchandise prizes, toys, or novelties solely and directly from the machine, including claw, crane, or similar machines; nor
- b. A machine from which the opportunity to receive non-cash merchandise prizes, toys, or novelties, or a representation of value redeemable for those items, varies depending upon the user's ability to throw, roll, flip, toss, hit, or drop a ball or other physical object into the machine or a part thereof, including basketball, skeetball, golf, bowling, pusher, or similar machines.
- c. A machine or any device defined in Section 47.01, Penal Code, as a gambling device, or any activity prohibited or described in Chapter 47, Penal Code.

C. Local Permit Fee for Amusement Redemption Machine Premise Permit

1. Fee: An owner, operator, or lessee of premises on which an amusement redemption machine is made available to others shall be required to secure a permit by paying to the City an annual inspection and amusement redemption machine premise permit fee of three hundred dollars (\$300.00) per machine.

2. Expiration and Renewal: Annual Amusement Redemption Machine Premises Permits issued by the City shall automatically expire on the 31st day of December following its issuance, except as otherwise stated herein. Such permit shall automatically expire if the holder thereof sells, transfers equity, or otherwise disposes of such devices. The City shall not refund any portion of an amusement redemption machine premises permit after the permit is issued, nor shall it prorate or reduce in amount any fee due to the City.
3. Late penalty: Upon the expiration of a permit, and within thirty (30) days thereafter, the person making the device available to others shall obtain a renewal thereof in the same manner as an original permit if he wishes to continue operating premises on which an amusement redemption machine is made available to others. Failure by a person to pay this fee within thirty (30) days will require such person to pay an additional late fee in an amount equal to twenty (20) percent of the fee actually due or twenty (20) percent of the previous year's fee, whichever is greater.
4. Sealing: The City shall have the authority to seal any coin-operated machine located at an establishment for which an amusement redemption machine premises permit fee has not been secured. A five dollar (\$5.00) fee will be charged for the release of any machine sealed for non-payment of said amusement redemption machine premises permit fee.
5. Posting of Permit: The permit shall be conspicuously posted inside the building.
6. Revocation of Permit: The City Council may revoke any permit to maintain and operate premises on which an amusement redemption machine is made available to others when the licensee has been found guilty by a court of competent jurisdiction of violating any provision of State law or this Ordinance. After such conviction, the license may be reissued if the circumstances leading to conviction have been remedied and the premises are being maintained and operated in full compliance with law and this Ordinance. Provided, however, that an owner, operator, or lessee of premises on which an amusement redemption machine is made available to others, who is found to be in violation of this Ordinance based on a finding that the number of amusement redemption machines exceeds the number for which the premises is permitted shall be required to pay an amount equal to twice the difference of the original permit fee and the permit fee required for the number of machines actually on the premises.
7. By issuing the required permit, the City of Portland is not certifying the installation or use of the amusement redemption machines or implying in any way that such machines comply with applicable law. In applying for a permit, the applicant shall acknowledge that the City of Portland is not certifying or sanctioning the installation or use of such machines. The City of Portland and applicant shall acknowledge that the installation and use of such machines may be found to violate state law. In the event the installation and or use of such machines is found to violate any law, applicant shall acknowledge that any permit fee paid belongs to the City of Portland and will not be refunded.

Section 504. Home Occupations

- A. Home Occupations shall be designated as Type 1 and Type 2.
 1. Home Occupation Type 1 is any occupation or profession carried on by a member of the immediate family residing on the premises, provided no commodity is sold upon the premises; no person is employed other than a member of the immediate family; and no mechanical equipment is used except such as is permissible for domestic purposes.
 2. Home Occupation Type 2 is an office of a resident physician, dentist, or similar professional, when located within and a part of a dwelling, limited however to one employee outside the immediate family.

- B. Uses such as Contractors Storage Yard, Off-Site Parking, Engine or Auto Repair (when the engine or auto is not owned by a resident) or any activity which is not normally found in a residential neighborhood shall not be considered a Home Occupation and shall be allowed only in the proper zoning district.

Section 505. Industrial Uses

- A. Any trade, industry or use which, in the opinion of the Administrative Official, is in conflict with the laws of the State of Texas or the ordinances of the City of Portland shall, after consideration by said Administrative Officer, be referred to the Fire Marshal and the Public Health Officer, or other persons discharging the duties of both officers for the City of Portland, for advice and recommendation.
- B. If it is determined that the location desired and the use requested will not be dangerous to the health, safety and public welfare of the City in general and the surrounding neighborhood in particular, the application may be approved. However, if it is determined that the use requested at the location indicated will endanger the safety of the city and surrounding neighborhood by reason of fire or explosion, or that the use desired at such location will seriously affect the health, welfare and comfort of the city and surrounding neighborhood the application may be denied.
- C. The decision shall be appealable to the Board of Adjustment.

Section 506. Mobile Homes and Manufactured Housing

Mobile homes and manufactured or modular housing may be permitted in accordance with the use table, subject to the following provisions.

- A. Recreational vehicles shall not be used for habitation or occupancy within the City limits except when legally occupying a leased space in a Recreational Vehicle Park.
- B. Mobile homes or manufactured housing shall not be located upon any public street or any other place or premises belonging to the City of Portland or over which the City has complete jurisdiction; or temporarily parked for a period longer than three (3) hours on any private lot, tract or parcel of land in the City of Portland, except for the following:
 - 1. In existing mobile home parks or manufactured housing subdivisions except in OT-2, Olde Town Mixed Use where a manufactured home may be permitted by Special Use Permit when it conforms to C below, subparagraphs 1, 2, 4, 6, 7, and 8.
 - 2. As temporary housing during times of emergency as authorized by the Mayor of the City of Portland.
- C. Site Design Standards

All mobile home or manufactured housing development shall meet the applicable provisions of the following:

- 1. Foundations

All mobile homes and manufactured housing shall rest upon permanent foundations. Permanent foundations shall consist of concrete footings and concrete walls or piers designed and built in accordance with the City of Portland Construction Codes. Mobile home or manufactured housing chassis or frames shall be anchored to the foundation in a suitable manner acceptable to the Building Official. All mobile home or manufactured housing units shall have skirting installed around the base of the units, unless the foundation acts as skirting, prior to issuance of a Certificate of Occupancy.

- 2. Additions

Structures of a permanent nature added or attached to a mobile home or manufactured housing, such as enclosed porches, screened enclosures, storage closets and carports, shall conform to all applicable provisions of the City of Portland Construction Codes. The total combined area of all such additions, except carports, shall not exceed the gross area of the mobile home or manufactured housing itself.

3. Utilities

Each lot shall be supplied with water, sewer, electrical, (natural gas if applicable,) telephone and other services with such services to be underground.

4. Safety

Electrical grounding acceptable to the Building Official and hurricane tie-downs that meet Texas Windstorm requirements established by the Texas Department of Insurance for the City of Portland.

5. Buffer Areas

A mobile home or manufactured housing subdivision shall be surrounded by a screening fence or other screening device as approved by the City. Height of such screening device shall be eight (8) feet above average grade. Planted vegetation no less than five (5) feet wide along the outer perimeter of the fence shall be required.

6. Building Height

No dwelling shall exceed one story or fifteen (15) feet.

7. Home Size

Minimum size for mobile homes or manufactured housing shall be no less than four hundred eighty (480) square feet.

8. Carports and Driveways

A manufactured home situated within the OT-2, Olde Town Mixed Use district and not within a manufactured housing subdivision must have at least a single car carport with a driveway constructed of either concrete or brick pavers.

Section 507. Railroad Rights-of-Way

On all existing rights-of-way of railroad companies, regardless of the district in which such right-of-way is located, railroad trackage and accessories to railroad movement may be constructed or maintained.

Section 508. Storage, Self-Service

Self-service storage facilities shall meet all Nonresidential Design Guidelines and the requirements that follow:

- A. Said facilities shall have sufficient security lighting so as to service client security needs so that no part of the ingress and egress driveway is unlighted at night.
- B. The owner/operator of said facility shall require a written agreement with tenants to prohibit the storage of hazardous materials.
- C. Minimum aisle widths of twenty-four (24) feet shall be maintained between buildings for emergency vehicle ingress and egress.
- D. Outside storage shall be prohibited except in OT-2, Olde Town Mixed Use and I, Industrial districts.

- E. Adequate provisions shall be made by the mini-storage owner for the disposal and removal of trash and debris. Loading and unloading of dumpsters shall be accomplished on the storage facility property and shall not encroach on public or adjacent property.
- F. Any facility used as an accessory to the mini-storage facility, including but not limited to business offices, manager residence quarters, etc., shall have appropriate parking facilities for the uses intended.
- G. Storage facilities may not be placed on a lot within two hundred (200) feet of an R-2, Single-Family Residential, R-6, Single-Family Residential, R-7, Single-Family Residential, R-8, Single-Family Residential, R-8D, Two-Family Residential, R-15, Townhouse Residential, RMH, Manufactured Housing, R-20, Multifamily Residential, RST, Multifamily Resort, OT-1, Olde Town Residential, OT-2, Olde Town Mixed Use or P, Professional Office district boundary.

(Ord No. 2094, 10-9-14)

- H. Outside storage areas in OT-2, Olde Town Mixed Use shall incorporate a buffer design and landscaping including the following elements:
 1. A decorative or opaque fence consisting of conventional fencing materials eight (8) feet in height and set back from the lot line a minimum of ten (10) feet, and
 2. Areas between the lot line and the outside of the decorative or opaque fence shall incorporate landscaping in its development design. The following elements shall be incorporated in the landscape design:
 - a. Sod or other permanent vegetative ground cover (see **Table 3. Grasses** in Section 709 Buffers and Landscaping);
 - b. Herbaceous perennials and decorative grasses incorporated for effect (see **Table 3. Grasses** in Section 709 Buffers and Landscaping);
 - c. Small trees/shrubs no less than three (3) feet in height at the time of installation spaced no more than ten (10) linear feet apart (see **Table 1. Small Trees/Shrubs** in Section 709 Buffers and Landscaping);
 - d. Canopy trees with a minimum crown height of eight (8) feet at the time of installation spaced no more than thirty (30) linear feet apart (see **Table 2. Canopy Trees** in Section 709 Buffers and Landscaping); and,
 - e. An irrigation system designed to permanently support all installed vegetation.

Section 509. Temporary Uses

A. Temporary Construction Buildings or Trailers

Temporary buildings that are only used in conjunction with construction work may be permitted in any district during the period the work is under way, but such temporary buildings shall be removed upon the completion of the construction work as determined by the Administrative Official.

B. Model Home or Subdivision Sales Office

A temporary use located in the same platted subdivision in which homes or lots are offered for sale. Sales at the temporary use shall be restricted to homes and/or lots within the subdivision. Such use shall be discontinued within thirty (30) days of notice by the Building Official that seventy-five (75) percent or more of the lots in the subdivision have an occupied residence thereon.

C. Temporary or Itinerant Vendors

Temporary or itinerant vendors with fixed sites shall be prohibited within the City.

Section 510. Vehicle Sales and Service

All parking areas for vehicles (including, but not limited to cars, trucks, vans, boats and recreational vehicles) shall be improved with a surface acceptable to the Administrative Official. In general, such areas shall be paved. Required parking spaces shall not be used for storage of vehicles during business hours.

Section 511. Veterinarian, Animal Hospital and Kennels

Any new veterinarian/animal hospital with outdoor kennels and any new kennel shall be located at least one hundred (100) feet from any residential property line.

Section 512. Accessory Building Used as Caretaker Quarters

- A. When permitted, an accessory building used as a caretaker quarters shall not be used or occupied as a place of abode or residence by anyone other than:
1. A bona fide caretaker, servant, or farm worker actually and regularly employed by the land owner or occupant of the main building; or
 2. A family member of the land owner or occupant of the main building. For the purposes of this section, a family member includes a parent, child, grandparent, grandchild, aunt, uncle, niece, or nephew.
- B. Only one (1) accessory building used as a caretaker quarters shall be allowed on any lot within a permitted zoning district, and they shall be clearly incidental to the primary use. An accessory used as a living structure shall not, in any case, be leased or sold.
- C. Mobile homes and recreational vehicles may not be used as a caretaker quarters.

Section 513. Bed and Breakfast

A bed and breakfast shall meet the following requirements:

- A. Be no closer than five hundred (500) feet from any other bed and breakfast
- B. Meals may be served in guest rooms but not prepared in guest rooms. Permits to prepare and/or serve food shall be secured from the San Patricio County Department of Public Health which shall continuously inspect the residence to ensure compliance with all Texas Food Establishment Rules.
- C. The use of commercial dumpsters for day to day garbage disposal shall be prohibited.
- D. Provide two (2) off-street parking spaces for the owners and one-half (1/2) off-street parking spaces for each guest room. All such parking spaces shall be exclusive of driveways and immediately available for use (cannot be used for storage or any other purpose which prevents the owners and guests from using them). All such parking spaces shall be constructed of concrete or brick pavers and be properly drained. Parking in the front yard may be prohibited as a condition to the issuance of a Special Use Permit (to preserve the single-family residential character of the neighborhood at a street level).
- E. Comply with all requirements of the Americans with Disabilities Act.

- F. Comply with all R1 regulations of the International Building Code. The Department of Development Services shall conduct annual inspections to ensure continued compliance.
- G. Comply with all R1 regulations of the International Fire Code. The Fire Department shall conduct annual inspections to ensure continued compliance.
- H. Comply with all Hotel Occupancy Tax regulations.

Chapter 6. Subdivision Design and Improvements

Section 601. Purpose

The regulations of this Chapter have been developed in accordance with a comprehensive land use planning program to establish standards for the platting of land, plus design standards for existing and future public facility improvements relating to both public and private land use, transportation and the development of capital improvements.

Section 602. Conditions

The subdivision of land is a process conferred upon the developer by the laws of the State of Texas and through these subdivision regulations. It is the developer who is seeking to acquire the advantages of lot subdivision and upon him rests the duty of compliance with reasonable requirements established by the Planning and Zoning Commission for the design, dedication, improvement and restrictive use of the land so as to provide for the general welfare of both current and future lot owners in the subdivision and the community at large.

Section 603. Annexation

Owners of subdivision developments that are approved for development within the City's extraterritorial jurisdiction and are adjacent to the City's corporate limits, may be required to make agreement with the City to annex with final plat approval if such subdivision meets all applicable state laws regarding annexation.

Section 604. Planned Unit Developments

Planned Unit Developments (PUDs) are governed by the provisions of this Ordinance, including Section 316. Planned Unit Development (PUD) and Section 317. Subdivision.

Section 605. Design Requirements and Standards

The arrangement of streets, lots and infrastructure shall give due regard to the topography and other physical features of the property, shall be prepared in accordance with accepted engineering principles, and shall meet the following requirements and standards.

Section 606. Lot Standards

A. Lot Dimensions

Lot dimensions shall comply with the minimum standards of this Ordinance for the district being platted. In general, side lot lines shall be at right angles to street lines or radii to curving street lines. Flag lots shall be prohibited in the R-2, Single-Family Residential, R-6, Single-Family Residential, R-7, Single-Family Residential, R-8, Single-Family Residential, R-8D, Two-Family Residential, R-15, Townhouse Residential, RMH, Manufactured Housing, R-20, Multifamily Residential and RST, Multifamily Resort districts. Dimensions of corner lots shall be large enough to allow for erection of buildings, observing the minimum setback from both streets (i.e., wider by the footage differential between side yard setbacks for corner lots versus interior lots). Depth and width of nonresidential lots shall be adequate to provide for the off-street parking facilities and other site plan requirements.

(Ord No. 2094, 10-9-14)

B. Double Frontage Lots

Double frontage and reverse frontage lots should be avoided unless such lots are necessary for the development of the subdivision or are required by the City.

C. Access

All lots shall front directly upon a dedicated City street or private street. Single-family and duplex residential lots shall not have curb cuts directly on an arterial street. Additional access restrictions may be required to be specified on the plat.

D. Water Bodies

If a tract being subdivided contains a water body, or portion thereof, lot lines shall be so drawn as to distribute the entire ownership of the water body among the fees of adjacent lots unless a homeowners association is to be responsible. In the latter case, the mean high water line shall be the property line. The City may, in special cases, accept dedication of the water body. Where a watercourse separates the buildable area of a lot from the street by which it has access, provisions shall be made for installation of a culvert or other structure with a design approved by the City. In no case shall a water body be included in meeting the minimum lot size or in calculating maximum density.

E. Bluffs

No bluff or steeply sloped lot shall be subdivided without an approved soil stabilization plan, deed restrictions that ensure the plan will be implemented as well as maintained and a recorded City disclaimer. The City may require whatever methods it deems necessary to minimize soil erosion on the lot being subdivided or adjacent lots.

Section 607. Street Standards

A. Subdivision Frontage on Improved Streets

1. No subdivision shall be approved unless the area to be subdivided has frontage on and access from an existing street meeting the following criteria:
 - a. An existing state, or county road; or
 - b. A City-maintained street which meets City standards.
2. Wherever the area to be subdivided is to utilize existing street frontage, such street shall be suitably improved as provided herein.

B. Grading and Improvement Plan

All streets within or adjacent to the proposed subdivision as well as those off-site streets required to be improved as a part of the subdivision, shall be graded, paved, and improved to conform to the City of Portland Street Construction Specifications (adopted by separate ordinance), and shall be approved as to design and specification by the City .

C. Topography and Arrangement

1. Roads shall be related appropriately to the topography. Loop streets are encouraged. All streets shall be arranged so as to obtain building sites which are above the grade of the streets. A combination of steep grades and curves shall be avoided.

2. All streets shall be properly integrated with the existing thoroughfares, dedicated rights-of-way and proposed systems as established in the Comprehensive Plan.
3. Minor or local streets shall be laid out to discourage use by through traffic, to permit efficient drainage and utility systems, and to yield the minimum number of streets necessary to provide convenient and safe access to property.
4. Proposed streets shall be extended to the boundary lines of the tract to be subdivided, unless prevented by topography or other physical conditions.

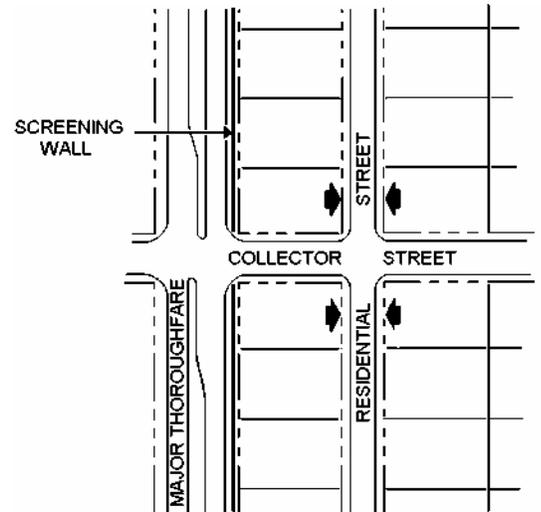
D. Access to Arterial and Collectors

Where a subdivision borders on or contains an existing or proposed arterial or collector, the City may require that access to such streets be limited by one of the following means for provision of lot access:

1. Reverse Frontage

The lots shall back onto the arterial or collector and front on a parallel street. No individual access shall be provided from the arterial or collector. In the case of residential lots, screening in one of the following forms shall be required.

- a. An opaque fence with masonry columns six (6) to eight (8) feet in height and palm trees with a minimum crown height of eight (8) feet installed every thirty (30) feet outside the fence in the street right of way; or,

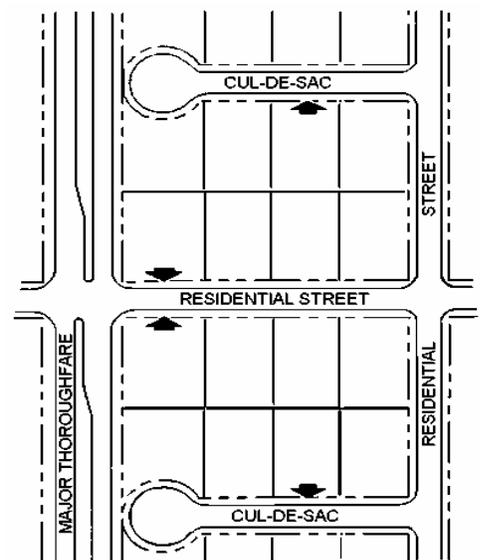


Reverse Frontage

- b. A fired brick or natural stone wall six (6) to eight (8) feet in height and trees with a minimum caliper of three (3) inches at breast height installed every twenty-five (25) linear feet outside the fence in the street right-of-way.

2. Right Angle Streets

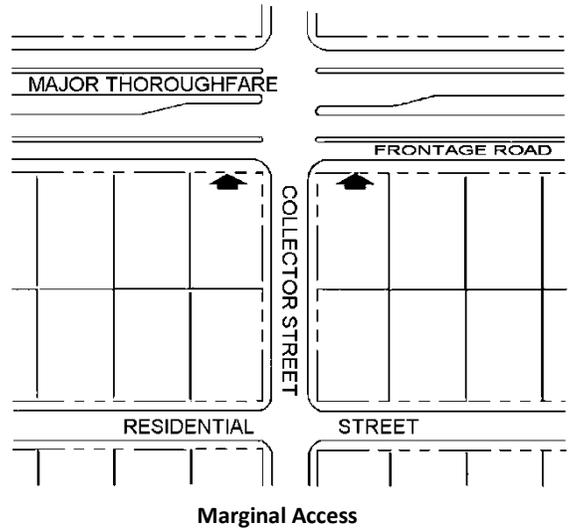
A series of cul-de-sacs or loop streets entered from and designed generally at right angles to such a street, with the side lines of their terminal lots on the arterial or collector.



Right Angle Street

3. Marginal Access

A marginal access street may be separated from the main street by a curbed median or other City approved physical barrier of no less than ten (10) feet wide, as measured inside back-of-curb to back-of-curb and having access thereto at suitable points.



E. Street Names

Names shall be sufficiently different in sound and in spelling from other street names in the City and within the City's extraterritorial jurisdiction (ETJ) so as not to cause confusion. A street that is, or is planned as, a continuation of an existing street shall bear the same name.

F. Street Signs, Markers and Traffic Control Devices

The applicant shall furnish and install street signs and traffic control devices required by the City at all road intersections. All street signs shall be installed prior to acceptance of the streets. All regulatory signs are to be placed at all intersections within or abutting the subdivision, the type and location of which shall be approved by the City.

G. Construction of Streets

The arrangement of streets shall provide for the continuation of principal streets between adjacent properties, unless otherwise set out in the City Comprehensive Plan. If the adjacent property is undeveloped and the street must temporarily be a dead-end street, the right-of-way shall be extended to the property line. A temporary circular easement may be required on all temporary dead-end streets, with the notation on the subdivision plat that the easement outside the normal street right-of-way shall revert to abutters whenever the street is continued. No platted lot can front on such a temporary turnaround.

H. Dead-End Streets (Cul-de-Sacs)

Where a road does not extend to the boundary of the subdivision and its continuation is not required by the City for access to adjoining property, its terminus shall normally not be nearer to such boundary than fifty (50) feet. However, the City may require the reservation of an appropriate easement to accommodate drainage facilities, pedestrian traffic or utilities. A cul-de-sac turnaround shall be provided at the end of a permanent dead-end street in accordance with City standards and specifications. The right-of-way for a cul-de-sac turnaround shall be a minimum of one hundred (100) feet in width, with a pavement diameter of eighty (80) feet and a center island diameter (if required) of twenty-five (25) feet. In no case shall the pavement width be less than the width of the connecting paved surface. Maximum length of a dead-end or cul-de-sac street shall be five hundred (500) feet.

I. Turn Lanes

In addition to the pavement widths specified below, the City may require intersection turn lanes (right and/or left) and acceleration/deceleration lanes should traffic projections dictate. Such lane widths shall be determined on a case-by-case basis by the City. The City may require that a street be widened, lanes to be shifted, medians constructed, or a roadway restriped if the proposed subdivision or building project generates unique traffic characteristics that present safety concerns. Such safety improvements shall be determined solely by the Administrative Official.

(Ord No. 2079, 11-5-13)

J. Surface Improvements

After utilities have been installed, the developer shall construct curbs and gutters and shall surface roadways to the widths prescribed in these regulations. All road pavement, shoulders, drainage improvements and structures, curbs, turnarounds, and sidewalks shall conform to City of Portland construction standards and specifications (which are contained in a separate ordinance), and shall be incorporated into the construction plans to be submitted for plat approval. A geotechnical report with pavement recommendations is required for the construction of road pavement. A boring plan shall be designed by a Professional Engineer licensed by the State of Texas for approval by the Administrative Official.

(Ord No. 2079, 11-5-13)

K. Design Standards for Streets

The following street design standards are further illustrated in Chapter 3: *Thoroughfares* of the City's 2012 Comprehensive Plan.

	Arterials/Thoroughfares			Collectors		Other			
	A6	A5	A4	C4	C2	R1	Marginal Access	Comm. Alley	Resid. Alley
Average Daily Traffic Volume	40,000	30,000	25,000	15,000	5,000	500	500	100	100
Design Speed	50	45	45	45	45	30	30	15	15
Right-of-Way Width	120	100	100	80	60	60	40	30	20
Lanes	6	4	4	4	4	2	2	2	1+
Median	Yes	Yes	Yes	No	No	No	No	No	No
Back of Curb to Back of Curb (including median)	92	68	68	54	44	30	28	26	14
Centerline Radius	1,500	1,000	700	700	500	300	300	100	100
Length of Vertical Curves	300	250	250	250	200	100	100	--	--
Length of Tangents between Reverse Curves	100	100	100	100	100	50	50	--	--
Curb/Platting Radius	30/20	30/20	30/20	30/20	30/20	15/15	15/15	--	--

L. Alleys

Alleys are not required for residential neighborhoods, however, when provided their rights-of-way must not be less than twenty (20) feet in width. Alleys must be provided in commercial and industrial districts, except that the Planning and Zoning Commission may waive this requirement where other provisions are made for service access, such as off-street loading, unloading, and parking consistent with and adequate for the use proposed. Alley right-of-ways serving commercial and industrial areas must not be less than thirty (30) feet wide.

M. Alignment

Horizontal curves shall be used for all changes in direction. All streets to be established in a subdivision shall be designed in accordance with paragraph K above.

N. Angles

Streets shall be laid out so as to intersect as nearly as possible at right angles. A proposed intersection of two new streets at an angle of less than eighty (80) degrees shall not be acceptable. An oblique street should be

curved approaching an intersection and should be approximately at right angles for at least one hundred (100) feet therefrom. Not more than two (2) streets shall intersect at any one point.

O. Intersections

Offset intersections less than two hundred (200) feet shall not be allowed. Street jogs with centerline off-sets of less than two hundred (200) feet shall not be permitted except where the intersected street has separated lanes without median breaks at either intersection. Proposed new intersections along one side of an existing street shall, wherever practicable, coincide with any existing intersections on the opposite side of such street.

P. Block Length

The maximum length of a block shall not exceed one thousand (1,000) feet.

Q. Curb Radius

Minimum curb radius at the intersection of two streets shall be as set out in paragraph K above. Alley intersections and abrupt changes in alignments within a block shall have the corners cut off in accordance with standard engineering practice to permit safe vehicular movement.

R. Elevation

Centerline of streets shall be at or above the base flood elevation (BFE) as indicated on the 100-year flood map, and as approved by the San Patricio Drainage District.

S. Grade

Intersections shall be designed with a flat grade wherever practical. In areas of high relief, at the approach to an intersection, a leveling area shall be provided having no greater than a two (2) percent rate at a distance of sixty (60) feet, measured from the nearest right-of-way line of the intersecting street.

T. Sight Distance

Where any street intersection will involve earth banks or existing vegetation inside any lot corner that would create a traffic hazard by limiting visibility, the developer shall cut such ground and/or vegetation (excluding singular trees) in connection with the grading of the public right-of-way in accordance with the requirements of the "Vision Triangle" as defined herein (see Chapter 10).

U. Widening and Realignment of Existing Streets

Where a subdivision borders an existing narrow street or when the Comprehensive Plan or setback regulations indicate plans for realignment or widening of streets that would require use of some of the land in the subdivision, the applicant shall be required to improve and dedicate, at his or her expense, the areas for widening or realignment of such streets. These streets shall be improved and dedicated to the full width as required by this Ordinance and the City's street standards.

V. New Collector or Arterial

1. Where the development depends on a new arterial or collector for the efficient development of the subdivision, the developer shall dedicate and improve the street at his own expense in accordance with this Ordinance.
2. Where such a new street is planned to be built in accordance with the Comprehensive Plan by the City or State, the City may waive the requirement for the paving of that street if there is not demonstrable need for the street by the subdivision being developed. However, the developer shall dedicate the right-of-way in conformance with the Comprehensive Plan and right-of-way width requirements. Any land reserved for road purposes shall not be counted in satisfying any zoning lot size, open space or other similar requirements.

W. Standards in Previously Developed Areas

Development in areas of the City and ETJ which have existing streets and conditions which do not meet the requirements of this Ordinance shall be subject to the following standards.

1. Minimum right-of-way width shall be fifty (50) feet.
2. Minimum pavement width shall be twenty (20) feet.
3. Where there is no curb, gutter and sidewalk on adjoining properties and directly across the street, the Administrative Official may exempt development from the requirements for curb and gutter, provision of sidewalks, or both requirements.

X. Right-of-Way Maintenance

Decorative subdivision access points (entries and exits), boulevard medians and rights-of-way located behind or outside subdivision perimeter fences shall be maintained in perpetuity by the developer or a home owners association.

Section 608. Parking Area Construction Standards

For parking area construction standards, see the City's parking design criteria on file with the Administrative Official.

Section 609. Block Standards**A. Two Tiers of Lots Required**

Blocks shall have sufficient width to provide for two tiers of lots of appropriate depths. Exceptions to this prescribed block width shall be permitted in blocks adjacent to major streets, railroads or waterways.

B. Length

The lengths, widths and shapes of blocks shall be such as are appropriate for the locality and the type of development contemplated, but generally block lengths in residential areas shall meet the standards of Section 607.

C. Pedestrian Ways

Pedestrian ways (right-of-way) not less than twelve (12) feet wide, may be required through the center of blocks more than five hundred (500) feet long to provide access to schools, playgrounds, shopping, transportation or other community facilities (see Section 610).

Section 610. Sidewalks and Bike Paths**A. When Required**

Concrete sidewalks shall be included within the dedicated rights-of-ways of all streets except where replaced by bicycle paths when required by the City under circumstances specified in paragraph D below.

B. Sidewalk Design Standards

1. A typical residential sidewalk shall be four (4) feet in width, and a typical nonresidential sidewalk shall be five (5) feet in width; however, the City may require wider sidewalks in certain circumstances.
2. Sidewalks shall be placed on both sides of streets unless expressly waived by the City.

3. All sidewalks shall be constructed of concrete no less than four (4) inches in thickness with expansion joints as needed.
4. The property side edge of the sidewalk shall set back one (1) foot into the right-of-way, unless otherwise approved by the City.
5. All sidewalks shall be constructed in conformance with City, Texas Architectural Barriers Act and Americans with Disabilities Act standards.
6. A grass or City-approved landscaped strip at least three (3) feet wide shall separate all residential sidewalks from adjacent curbs. Sidewalks may be built adjacent to curbs when so approved by the City.

C. Pedestrian Ways Requiring Additional Right-of-Way

The City may require additional right-of-way for sidewalks and/or bike paths outside of street rights-of-way in order to facilitate pedestrian access to schools, parks or other nearby streets. These sidewalks or bicycle paths shall be located in rights-of-way at least twelve (12) feet in width. Such rights-of-way shall be indicated on the plat.

D. Bicycle Paths

1. School Access

A bicycle path may be required within the rights-of-way of any new street, other than a Minor Street, if said street segment is within a two (2) mile radius of a public school. Such bicycle path may be substituted for one of the required sidewalks.

2. Bicycle Path Standards

Such paths (paved surface) shall be paved with a smooth concrete or asphalt surface, and otherwise conform to U.S. Department of Transportation standards. Where exclusive bikeways are developed, they shall be a minimum of eight (8) feet in width for a two-way bikeway. Where sidewalk bikeways are developed, a twelve (12) foot combined sidewalk and two-way bikeway shall be required. A bike lane developed on the same grade as a roadway shall incorporate a painted stripe in the roadway, and be a minimum of four (4) feet in width.

Section 611. Pollution Plan and Silt Runoff Control

Construction plans shall include a plan to control silt runoff from the subdivision into new and/or existing streets, drainage ways and ditches. The devices used for silt retention shall be maintained on each lot until such time as a building permit is issued for that lot. Until a building permit is issued, the subdivision developer or individual lot owner shall be responsible for controlling all silt runoff.

Section 612. Flood Prone Areas

A. Filling

Whenever a plat is submitted for an area which is in an Area of Special Flood Hazard but not in a Floodway, the City may approve such subdivision, provided, that the developer indicates on the final plat, in shaded area and identified, such Area of Special Flood Hazard. It will be further indicated that the finish floor of building elevations be above the minimum elevation of the 100-year frequency flood as determined Federal Emergency Management Agency (FEMA) flood maps.

B. Overflow Zone

If a subdivision is approved in an Area of Special Flood Hazard as defined by FEMA flood maps, the plat of such

subdivision shall provide for an overflow zone along the bank of any stream or watercourse in a width that shall be sufficient in times of high water to contain or move the water, and no fill shall be placed in the overflow zone nor shall any structure be erected or placed therein. The boundaries of the overflow zone shall be subject to approval by the City.

C. Natural Storage Areas

Isolated wetlands and other natural storage areas shall be used whenever feasible for retention of storm water runoff.

Section 613. Drainage

A. Drainage Plan Review

A drainage plan, based upon a 100-year flood event, as addressed by the Federal Emergency Management Agency (FEMA), shall be submitted to the City Engineer for review and approval. Development outside the City Limits and within the City's extraterritorial jurisdiction shall be approved by the San Patricio Drainage District prior to City approval.

B. Drainage Easements

1. General Requirements

Where a development or subdivision is traversed by a watercourse or drainage way, there shall be provided a storm water easement or drainage right-of-way conforming substantially to the lines of such watercourse, and of such width as will be adequate for the purpose. The drainage may be maintained by an open channel with adequate width for maximum potential volume of flow, or other method as the City Engineer may require.

2. Easement Access

- a. Inclusion of open ditches other than swales within road rights-of-way is discouraged except where no feasible alternative exists. For underground drainage facilities and open ditches not exceeding three feet in depth, perpetual unobstructed easements at least fifteen (15) feet in width for such drainage facilities shall be provided across property outside the road lines and with satisfactory access to the road. Easements shall be indicated on the plat.
- b. When a proposed drainage system will carry water across private land outside the subdivision, appropriate drainage rights must be secured and indicated on the plat.
- c. The developer shall dedicate or provide easements for existing watercourses, distance and width to be determined by the City Engineer.

3. Drainage Rights-of-Way

Where the developer proposes to construct a drainage ditch in excess of three feet deep, or the development encompasses a ditch or drainage way in excess of three feet deep, the developer shall dedicate a right-of-way rather than an easement to the City.

Section 614. Water Facilities Development

A. Public System

Unless approved by the City Council, all new development shall connect to the City water system and provide adequate domestic water use and fire protection.

B. Standards

1. The developer shall install adequate water appurtenances (including fire hydrants), subject to City and State specifications. All water mains shall be looped and sized in accordance with the City of Portland Public Works Department Standards, Specifications and Details. (Refer to the City's water and wastewater ordinances.)
2. Subdivisions with tracts of five (5) acres or less are presumed to be residential developments unless the land is restricted to nonresidential uses on the final plat and all deeds and contracts for deeds. The establishment of residential developments with tracts of five (5) acres or less where the water supply does not meet the minimum standards of the Section are prohibited.
3. Public Water Systems
 - a. Subdividers who propose to supply drinking water by connecting to an existing public water system must provide a written agreement with the retail public utility in substantially the form attached in Appendix 1A. The agreement must provide that the retail public utility has or will have the ability to supply the total flow anticipated from the ultimate development and occupancy of the proposed subdivision for a minimum of thirty (30) years. The agreement must reflect that the subdivider has paid the cost of water meters and other necessary connection equipment, membership fees, water rights acquisition costs, or other fees associated with connection to the public water system so that service is immediately available to each lot.
 - b. Where there is no existing retail public utility to construct and maintain the proposed water facilities, the subdivider shall establish a retail public utility and obtain a Certificate of Convenience and Necessity (CCN) from the TCEQ. The public water system, the water quality and system design, construction and operation shall meet the minimum criteria set forth in 30 TAC, §§290.38-290.51 and §§290.101-290.120, or as amended. If groundwater is to be the source of the water supply, the subdivider shall have prepared and provide a copy of a groundwater availability study which shall include an analysis of the long term (thirty [30] years) quantity and quality of the available groundwater supplies relative to the ultimate needs of the subdivision. If surface water is the source of supply, the subdivider shall provide evidence that sufficient water rights have been obtained and dedicated, either through acquisition or wholesale water supply agreement that will provide a sufficient supply to serve the needs of the subdivision for a term of not less than thirty (30) years.
4. Non-Public Water Systems

Where individual wells or other non-public water systems are proposed for the supply of drinking water to residential establishments, a test well or wells located so as to be representative of the quantity and quality of water generally available from the supplying aquifer shall be drilled by the subdivider and the produced waters sampled and submitted to a private laboratory for a complete chemical and bacteriological analysis of the parameters on which there are drinking water standards. The subdivider shall have prepared and provide a copy of a groundwater availability study which shall include an analysis of the long term (30 years) quantity of the available groundwater supplies relative to the ultimate needs of the subdivision. The water quality of the water produced from the test well must meet the standards of water quality required for community water systems as set forth in 30 TAC, §§ 290.103, 290.105, 290.106, and 290.110, or as amended, either:

 - a. Without any treatment to the water; or
 - b. With treatment by an identified and commercially available water treatment system.
5. Transportation of Potable Water

The conveyance of potable water by transport truck or other mobile device to supply the domestic needs of the subdivision is not an acceptable method, except on an emergency basis. Absence of a water system meeting the standards of these rules due to the negligence of the subdivider does not constitute an emergency.

C. Plat Requirements

The location of all fire hydrants and all water supply improvements shall be shown on the preliminary plat. All fire hydrants and water supply improvements shall be in utility easements dedicated by plat or other recorded instrument.

(Ord No. 2079, 11-5-13)

Section 615. Fire Protection

A. Mains

No main shall be less than six (6) inches in diameter.

B. Residential Subdivisions

Fire hydrants in residential developments shall be located at development entrances and at appropriate street intersections determined by spacing criteria. Additional hydrants shall be spaced along roadways in accordance with the regulations required by the State Fire Marshal's Office, (no habitable structure shall be more than five hundred [500] feet from the nearest hydrant by lay of fire hose). Hydrant connections to the mains shall be no less than six (6) inches.

C. All Other Subdivisions

In nonresidential subdivisions, fire hydrants shall be spaced no greater than three hundred (300) feet apart measured within right of ways. Hydrants shall be placed at development entrances and at other strategic places. Water mains shall be no less than 8 inches in diameter. Six (6) inch mains may be used in planned building groups as outlined in the National Fire Protection Association (NFPA) 1141. Mains shall be looped.

D. Fire Hydrant Access

1. All hydrants shall be installed in such a manner as to be unobstructed and easily accessed by the Fire Department at all times.
2. All locations are to be approved by the City Fire Department. All fire hydrants and waterline extensions serving fire hydrants shall be in utility easements dedicated by plat or other recorded instrument.
3. Hydrants shall be placed a minimum of three (3) feet from roadways and driveways. They shall not be blocked by hedges, trees, parked vehicles, buildings, fences, utility poles, receptacles, signs, etc. There shall be a minimum of three (3) feet working clearance around every hydrant.

(Ord No. 2079, 11-5-13)

E. Hydrant Specifications

All fire hydrants shall be approved by the City, and shall have one (1) 4.5 inch steamer and two (2) 2.5 inch ports (inside diameter). Hydrant outlet threads shall have the National Hydrant (NH) standard external threads for the size outlet supplied. Hydrants shall be painted red.

F. Hydrant Protection

Fire hydrants in commercial and industrial areas or any other area where a hydrant may be endangered by vehicles shall have guard posts. Posts shall be no less than three (3) inch diameter metal pipe, concrete filled and

painted yellow. Posts will not be placed in such a manner to be directly in front of a port or obstruct Fire Department use.

Section 616. Sanitary Sewer Facilities

A. General Requirements

The applicant shall install sanitary sewer facilities in a manner prescribed by the City's water and waste water ordinances. Plans shall be approved by the City and, where appropriate, State agencies.

B. Subdivisions

All subdivisions shall be connected to a sanitary sewer system, including taps for all lots. Where a public sanitary sewer system is not, in the judgment of the City, accessible, the applicant shall comply with all State and County laws regarding organized sewerage facilities and on site facilities

C. Lift Stations and Manholes

If sewerage from a subdivision will be served through an existing lift station or manhole, the City may require the developer to rehabilitate the lift station or manhole. If an existing lift station must be rehabilitated, or if a new lift station is required for a subdivision, the developer's engineer shall supply all necessary data and calculations to the City for review. The electrical equipment serving the lift station shall include an approved transfer switch.

D. Standards

Subdivisions with tracts of five acres or less are presumed to be residential developments unless the land is restricted to nonresidential uses on the final plat and all deeds and contracts for deeds. The establishment of residential developments with tracts of five (5) acres or less where sewer services do not meet the minimum standards of this Section are prohibited.

1. Organized Sewerage Facilities

- a. Subdividers who propose the development of an organized wastewater collection and treatment system must obtain a permit to dispose of wastes from the Texas Commission on Environmental Quality in accordance with 30 TAC Chapter 305 "Consolidated Permits", or as amended, and obtain approval of engineering planning materials for such systems under 30 TAC Chapter 317, "Design Criteria for Sewerage Systems", or as amended, from the Texas Commission on Environmental Quality.
- b. Subdividers who propose to dispose of wastewater by connecting to an existing permitted facility must provide a written agreement in substantially the form attached in Appendix 1B with the retail public utility. The agreement must provide that the retail public utility has or will have the ability to treat the total flow anticipated from the ultimate development and occupancy of the subdivision for a minimum of thirty (30) years. The agreement must reflect that the subdivider has paid the cost of all fees associated with connection to the wastewater collection and treatment system so that service is immediately available to each lot. Engineering plans for the proposed wastewater collection lines must comply with 30 TAC Chapter 317. Figure: 31 TAC, §364.33(a)(2), or as amended.

2. On-site Facilities

- a. On-site facilities which serve single-family or multifamily residential dwellings with anticipated wastewater generations of no greater than 5,000 gallons per day must be designed by a registered professional engineer or registered professional sanitarian, permitted by the authorized agent of the TCEQ, and in all respects comply with 30 TAC Chapter 285, or as amended.

- b. Proposals for on-site sewerage facilities for the on-site disposal of sewerage in the amount of 5,000 gallons per day or greater must comply with 30 TAC Chapter 317, or as amended.
 - c. On-site sewerage facilities must apply for and receive a permit from the Texas Commission on Environmental Quality or its authorized agent as required by the procedures established in Chapter 366 of the Texas Water Code, or as amended, and 30 TAC Chapter 285, or as amended.
 - d. **On-site Sewage Disposal near Lakes**
On-site sewerage facilities proposed near lakes must be licensed and installed in strict accordance with requirements established by the Texas Commission on Environmental Quality in their rules 30 TAC Chapter 285, or as amended.
 - e. **On-site Wastewater Disposal in Recharge Zones**
On-site sewerage facilities proposed within aquifer recharge zones must be licensed and installed in strict accordance with requirements established by the Texas Commission on Environmental Quality in 30 TAC Chapter 285, or as amended, and applicable Texas Commission on Environmental Quality regulations.
 - f. **Review, Inspection and Permitting of On-Site Sewerage Facilities**
The Texas Commission on Environmental Quality or its authorized agent shall review proposals for on-site sewage disposal systems and make inspections of such Systems as necessary to assure that the system is in compliance with Chapter 366 of the Texas Health and Safety Code, or as amended, and rules 30 TAC Chapter 285, or as amended. In addition to the unsatisfactory on-site disposal systems listed in 30 TAC 285.3(b), pit privies and portable toilets are not acceptable waste disposal systems for lots platted under this Ordinance.
3. **Grey Water Systems for Reuse of Treated Wastewater**
- a. **Organized or Municipal Sewerage Systems**
Any proposal for sewage collection, treatment and disposal which includes grey water reuse shall meet minimum criteria of 30 TAC 210, "Use of Reclaimed Water", or as amended, promulgated and administered by the Texas Commission on Environmental Quality.
 - b. **On-Site Sewerage Facilities**
Any proposal for on-site sewage disposal which includes provisions for grey water use shall meet the minimum criteria of 30 TAC 285, or as amended, contained within the "Construction Standards for On-Site Sewerage Facilities" promulgated by the Texas Commission on Environmental Quality.
4. **Sludge Disposal**
The disposal of sludge from water treatment and wastewater treatment facilities shall meet the criteria of 30 TAC, Chapters 312 and 317, or as amended.

Section 617. Gas Utility Standards

The installation and dedication of gas distribution mains within the subdivision will be at the option of the developer. Should gas utilities not be installed, the developer shall provide minimum six (6) inch diameter casings buried with a minimum three (3) feet of ground cover to finish grade, extending from the edge of right-of-way to right-of-way at intersections or crossings as approved on construction plans. There shall be no bends or curves in the casings unless approved by the City and the gas utility provider. Other provisions necessary for such installation shall be installed in a fashion approved by the City of Portland necessary to provide service to all lots. Casings required by this section shall

be either C-900 or SDR-21 grade plastic. All casings shall be capped in such a manner as to provide for a water tight seal and to facilitate easy access or removal of such cap.

Section 618. Street Light Standards

The subdivision developer shall install street lights at locations approved by the City, including, but not limited to the following:

- A. Intersections
- B. Approved interior block locations so the distance between street lights is five hundred (500) feet or less
- C. Curves where the delta angle is greater than 45 degrees or the centerline radius is less than one thousand (1,000) feet
- D. End of cul-de-sacs in excess of two hundred fifty (250) feet in length
- E. Dead ends when they are located more than two hundred fifty (250) feet from the nearest street light

Lighting poles shall be constructed of aluminum or City-approved equivalent. In the interest of public safety, street lighting shall be located at and/or directly across street right-of-way from fire hydrants (the City may, at its discretion, waive certain location requirements where a conflict in distance within these parameters occurs). The developer shall complete installation of said street lighting prior to acceptance of the subdivision improvements by the City. The developer shall pay for any additional cost, if any, above the credit allowance that the City receives from the utility company. The City will energize and pay all monthly charges, after power is available to the system and the City deems it appropriate.

Section 619. Other Utilities

All utility infrastructure, including, but not limited to, gas, electric, telephone and cable TV, shall be located underground throughout the interior of the subdivision, be it interior or perimeter. Whenever such existing utility infrastructure has been installed above ground, it shall be replaced with underground utility infrastructure. Underground service connections to the street property line of each platted lot shall be installed at the subdivider's expense. Electric power utilities, including transformers, shall be located and approved by the electric utility company providing the service.

Temporary electric utility infrastructure may be installed above ground and along thoroughfares adjacent to unplatted property, however, such utility infrastructure shall be replaced with permanent underground utility infrastructure as adjacent property develops.

Section 620. Park Site Dedication

- A. For residential Major Subdivisions, a dedication of park land shall be required to meet the recreational needs of the community by either a percentage of land or a payment to the City in an amount equal to the fair market value of the site. The park site size shall be at least five (5) percent of the gross area of the subject subdivision, but in no case less than one (1) acre. Such park site or alternate cash payment shall be determined by the City Council following recommendation from the Park and Recreation Board. This requirement shall also apply to Residential Planned Unit Developments (PUDs).

- B. When a subdivision is to be developed in stages or by units so that the actual platting of the park area to be dedicated in connection with said subdivision will be deferred until the second or a later unit, the developer shall complete and deliver to the City, with the final plat of the first unit of said subdivision, an appropriate deed or cash payment acceptable to the City which shall provide for the future dedication of such park.
- C. Any monies received in lieu of land for park site dedication shall be used by the City for park uses only.
- D. Any land used for bike paths and pedestrian ways shall be credited toward the required five (5) percent for parks.

Section 621. Commercial and Industrial Subdivisions

A. General

If a proposed subdivision includes land that is zoned for commercial or industrial purposes, the layout of subdivision street, parcel and block patterns shall be specifically adapted to the uses anticipated and take into account other uses in the vicinity. The following principles and standards shall be observed:

1. Streets

Street rights-of-way and pavement shall be adequate to accommodate the type and volume of traffic anticipated to be generated thereupon. Streets carrying nonresidential traffic, especially truck traffic, shall not normally be extended to the boundaries of adjacent existing or potential residential areas.

2. Special Requirements

The City may require special street, bridge, traffic signalization, curb, gutter, sidewalk, water, sewer and drainage improvements within or nearby the subdivision being developed.

3. Buffers

Every effort shall be made to protect adjacent residential areas, existing or potential, from a proposed commercial or industrial subdivision, including the provision of extra parcel depth as determined by the City.

Section 622. Easements

When necessary to accommodate utilities, storm drainage, or other infrastructure needs, easements shall be centered on side and rear lot lines. Such easements shall be wide enough for the installation, maintenance and replacement of utilities for which the easement is dedicated. Proper coordination shall be required for prior easements established in adjoining properties.

Section 623. Private Streets

Private streets may be permitted by the City with the following conditions:

- A. Private streets shall meet the City of Portland Street Specifications
- B. Private streets shall be maintained in perpetuity by the developer or a home owners association with performance guarantees
- C. Emergency access shall be guaranteed to lots fronting private streets at all times
- D. A City disclaimer shall be prominently displayed on the subdivision plat and recorded

- E. The City Council approves the use, construction and maintenance of such private streets within the city limits and extraterritorial jurisdiction
- F. The San Patricio Commissioners Court approves the use, construction and maintenance of such private streets within the extraterritorial jurisdiction

Section 624. Setbacks

In areas that lack a nationally recognized fire code as listed in Local Government Code, §234.002(b)(2) , or as amended, and lack water lines sized for fire protection, setbacks from roads and right-of-ways shall be a minimum of ten (10) feet, setbacks from adjacent property lines shall be a minimum of five feet, and shall not conflict with separation or setback distances required by rules governing public utilities, on-site sewerage facilities, or drinking water supplies. Setback lines required elsewhere in the orders or rules of the City shall control to the extent greater setbacks are therein required. (See Section 409 and Section 410.)

Section 625. Number of Dwellings per Lot

When a subdivision is restricted to single-family uses by a zoning classification or deed restriction, no more than one single-family detached dwelling shall be located on each subdivision lot. A notation of this restriction shall be placed on the face of the final plat. This restriction shall be placed in all deeds and contracts for deeds for real estate sold within the subdivision. Where otherwise authorized, proposals which include multifamily residential structures shall include adequate, detailed planning materials required by the City for determination of proper water and wastewater utility type and design.

Section 626. Criteria for Subdivisions that Occurred Prior to September 1, 1989

- A. Authority and Scope

This section shall apply only to tracts of land that were divided into two or more parts to lay out a subdivision before September 1, 1989 and have not been platted or recorded.
- B. Purpose

It is the purpose of this section to promote the public health of the City's residents, to ensure that adequate water and sewerage facilities are provided in subdivisions within the City and its extraterritorial jurisdiction, and to establish the minimum standards for pre-1989 subdivisions for which no plat has been filed or recorded in the records of the County.
- C. Required Plat

In the event that the owner of a tract of land located within the City or its extraterritorial jurisdiction who subdivided the tract into two or more parts to lay out a subdivision of the tract prior to September 1, 1989, including an addition, or to lay out suburban lots or building lots, and to lay out streets, alleys, squares, parks or other parts of the tract intended to be dedicated to public use or for the use of purchasers or owners of lots fronting on or adjacent to the streets, alleys, squares, parks, or other parts, was legally obligated to, but has failed to have a plat of the subdivision prepared, approved by the City, and filed with the County, the owner of a residential lot which was created by the subdivision may have a plat of the individual lot prepared and approved by the City Engineer as provided in this section in lieu of the filing of a plat of the subdivision.
- D. Special Criteria

The City may approve the plat of a residential lot which does not comply with the provisions of Section 317.O.1, Section 409. District Dimensional Standards, Section 624. Setbacks, Section 625. Number of Dwellings per Lot,

Section 317.B.4, and Section 317.E as applied to an individual subdivided lot if such approval is 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.

1. Owners of individual lots in a single unplatted subdivision may file a joint request for approval of their respective individual residential lots.
2. An application for approval of the plat of an individual lot shall be made in writing. The application shall state specifically the division, section, or subsection with which the plat does not comply and from which a waiver is being requested. The application shall contain available information and documentation which supports the requested approval. The applicant shall also provide such additional documentation as the City may request to support the application, including:
 - a. A copy of a dated plat, sales contract, utility records, or other acceptable documentation that the subdivision occurred prior to September 1, 1989;
 - b. The name and address of the original subdivider or the subdivider's authorized agent, if known;
 - c. A survey and plat of the lot for which approval is requested, showing existing residences, roads, and utilities; and
 - d. A deed, an affidavit of ownership or other evidence of ownership of the lot for which approval is requested.
3. Approval of plats of individual lots shall be granted subject to the limitations of state law, and based on written findings by the City that:
 - a. The lot for which approval is requested is within a tract that was subdivided prior to September 1, 1989, and is not owned by the original subdivider;
 - b. A plat was required for the subdivision, but has not been filed with the county by the subdivider legally obligated to file it;
 - c. An existing, currently occupied residential dwelling is located on the lot;
 - d. Existing, water and sewer services which comply with the minimum standards set forth in this Ordinance are available to the lot; and
 - e. The request is reasonable, compliance with specified sections of these rules is impractical, and a waiver is not contrary to the public health and safety.

E. Final Determination

The Administrative Official shall make the final decision on an application for a waiver. The applicant may withdraw a request for a waiver at any point in the process. If the requested waiver application is approved, the City shall issue a certificate stating that a plat of the residential lot has been reviewed and approved.

Chapter 7. General Development Standards

Section 701. Lot Grading and Drainage Design

- A. All lots shall be graded to ensure positive drainage toward streets or other drainage ways without altering the volume or character of run-off.
- B. Residential Lot-to-Lot Drainage
The following shall apply to residential subdivisions.
 - 1. Site grading shall be carried out in such a manner that surface water from each lot will flow directly to a storm sewer, improved channel, or paved street without crossing more than one (1) adjacent lot.
 - 2. No more than one (1) lot may drain onto an adjacent lot (i.e., multiple lots cannot drain onto the same adjacent lot).
 - 3. Subdivisions shall be designed to prevent any surface water within a storm sewer, improved channel, or paved street from flowing onto a residential lot.
- C. No certificate of occupancy shall be issued to any newly constructed building until final lot grading has been completed in accordance with the approved final subdivision plat and approved soil stabilization plan, if the lot is located on a bluff or steeply sloped.
- D. Residential foundations shall be at least eighteen (18) inches above the maximum crown elevation of uncurbed streets and eighteen (18) inches above the maximum curb height of curbed streets.

Section 702. Single-Family Residential Design Requirements

The following guidelines are intended to improve the overall quality of single-family residential neighborhoods. This section also applies to single-family attached units (i.e., duplexes or two-family dwellings).

- A. Project Design
Single-family areas should achieve a mixture of lot sizes which should generally be the balance of single-family lot sizes within a particular neighborhood area.
- B. Building Design
At the time of original construction or at the time of placement on a lot, single-family residences shall meet the following standards.
 - 1. All single-family residential units shall have a two-car garage.
 - 2. All single-family residential units shall have a driveway adequate to provide two unenclosed, off-street parking spaces.
 - 3. Driveways shall be constructed of an all-weather surface such as concrete or brick pavers. Seal coat or chip seal are not acceptable.
 - 4. The combined exterior façades and the front façade of all single-family residential units shall be constructed of at least seventy-five (75) percent masonry materials (including brick, stone, and stucco, but not including exterior insulation finishing systems [EIFS] or fiber cement siding). No metal exteriors are permitted.

5. Roofs shall have a minimum nine (9) inch overhang or soffit extending beyond the side and end walls.

C. Industrialized Housing

At the time of original construction or at the time of placement on a lot, single-family industrialized housing shall meet all the requirements of this Section 702 and the following:

1. Have a value equal to or greater than the median taxable value for each single-family unit located within 500 feet of the lot on which the industrialized housing is proposed to be located, as determined by the most recent certified ad valorem tax appraisal roll. An industrial housing applicant shall substantiate such value by doing all that follows:
 - a. Identify by address each single-family unit located within five hundred (500) feet of the lot on which industrialized housing is to be located and show the taxable value for each such single-family dwelling.
 - b. Provide at least one (1) photograph, with identifying address, of the front of each single-family unit located within five hundred (500) feet of the lot on which the industrialized housing is to be located.
 - c. Provide a copy of the sales receipt, signed by the purchaser, of the industrialized housing unit and documentation substantiating the taxable value of the lot on which the industrialized housing unit is to be located according to the most recent certified ad valorem tax appraisal roll.
2. Have exterior siding, roofing, roofing pitch, foundation fascia and fenestration compatible with the single-family dwellings located within five hundred (500) feet of the lot on which the industrialized housing is to be located.
3. Comply with municipal aesthetic standards, square footage and other site requirements applicable to single-family dwellings.
4. Meet every other subdivision, zoning and building requirement that applies to single-family units.
5. Meet the Windstorm requirements for single-family units established by the Texas Department of Insurance.
6. All single-family residential units shall be structurally connected to a permanent foundation which has been designed by an Engineer licensed by the State of Texas.

D. Garage and Driveway Preservation

Single-family garages shall not be demolished or structurally altered to prevent their use as enclosed off-street parking spaces unless at least one (1) additional off-street parking space, enclosed or unenclosed, that meets all applicable requirements can be constructed on-site. Driveways shall not be demolished or structurally altered to prevent their use as off-street parking spaces unless they can be replaced on-site by new driveways that meet all applicable requirements.

Section 703. Townhouse Design Requirements

Townhouses are permitted in accordance with the use table, provided they meet the following requirements.

A. Project Design

The following unit and area requirements shall be required.

Townhouse Development Standards	
Site Area per Unit (minimum), including common area	2,900 square feet
Lot Area (minimum)	1, 800 square feet
Lot Width (minimum)	20 feet
Connected Units (minimum)	4*
Height (maximum)	35 feet
Coverage (maximum), including buildings and parking areas	45 percent of total site area, 30 percent for common area
Private Yard (minimum)	400 square feet per unit
Front Yard (minimum)	25 feet
Side Yard (minimum)	15 feet

**The Planning and Zoning Commission may approve not more than thirty (30) percent of the units in two and three unit groups when the project contains twelve (12) or more units.*

1. Each townhouse shall be located on an individual lot.
2. A wall or solid fence not less than five (5) feet in height shall be required on side lot lines where the required private yard adjoins such lot lines; a private yard may contain a patio cover or roof which does not cover more than twenty-five (25) feet of the building line.
3. No side yard shall be required between connected townhouses or units;
4. Within a townhouse project, there shall be at least fifteen (15) feet of separation of combined side yards between each townhouse group;
5. At least ten (10) feet of side yard shall be provided at the side property line on any townhouse project;
6. All townhouses shall be set back from the rear lot line at least ten (10) feet; garages having direct access to a rear alley or common driveway shall be set back from the rear lot line at least ten (10) feet; other accessory buildings shall be set back from the rear lot line at least five (5) feet; however, the Planning and Zoning Commission may reduce or waive the required rear yard requirements where a common area or at least fifteen (15) feet in width is provided and there is provision for pedestrian and vehicular safety, utility service and privacy.
7. No townhouse group shall exceed two hundred (200) feet in length.

B. Parking and Driveways

The following parking and driveway requirements are required.

1. Two off-street parking spaces shall be provided for each townhouse; at least one such space shall be totally enclosed, and shall be located on the individual townhouse lot; any required parking space not located on the individual lot shall be located within one hundred (100) feet of the individual lot;

2. No parking shall be provided in the front fifteen (15) feet of a townhouse lot or common area nor in the twenty-five (25) feet adjacent to a side street;
3. No driveway which services an individual townhouse only and is located in the front yard of a townhouse lot shall exceed fifty (50) percent of the lot width; where a common driveway is provided to serve a group of four or more units, the driveway may occupy the entire width of the lot, provided, that said driveway shall not provide more than two points of vehicular access to a public street for each group it serves;
4. One-way common driveways shall be at least nine (9) feet in width, and two-way common driveways shall be at least eighteen (18) feet in width.

Section 704. Multifamily Residential Design Requirements

A. Applicability

The standards and criteria contained in this section shall apply to any multifamily residential development. Multifamily residential developments that are constructed as Planned Unit Developments shall also be designed in accordance with Section 3.16. Planned Unit Development (PUD).

B. Project Design

1. Multifamily residential dwelling units shall not exceed twenty-five (25) percent of all dwelling units within the City.
 - a. Multifamily developments may exceed the above requirement, but shall be required to rezone to a Planned Unit Development (PUD) (see Section 316. Planned Unit Development (PUD)).
 - b. These PUD developments are intended to result in high quality and innovative mixed density housing developments.
2. All multifamily residential developments shall have principal access to a major collector (eighty [80] feet of right-of-way or four [4] lanes of driving width).
3. Access to Texas Department of Transportation (TxDOT) system thoroughfares (U.S. Highway 181, Moore Avenue from U.S. Highway 181 right-of-way west, Wildcat Drive from U.S. Highway 181 west and Buddy Ganem Drive from U.S. Highway 181 west) requires a curb cut permit from TxDOT. Compliance with the requirements of the TxDOT Access Management Manual is a prerequisite to permit issuance.

C. Building Design

1. Facades
 - a. Façade depth and height of articulation shall be required on all exterior facades of a building:
 - i. Depth articulation of at least 15% shall be required on any front façade exceeding thirty (30) horizontal feet. In no event shall a front façade segment exceed forty-five (45) feet without depth articulation. Depth articulation applies only below the roofline.
 - ii. Height articulation of at least 15% shall be required on any front façade exceeding fifty (50) horizontal feet. In no event shall a front façade segment exceed seventy-five (75) feet without height articulation. Pitched roofs do not require height articulation.
 - b. Façade offsets shall be shown, along with calculations verifying that the building elevations meet the above requirements, on a building façade (elevation) plan, and shall be submitted for review along with the building elevations at the time of building permit application.

2. Materials

- a. At least 85 percent of all exterior walls of multifamily buildings (excluding doors and windows shall be finished in one of the following materials: brick, stone, stucco, or other masonry product as approved by the Administrative Official. The use of any one material on individual buildings shall not exceed 60 percent. At the time of submittal of building plans, elevations must be provided with a chart stating the material composition percent on each elevation of the building.
- b. Cement fiber board and similar products may be used as architectural accents only in the following locations:
 - i. Fascia and soffits.
 - ii. Interior portions of covered stairways and covered stair towers.
 - iii. Breezeways, hallways, corridors, and walkways which have a roof covering.
 - iv. As the exterior covering for fire places that are located in the interior of a building. Fire places which are located on an exterior wall shall have a masonry exterior covering.
- c. Exterior insulation finishing systems (EFIS) is not a permitted material.
- d. Any use of concrete shall have an integrated color and be textured or patterned.

3. Building variation.

- a. For any development containing at least three (3) and not more than five (5) buildings (excluding clubhouses/leasing offices), there shall be at least two (2) distinctly different building designs.
- b. For any such development containing more than five (5) buildings (excluding clubhouses/leasing offices), there shall be at least three (3) distinctly different building designs.
- c. For all developments, there shall be no more than two (2) similar buildings placed next to each other.

4. All mechanical equipment shall be screened in compliance with Section 705.F.

5. All buildings shall include gutters and downspouts or scuppers.

6. All buildings shall meet or exceed U.S. Department of Energy Building Energy Codes Program COMcheck or REScheck requirements.

7. Distances between Buildings

The minimum distances between buildings are shown in the following table. “Face” is any exterior plane of a building that is sixty (60) feet in length or longer. All buildings shall have at least two faces. “End” is any exterior plane that is not a “face”.

Building Orientation	Minimum Distance
Face to face	50 feet
Face to end	20 feet
Corner to corner	15 feet
Angled corner to face (60 to 90 degree angle)	20 feet
Courtyard face to face	30 feet
End to end	15 feet

8. Paved Areas

Driveways and other paved areas shall be constructed of an all-weather surface such as concrete or brick

pavers. Asphalt, seal coat, or chip seal are not acceptable.

D. Open Space

1. All multifamily residential projects shall incorporate open space, exclusive of paved areas, parking spaces or patios, of not less than fifteen (15) percent of the total lot area.
2. Such open space shall be landscaped and serve as an amenity for residents of the project.
3. No landscaped area shall be less than twenty (20) feet in depth adjacent to any property line or right-of-way. All landscaped areas shall be irrigated.
4. When individual units are separately owned, provision such as a homeowners association shall be made for the maintenance of all common open space.

E. Amenities

1. Multifamily developments shall incorporate recreational amenities from the list provided in the following amounts:
 - a. Multifamily developments with less than 25 dwelling units: any two amenities from Amenity List "A" or Amenity List "B";
 - b. Multifamily developments with 25 to 50 dwelling units: any three amenities from Amenity List "A" or Amenity List "B";
 - c. Multifamily developments with 50-150 dwelling units; four amenities, with at least two from List "A";
 - d. Multifamily developments with more than 150 units; five amenities with at least two from List "A"
 - e. Multifamily projects designed exclusively for senior living shall provide amenities in a similar manner as required by this section. These amenities may be of a different number and type as appropriate for such senior living projects and shall be approved by the Planning and Zoning Commission prior to the building permit issuance.
2. Amenity List "A"
 - a. Swimming Pool. The minimum acceptable size of a swimming pool shall be 1,200 square feet, however if a separate wading pool is provided, the minimum size of the pool may be 800 square feet. For developments in excess of 300 units, at least two swimming pools will be required.
 - b. Resident Clubhouse, with appropriate amenities.
 - c. Other similar project appropriate amenities as approved by the Planning and Zoning Commission.
3. Amenity List "B"
 - a. Two (2) playgrounds with a minimum size of five hundred square feet.
 - b. Basketball, volleyball, tennis, or other sport court.
 - c. Two (2) picnic areas, with a minimum size of five hundred feet per area, and including a minimum of two (2) picnic tables and one (1) barbecue grill/pit per area.
 - d. Other similar project appropriate amenities as approved by the Planning and Zoning Commission.

F. Development Plan Required

A development plan must be submitted incorporating the following information.

1. A survey of the property.
2. Location and description of all buildings and uses with setback lines.
3. Vehicular and pedestrian circulation.
4. Parking, loading and paving plan.
5. Storm water drainage plan.
6. Landscaping and proposed maintenance provisions.
7. Gross area, lot area and open space calculated to the nearest tenth (1/10th) acre.
8. Any proposed construction phasing.
9. Any proposed signage.
10. Rights-of-way, easements and utility locations.
11. Indication of existing natural features of the property, including water courses, floodplains, unique natural features, and vegetation.
12. Building elevations.
13. Any other information deemed necessary to review the application by the Administrative Official.

(Ord No.2105, 3-5-15)

Section 705. Nonresidential Design Requirements**A. Building Materials**

1. Any façade of a professional or commercial building that can be seen from an adjacent street or parking area shall be constructed of one of the following building materials:
 - a. Fired brick
 - b. Natural or polished stone
 - c. Masonry block
 - d. Tilt wall concrete panels with architectural detail
 - e. Stucco
 - f. Tile
 - g. Fiber cement siding
 - h. Glass
 - i. Smooth finish baked-on enamel factory-painted metal (does not include corrugated ridge-type metal)

2. Wood, dimensioned or siding, shall not cover more than ten (10) percent of any façade that can be seen from an adjacent street or parking area. Exterior insulation and finish systems (EIFS), stainless steel, chrome, standing seam metal and premium grade architectural metal may be used as an architectural accent, but shall not cover more than ten (10) percent of any façade. Doors of any kind may be constructed of galvanized steel and painted steel.
3. Any side or rear wall facing a public or private street or residential zoning district shall consist of the same facing materials as the building front.
4. The roof side of any parapet wall shall consist of the comparable facing materials as the front of the parapet if viewable from a public or private street.

(Ord No. 2094, 10-9-14)

B. Façade Articulation

1. The front façade of a building shall be defined as any façade that includes front entry doors and any façade that faces a public or private street.
2. Façade depth and height articulation shall be required on the front façade of a building, per the following:
 - a. Depth articulation of at least 10% shall be required on any front façade exceeding thirty (30) horizontal feet. In no event shall a front façade segment exceed forty-five (45) feet without depth articulation. Depth articulation applies only below the roofline.
 - b. Height articulation of at least 10% shall be required on any front façade exceeding fifty (50) horizontal feet. In no event shall a front façade segment exceed seventy-five (75) feet without height articulation. Pitched roofs do not require height articulation.

(Ord No. 2094, 10-9-14)

3. Façade offsets shall be shown, along with calculations verifying that the building elevations meet the above requirements, on a building façade (elevation) plan, and shall be submitted for review along with the building elevations at the time of building permit issuance.

- C. Metal buildings without a masonry façade will be allowed anywhere in the I, Industrial district or in the OT-2, Olde Town Mixed Use district if they are located at least two hundred (200) feet from Hwy. 181 or Moore Avenue.

(Ord No. 2094, 10-9-14)

- D. New buildings on previously developed lots or in existing developments must have foundations, exterior siding, fenestration, fascia and roofing that are compatible with existing buildings on the same lot or within the same development.
- E. All nonresidential buildings must be affixed to a permanent foundation.
- F. Rooftop mechanical equipment shall be screened from the view of any parking lot and public or private street at a height of six (6) feet above natural grade at a horizontal distance of five hundred (500) feet. Screening shall be comparable to facing materials required in Section 705.A.1

(Ord No. 2094, 10-9-14)

Section 706. Driveways

All driveways shall be constructed in accordance with applicable City Ordinances and Construction Standards and as

summarized below.

A. Permit Required

All construction, reconstruction, repair, removal or replacement of a driveway between any public right-of-way and any private property shall require a permit from the Building Official.

B. Maximum Width and Angle

No commercial driveway shall have a width greater than thirty-five (35) feet measured at right angles to the center line of the driveway. No private driveway shall have a width greater than twenty-four (24) feet unless it supports a front loading garage designed to store three (3) motor vehicles side by side. The width of the driveway supporting a front loading garage designed to store three (3) motor vehicles side by side shall not exceed twenty-seven (27) feet. The angle of access drives shall be 60 to 90 degrees.

C. Number and Location

The number and location of driveways shall conform to the following tables.

Frontage (feet)	Curb Return Radii (feet)		Island Length Min.	Corner Clearance		Max. # of Drives
	Min.	Max.		Desired	Minimum	
Up to 58	2.5	25	none	5	none	1
58 to 95	2.5	25	none	20	5	1
96 to 135	2.5	25	x/8	10	5	2
136 to 320	5	25	x/6	20	15	2
321 to 600	10	25	x/3	20	20	3
600 and up	Special design					

Criteria	Thoroughfare Classification	Minimum Distance between Driveways		
		Residential Driveway (ft)	Commercial/Multifamily Driveway (ft)	Industrial Driveway (ft)
Minimum Driveway Spacing Along Roadway (edge to edge)	Arterial	--	200	200
	Collector (Commercial)	--	90	90
	Collector (Residential)	20	Max. of 1 drive	--
	Local	20	--	--
Minimum Distance to Intersection Along Roadway (edge to intersecting ROW) ⁽¹⁾	Arterial	--	75 / 100 ⁽²⁾	75 / 100 ⁽²⁾
	Collector (Commercial)	--	50 / 50	50 / 50
	Collector (Residential)	20 / 20	100 / 100	--
	Local	10 / 10 from tangent to edge of drive	--	--

(1) Upstream / downstream distance to intersection.

(2) Driveway without a deceleration lane shall be located a maximum distance of one hundred seventy feet (170') to the downstream edge from the intersecting ROW.

D. Safety Zones

Safety zones shall be required separating commercial driveways in accordance with applicable City Ordinances.

E. Sidewalk Required

Every driveway, whether commercial or residential, shall be required to provide a sidewalk in accordance with applicable City Ordinances.

Section 707. Fences

Fences, including but not limited to those constructed of masonry, wood, or chain link may be erected to a height not exceeding 8 feet and may be placed along the boundaries of the lot with the following restrictions.

- A. In OT-1, Olde Town Residential, OT-2, Olde Town Mixed Use, R-2, Single-Family Residential, R-6, Single-Family Residential, R-7, Single-Family Residential, R-8, Single-Family Residential, R-8D, Two-Family Residential and R-15, Townhouse Residential districts, fences shall not be constructed in front yard areas, nor project beyond an adjoining lot's front building setback line. Residential dwellings in the Olde Town districts (OT-1 and OT-2) may erect a thirty-six (36) inch high picket fence in the front yard area.
- B. Fences shall not be erected of chain link in OT-1, Olde Town Residential, on residential lots in OT-2, Olde Town Mixed Use, R-2, Single-Family Residential, R-6, Single-Family Residential, R-7, Single-Family Residential, R-8, Single-Family Residential, R-8D, Two-Family Residential, and R-15, Townhouse Residential districts.
- C. Fences shall not be erected in side yard areas where there is double frontage in the OT-1, Olde Town Residential, OT-2, Olde Town Mixed Use, R-2, Single-Family Residential, R-6, Single-Family Residential, R-7, Single Family Residential, R-8, Single-Family Residential, R-8D, Two-Family Residential, and R-15, Townhouse Residential districts. Exceptions may be made for fences in side yard areas where there is double frontage, but only if all of the following conditions are met:
 - 1. No fence shall be erected or maintained closer than five (5) feet to any side yard property line;
 - 2. No fence shall exceed a height of four (4) feet; and
 - 3. A ten (10) foot vision triangle created by an area using rear and side yard property lines shall be maintained.
 - 4. The fence shall be eighty (80) percent transparent and be constructed of decorative wrought iron, aluminum, or vinyl (chain link, wire, or other similar materials shall be prohibited).

(Ord No. 2094, 10-9-14)

- D. Multifamily residential and all nonresidential properties may erect a decorative fence made of wrought iron, masonry, or a combination of both, in the front yard area.
- E. Fences on corner lots shall not be built higher than four (4) feet when located in the vision triangle defined in Chapter 10. Definitions. Fences permitted in front yard areas by this Section shall not negatively affect the view of traffic at the entrance or exit to the subject property or adjoining properties.
- F. Prohibited materials. No person shall build and/or maintain any fence composed, in whole or in part, of:
 - 1. Barbed wire or razor wire, except as regulated in this section;
 - 2. Welded or woven wire such as chicken wire, hog wire, stockade panels, and similar agricultural wires;
 - 3. Used materials;
 - 4. An electric fence, except as regulated in this section;
 - 5. Galvanized sheet metal, corrugated metal, or corrugated fiberglass; or
 - 6. Materials not approved for exterior exposure.

- G. Exceptions to prohibited materials.
1. On property used for agricultural purposes, provided that the fence is not otherwise prohibited by another ordinance or law, a fence may be composed of barbed wire, welded wire, or woven wire, or both and may include an electric fence if the electric fence charging device is approved by a nationally recognized testing laboratory.
 2. In a district zoned industrial or commercial, barbed wire may be used as a component of a fence provided that the fence is composed only in part of barbed wire and that portion of the fence is at least six (6) feet from the nearest grade. The barbed wire portion of the fence shall be a maximum of three (3) feet vertically or horizontally from the main portion of the fence. The barbed wire portion shall consist of individual strands of wire placed parallel to the ground and shall not be placed in a coiled or wrapped position.
 3. In a residential zone, installation of electrically-charged fencing for the purpose of security, animal containment, and other similar uses shall be in accordance with a nationally recognized testing agency. Upon installation such fencing shall be clearly identified with signage legible to each adjacent property owner and at each gate or section of fence facing a street. The signage shall be legible from a distance of five (5) feet and shall be properly maintained while fence is in use.
 4. This section does not prohibit the use of corrugated metal material with a minimum of twenty-six (26) gauge and one (1) inch corrugation when commercially designed and engineered as a fencing material as a component of a modular, prefabricated fence.
- H. All fences required by this Ordinance shall be maintained in good repair.
1. All portions of fences that face a public area shall not be allowed to lean so that the fence's axis is more than ten (10) degrees out of perpendicular alignment with its base.
 2. Fences shall be self supporting except that horizontal braces shall be allowed as long as the braces are mounted inside the property boundaries and are not visible from a public area.
 3. Fences that face a public area shall not have missing, loose, or broken pickets, slats, or panels in a fence.
 4. It shall be unlawful to allow symbols, writings, and other graffiti to remain on a fence except for those which are permitted as signs under this Code or which pertain to the address or occupancy of a property.
- I. All swimming pool enclosures shall comply with the International Swimming Pool and Spa Code, as adopted in Chapter 4, Article II, Section 4-11 of the Code of Ordinances.

(Ord No. 2087, 5-6-14)

Section 708. Non-Single Family Residential Refuse Receptacles and Waste Removal Areas

Refuse receptacles and waste removal areas, including trash cans, trash compactors and dumpsters, shall be screened from view from any street right-of-way and from any residential district, except where an opening is required for access. If access is possible only on a side that is visible from a street right-of-way or residential district, an opaque gate shall be required.

Section 709. Buffers and Landscaping

A. General

The use of drought-tolerant indigenous Texas gulf coast plant material is encouraged.

B. Residential Buffer Required

Any multifamily or nonresidential development located adjacent to a district specified in the table below shall incorporate a buffer in its development design.

Development	Adjacent Use	
	Single-Family	Multifamily
Single-Family Project		
Multifamily Project	●	
Commercial Project	●	●

C. Residential Buffer Design

A buffer strip with a minimum of ten (10) feet of depth shall be provided at the property line that separates districts. The buffer strip shall incorporate the following elements:

1. A decorative masonry wall or opaque fence with masonry columns.

This structural screen shall have a minimum height of six (6) feet and a maximum height of eight (8) feet unless it abuts a required residential front yard. In that event, the structural screen shall have a maximum height of three (3) feet.

2. Sod or other permanent vegetative ground cover.

3. Small trees/shrubs.

One specimen shall be installed per every ten (10) linear feet at a minimum. Shrubs may be placed at equal distances or in cluster formations. Specimens shall be selected from the list in **Table 1. Small Trees/Shrubs**; other drought-tolerant and native/adapted species are allowed if approved by a registered landscape architect.

Table 1. Small Trees/Shrubs

Common Name	Scientific Name
Yaupon Holly	<i>Ilex vomitoria</i>
Crape Myrtle	<i>Lagerstroemia</i> spp.
Texas Lantana	<i>Lantana horrida</i>
Trailing White Lantana	<i>Lantana montevidensis</i>
Creosote Bush	<i>Larrea tridentata</i>
Texas Sage, Cenizo, or Texas Ranger	<i>Leucophyllum frutescens</i>
Barbados Cherry	<i>Malpighia glabra</i>
Giant Turk's Cap	<i>Malvaviscus arboreous</i>
Gulf Muhly	<i>Muhlenbergia capillaris</i>
Prickly Pear Cactus	<i>Opuntia</i> spp.
Retama or Jerusalem Thorn	<i>Parkinsonia aculeata</i>
Texas Ebony	<i>Pithecellobium flexicaule</i>
Blue Plumbago	<i>Plumbago auriculata</i>
Mexican Plum	<i>Prunus mexicana</i>

Fragrant Sumac	Rhus aromatic
Smooth Sumac	Rhus glabra
Prairie Flameleaf Sumac	Rhus lanceolata
Little-leaf Sumac	Rhus microphylla
Rosemary	Rosmarinus officinalis
Dwarf Palmetto Palm	Sabal minor
Scarlet Sage	Salvia coccinea
Autumn Sage	Salvia greggii
Texas Mountain Laurel	Sophora secundiflora
Yellow Bells or Esperanza	Tecoma stans
Yucca	Yucca spp.

4. Canopy trees with a minimum caliper of three (3) inches at breast height.

One canopy tree shall be installed per every twenty-five (25) linear feet. Trees may be placed as equal distances or in cluster formations. Specimens shall be selected from the list in **Table 2. Canopy Trees**; other drought-tolerant and native/adapted species are allowed if approved by a registered landscape architect.

Table 2. Canopy Trees

Common Name	Scientific Name
Chittamwood	Bumelia lanuginosa
Mediterranean Fan Palm	Chamaerops humilis
Thornless Common Honeylocust	Gleditsia triacanthos
Canary Island Date Palm	Phoenix canariensis
Mesquite	Prosopis glandulosa
Mexican White Oak	Quercus polymorpha
Southern Live Oak	Quercus virginiana
Escarpment Live Oak	Quercus fusiformis
Texas Palmetto or Texas Sabal	Sabal mexicana
Palmetto Palm	Sabal palmetto
Western Soapberry	Sapindus drummondii
Windmill Palm	Trachycarpus fortunei
Cedar Elm	Ulmus crassifolia
Chinese Evergreen Elm	Ulmus parvifolia
Mexican Fan Palm	Washingtonia robusta

5. Grasses and/or grass-like ground cover.

Specimens shall be selected from the list in **Table 3. Grasses**; other drought-tolerant and native/adapted species are allowed if approved by a registered landscape architect.

Table 3. Grasses

Common Name	Scientific Name
Sideouts Grama	Bouteloua curtipendula
Cedar Sedge	Carex planostachys

Perennial Fountain Grass	Pennisetum alopecuroides
Annual Fountain Grass	Pennisetum setaceum
Little Bluestem	Schizachyrium scoparium
Mexican Feathergrass	Stipa tenuissima
Eastern Gamagrass	Tripsacum dactyloides
Silver Bluestem	Bothriochloa laguroides
Splitbeard Bluestem	Andropogon ternarius
Rescuegrass	Bromus unioloides

6. Irrigation designed to support all installed vegetation.

D. Parking Lot Buffer Required

Any parking lot containing ten (10) or more spaces which is located adjacent to a residential use shall incorporate a buffer in its development design.

E. Parking Lot Buffer Design

A buffer strip with a minimum of six (6) feet of depth shall be provided at the property line that separates the parking lot from a residence. The buffer strip shall incorporate the following elements:

1. A decorative masonry wall or opaque fence with masonry columns. This structural screen shall have a minimum height of six (6) feet and a maximum height of eight (8) feet unless it abuts a required residential front yard. In that event, the structural screen shall have a maximum height of three (3) feet.
2. Sod or other permanent vegetative ground cover (see **Table 3. Grasses**).
3. Small trees/shrubs (see **Table 1. Small Trees/Shrubs**). One specimen shall be installed every ten (10) linear feet at a minimum. Shrubs may be placed at equal distances or in cluster formations. Other drought-tolerant and native/adapted species are allowed if approved by a registered landscape architect.
4. Irrigation designed to support all installed vegetation.

F. Parking Lot Perimeter Landscaping Required

The perimeter of all parking lots containing ten (10) or more spaces shall incorporate landscaping in its development design.

G. Parking Lot Perimeter Landscaping Design

The area between any street and the parking lot shall be landscaped. The following elements shall be incorporated in the landscape design:

1. Sod or other permanent vegetative ground cover (see **Table 3. Grasses**).
2. Herbaceous perennials and decorative grasses shall be integrated for effect.
3. Small trees/shrubs no less than three (3) feet in height following installation shall be installed every ten (10) linear feet at a minimum (see **Table 1. Small Trees/Shrubs**). Shrubs may be placed at equal distances or in cluster formations. Other drought-tolerant and native/adapted species are allowed if approved by a registered landscape architect.
4. Canopy trees shall be installed every thirty (30) feet (see **Table 2. Canopy Trees**).

5. Irrigation designed to support all installed vegetation.
6. Pavers, flagstone, and similar decorative masonry or stone materials shall not cover more than sixty-five (65) percent of any parking lot perimeter landscaping.

H. Parking Lot Interior Landscaping Required

At least ten (10) percent of the interior area of off-street parking lots in front, side, and rear yards with street frontage that contain forty (40) or more parking spaces shall be landscaped. The following elements shall be incorporated in the landscape design:

1. Landscaping shall be restricted to terminal islands and/or divider medians.
 - a. Terminal islands, when used, shall be constructed at the end of parking rows with minimum six (6) inch high curbs. Their minimum width shall be five (5) feet and their minimum length shall be fifteen (15) feet.
 - b. Divider medians, when used, shall be constructed between abutting rows of parking spaces with minimum six (6) inch high curbs. Their minimum width without wheel stops preventing overhang shall be eight (8) feet. If wheel stops preventing overhang are installed, their minimum width shall be five (5) feet.
2. Permanent vegetative ground cover, but no sod (see **Table 3. Grasses**).
3. Herbaceous perennials and decorative grasses shall be integrated for effect (see **Table 3. Grasses**).
4. One small tree or shrub (see **Table 1. Small Trees/Shrubs**) no less than three (3) feet in height following installation shall be installed for each ten (10) parking spaces at a minimum.
5. One canopy tree (see **Table 2. Canopy Trees**) with a minimum crown height of eight (8) feet shall be installed for every twenty (20) parking spaces.
6. Irrigation designed to support all installed vegetation.
7. Pavers, flagstones, and similar decorative masonry and stone materials shall not cover more than sixty-five (65) percent of any parking lot interior landscaping.

I. Landscape Maintenance

Trees, shrubs, walls, irrigation improvements and other landscape features approved by the City shall be considered elements of the project in the same manner as parking and other details. The owner shall be responsible for regular maintenance of all landscaping in a way that presents a healthy, neat and orderly appearance. All landscaping shall be maintained free from disease, pests, weeds and litter. This maintenance shall include weeding, watering, fertilizing, pruning, mulching, edging and mowing as needed and in accordance with acceptable horticultural practice. It also includes the repair or replacement of required structures such as walls, and the replacement of defective landscaping required by this Section. All landscape areas shall be irrigated through an irrigation system or must be within seventy-five (75) feet of a hose attachment.

Section 710. Outdoor Storage and Display in Nonresidential Districts

A. Permitted

Outdoor storage and display shall be allowed in any nonresidential district in accordance with this Section. Any merchandise, material or equipment situated outdoors (with the exception of waste generated on-site and deposited in ordinary refuse containers) shall be subject to the requirements of this Section. Areas enclosed by solid, opaque walls on at least three sides with a solid, opaque roof shall not be considered outdoor.

B. Types

For the purpose of this section, outdoor storage and display shall be broken down into three types, as follows.

1. Type 1: Outdoor Display

Type 1 Outdoor Display shall be allowed adjacent to a principal building wall and extending to a distance no greater than five (5) feet from the wall. Such storage shall not be permitted to block windows, entrances or exits, and shall not impair the ability of pedestrians to use the building.

2. Type 2: Limited Outdoor Storage

Type 2 Limited Outdoor Storage shall not exceed one thousand (1,000) square feet or ten (10) percent of the total site area (whichever is greater).

3. Type 3: General Outdoor Storage

Type 3 General Outdoor Storage shall be allowed in unlimited quantity, subject only to the location restrictions below.

C. Location of Outdoor Storage and Display

Unless specifically authorized elsewhere in the City Code, all outdoor storage and display shall be located outside the public right-of-way and at least fifteen (15) feet from the back edge of the adjacent curb or street pavement. No outdoor storage or display shall be allowed in required side yards.

D. Allowed Storage Table

The three types of storage shall be allowed in the districts designated in the following table:

Use	RST	OT1	OT2	P	C-R	C-G	I
Type 1: Outdoor Display	●	●		●	●		
Type 2: Limited Outdoor Storage			●		●	●	
Type 3: General Outdoor Storage							●

Section 711. Off-Street Parking and Loading

A. Off-Street Parking

1. Parking Requirements by Use

In all districts there shall be provided at the time a building or structure is erected or structurally altered (except as provided in 2, B, and C below) off-street parking spaces in accordance with the following requirements. Parking area design and calculations must also be in compliance with the Americans with Disabilities Act (ADA) requirements.

Use Classification	Requirement
RESIDENTIAL	
Single-Family Dwelling	2 per dwelling
Two-Family Dwelling	2 per dwelling
Multifamily Dwelling	2 per dwelling unit, plus .25 spaces per unit guest parking
Townhouse	2 per dwelling
Assisted Living Facility	1 per 4 beds
Manufactured Home	2 per dwelling
Nursing/Convalescent Home	1 per 4 beds

Use Classification	Requirement
INSTITUTIONAL/PUBLIC USE	
Airport, Landing Strip, Helipad	1 per tie-down, plus 1 per hangar area
Cemetery	1 per 200 square feet of administrative area
Civic Organization, Private	Greater of 1 per 200 square feet or 1 for each 3 seats
Clinic/Hospital	1.5 per bed
Government Office or Building	1 per 250 square feet
House of Worship	1 per 4 seats or bench spaces; schools, gyms and other public areas calculated separately
Public Institution	1 per 250 square feet
School, Elementary	Greater of 1 per 10 auditorium seats or 1.5 per classroom
School, Secondary and College	Greater of 1 per 8 auditorium seats or 6 per classroom
RECREATION, PUBLIC AND PRIVATE	
Arena, Stadium or Auditorium	1 per 4 seats or bench space
Amusement Redemption Machine Establishment	1 per 2 machines
Bowling Alley	5 per lane
Community Building/ Recreation Field, Private	1 per 100 square feet
Country Club/Golf Course	1 per 5 members plus 1 per 150 square feet of floor area
Park, Recreation Area, Indoor or Outdoor Entertainment, Commercial Recreation and Amusements	1 per 4 permanent seats or bench space, plus 1 per 200 square feet, plus 10 per field (5)
Theater	1 per 4 seats
Theater, Drive-In	1 per stall, plus 1 per 200 square feet of concession/office area
RETAIL/COMMERCIAL	
Adult Entertainment	1 per 200 square feet
Auto Paint and Body Shop	1 per 250 square feet, plus 2 per bay
Auto Repair Shops	1 per 250 square feet
Bank, Savings and Loan	1 per 250 square feet
Bar, Saloon, Lounge, Dance Hall	1 per 50 square feet
Boarding or Lodging House	1 per sleeping room
Carwash	.5 per bay, plus queuing as determined by Administrative Officer, plus 1 per 250 square feet of office space
Convenience Store with or without Gas Sales	1 per 200 square feet
Day Care	5 per 100 capacity, plus 1 per 250 square feet, plus designated pick-up/drop-off area
Flea Market	1 per 100 square feet
Gasoline Service Station	1 per 250 square feet (excluding bays), 2 per bay
Hotel or Motel	1 per sleeping room, plus total of requirements for associated commercial, restaurant, lounge, etc.
Laundry, Self-Service	1 per 250 square feet
Marina	1 per 2 berths
Mortuary or Funeral Home	1 per 50 square feet
Office, Professional	1 per 250 square feet

Use Classification	Requirement
Personal Mini-Storage	1 per 50 storage bays, plus 2 customer spaces
Personal Services	1 per 250 square feet
Printing, Engraving, Newspaper Plant	1.75 per 1,000 square feet, plus parking for all commercial vehicles
Restaurant	1 per 100 square feet
Restaurant, Drive-in	1 per drive-in stall, plus 1 per 100 square feet
Retail, General	1 per 250 square feet
Riding Stable	1 per 300 square feet of stable space
Shoe or Small Appliance Repair	1 per 250 square feet
Studio, Professional	1 per 250 square feet
Carpentry, Painting or Plumbing Shop	1.75 per 1,000 square feet plus parking for all commercial vehicles
Vehicle Sales (including Boats and RVs)	1 per 250 square feet of gross building area
Veterinarian/Animal Hospital	1 per 250 square feet
Wholesale Accessory to Retail	1 per 250 square feet
INDUSTRIAL	
Light Industrial, Mini-Storage, Assembly or Manufacturing, Contractor's Storage Yard	1.75 per 1,000 square feet plus parking for all commercial vehicles
Mining, Excavation, Extraction	As determined by the Administrative Officer
All Utilities	As determined by Administrative Officer
AGRICULTURAL	
Agricultural Sales and Service	1 per 250 square feet
Production of Crops, Livestock, etc.	As determined by the Administrative Officer

2. Rules for Computing Number of Parking Spaces

In computing the number of parking spaces required, the following rules shall govern:

- a. "Floor area" shall mean the gross floor area of the entire building housing the specific use.
- b. Where fractional spaces result, the parking spaces required shall be construed to be the nearest whole number.
- c. The parking space requirement for a use not specifically mentioned herein shall be the same as required for a use of similar nature.
- d. Whenever a building or use constructed or established after the effective date of this Ordinance is changed or enlarged in floor area, number of employees, number of dwelling units, seating capacity or otherwise, to create a need for an increase of ten (10) percent or more in the number of existing parking spaces, such spaces shall be provided on the basis of the enlargement or change.
- e. Whenever a building or use existing prior to the effective date of this Ordinance is enlarged to the extent of 50 percent or more in floor area or in the area used, said building or use shall then and thereafter comply with the parking requirements set forth herein.
- f. The parking requirements in this article do not limit special requirements which may be imposed in connection with special permits.

- g. In the case of mixed uses, the parking spaces required shall equal the sum of requirements for the various uses computed separately.

B. Parking Location and Joint Use

1. All parking spaces required herein shall be located on the same lot with the building or use served, except that where an increase in the number of spaces is required by a change or enlargement of use or where such spaces are provided collectively or used jointly by two (2) or more buildings or establishments, the required spaces may be located and maintained not to exceed three hundred (300) feet from the building served.
2. Up to fifty (50) percent of the parking spaces required for public auditoriums and up to one hundred (100) percent of the parking spaces required for a church auditorium may be provided and used jointly by banks, offices, retail stores, repair shops, service establishments and similar uses not normally open, used or operated during the same hours as the auditorium; provided, however, that a written agreement assuring retention for such purpose shall be properly drawn and executed by the parties concerned, approved as to form by the City Attorney, and filed with the application for a building permit, and also filed with the County Clerk.

C. Parking Design Standards

1. An off-street parking space is a paved surface not in a street or alley and having a minimum dimension of nine (9) by eighteen (18) feet, exclusive of driveways, permanently reserved for the temporary storage of one automobile and connected with a street or alley by paved driveway which affords unobstructed ingress and egress to each space.
2. Minimum aisle widths shall be provided in accordance with the angle of parking they serve. The same aisle width shall be used for either a single row or two rows of head-in parking sharing an aisle. Where two-way aisles are used, the City shall determine the appropriate additional aisle width necessary.

Parking Angle	Stall Length	Aisle Width
30° Parking	19 feet	12 feet
45° Parking	19 feet	14 feet
60° Parking	20 feet	20 feet
90° Parking	18 feet	24 feet

(Ord No. 2087, 5-6-14)

3. All parking spaces shall be legibly marked on the pavement.
4. A parking lot shall be designed to physically prevent any portion of a vehicle from encroaching into or overhanging any public or private property line by means of a permanently installed curb, wall, or other such physical barrier.
5. Where sidewalks occur in parking facilities, parked vehicles shall not overhang or extend over the sidewalk. In such a facility, wheel stops must be provided even where the parking facility has curbing.

D. Driveway, Parking and Loading Area Construction

Driveways, parking and loading areas shall meet the City of Portland Parking Lot Construction Specifications (adopted by separate ordinance)

E. Loading Space

Every building or part thereof erected or occupied for nonresidential uses shall provide loading spaces that meet

the following requirements.

1. Schools: an off-street school bus lane designed to meet the bus demand of the school to be served.
 2. Commercial districts: one loading space for the first 5,000 to 15,000 square feet of floor area in the building and one additional loading space for each additional 15,000 square feet or fraction thereof.
 3. Industrial districts: one loading space for each 10,000 square feet of floor area in the building.
 4. Each required loading space shall have a minimum size of ten (10) feet by twenty-five (25) feet.
- F. Maintenance of Off-Street Parking and Loading Areas. All off-street parking lots, driveways, access aisles, and loading areas shall be permanently maintained in safe, sound, usable condition. Minimum maintenance standards follow:
1. All paved areas shall be free of potholes, standing water, mud, and litter.
 2. Parking spaces shall be reflectively striped and, when reserved for handicapped persons, properly signed.
 3. Driveways, sidewalks, curbs, and storm sewer inlets shall be maintained in good repair.
 4. Parking lot lights shall be maintained in good repair and properly illuminate parking as well as loading areas.
 5. Fire zones and other areas where parking is prohibited shall be properly designated by painted curbs and signs.
 6. On-site traffic signs shall be maintained in good repair.

(Ord No. 2087, 5-6-14)

Section 712. Signs

A. Signs Exempt from Permit

The following signs are exempt from permit requirements and may be installed and maintained in compliance with all other City of Portland ordinances and within the limitations set forth below:

1. Public Signs

Noncommercial signs erected by or at the direction of a public officer in furtherance of the public interest in the performance of his public duty.
2. Commercial Land Sales Sign

A non-illuminated, on-site sign no more than thirty-two square feet in sign face area nor more than eight feet in height advertising the sale of commercial land. One such sign shall be permitted on each side of the premises fronted by a public street.
3. Residential Real Estate Sign

A non-illuminated, on-site sign no more than six square feet in in sign face area only advertising the sale or lease of the premises on which it is located. One such sign shall be permitted on each side of the premises fronted by a public street.
4. Residential Contractor Sign

A non-illuminated, on-site sign no more than six (6) square feet in sign face area and four (4) feet in height that advertises a home improvement project no more than twenty-one (21) days before construction begins and during construction.

5. Nonresidential Contractor Sign

A non-illuminated on-site sign no more than thirty-two (32) square feet in sign face area nor more than eight (8) feet in height only used to advertise a nonresidential construction project no more than twenty-one (21) days before construction begins and during construction.

6. Integral Signs

Names of buildings, dates of erection, monumental citations and commemorative tablets that are carved into stone, concrete or similar permanent materials and constructed as an integral part of a structure.

7. Nameplates

One (1) non-illuminated sign per entrance per business attached to the building and not exceeding two (2) square feet of sign area per face with wording limited to name and occupation.

8. Traffic Signs

Traffic and other official signs and devices installed by a governmental agency.

9. On-Site Traffic Signs

On-site traffic directional signs that do not exceed four (4) square feet of sign area per face, that do not exceed six (6) feet in height above ground level, and that do not carry any commercial message or identification.

10. Nonresidential Flags

No more than three (3) flags and three (3) permanent flag support poles shall be allowed at each business year round. The permanent flags shall be a United States national flag, a Texas state flag and a flag of the business owner's discretion. No flag support pole shall exceed a height of fifty (50) feet on lots in the Corridor Zone and twenty-five (25) feet outside the Corridor Zone. Businesses may fly more than three (3) flags on a temporary basis through the issuance of a temporary banner sign permit.

11. Home Occupation Signs

Home occupations shall be limited to a one (1) square foot sign that is a non-illuminated name plate mounted flat against the building.

12. Menu Boards

Eating establishments with drive-through service are permitted one "menu board" sign per lot, limited to thirty-six (36) square feet in area and six (6) feet in height.

13. Gasoline Price Signs

Gasoline pricing signs are exempt, provided the total area of all signs does not exceed twelve (12) square feet in area for each service island.

14. Non-Commercial Temporary Signs

A temporary sign of any design (temporary portable sign, temporary banner sign, etc.) no more than eighty (80) square feet in sign face area advertising an event sponsored by a Portland non-profit, Portland school, Portland church or governmental entity. The non-commercial temporary sign shall be used no more than twenty-one (21) days before the event and during the event.

B. Prohibited Signs

The following signs are hereby prohibited:

1. Signs containing statements, words or pictures of an obscene, indecent or immoral character, such as will offend public morals or decency.

2. Signs that imitate an official traffic sign or signal or that contain the words "stop," "go slow," "caution," "danger," "warning," or similar words.
3. Signs that are of a size, location, movement, content, coloring or manner of illumination that may be confused with or construed as a traffic-control device, or that hide from view any traffic or street sign or signal or that obstruct the view in any direction at a street or road intersection.
4. Signs with flashing, moving, blinking, chasing or other intermittent illumination. Illumination of signs shall be constant with either internal lighting or external reflected illumination. External lighting shall reflect light directly upon said sign and not cause excessive light to distract motorist, pedestrians or residents.
5. Signs erected in or projecting into the public right-of-way or recorded easement, unless an encroachment agreement is executed.
6. Signs on vehicles or trailers that are parked or located for the primary purpose of displaying the sign. It shall be considered prima facie evidence that the primary purpose of a vehicle or trailer is to display a sign if the vehicle or trailer is parked on a site for a continuous period exceeding seventy-two (72) hours.
7. Signs with a sign structure substantially larger than is necessary to support the sign.
8. Off premise signs frequently referred to as billboards. Off-premise signs existing at the time this prohibition takes effect shall be allowed to remain. Off-premise signs that are damaged by fire, wind or other cause in excess of fifty (50) percent of their replacement cost after the effective date of prohibition shall be immediately removed.
9. Signs that are erected in violation of the City's building, electrical or sign codes, or other applicable local regulations.

C. Signs Requiring Permits

The following sign types must be properly permitted before installation.

1. Awning Sign

A sign mounted, painted or otherwise integral to non-rigid material such as fabric or flexible plastic that is supported by or attached to a frame and that extends from the exterior wall of a building. The awning sign shall refer to a business located within the building to which the awning is attached. The total area of all signs shall not exceed a size larger than an area equal to one square foot for each lineal foot of frontage of the building to which the sign is attached or fifty (50) square feet, whichever is smaller.

2. Building Sign Type A

A sign placed flat against the building, not projecting above the roof line, and referring to a business located within the building to which the sign is attached. The total area of all signs shall not exceed a size larger than an area equal to one square foot for each lineal foot of frontage of the building to which the sign is attached or fifty (50) square feet, whichever is smaller. In an R-2, Single-Family Residential, R-6, Single-Family Residential, R-7, Single-Family Residential or R-8, Single-Family Residential district, such signs are limited to use by churches, country clubs, public buildings and philanthropic institutions.

3. Building Sign Type B

A sign placed flat against the building with the uppermost part not projecting more than four feet above the roof line, and referring to a business located within the building to which the sign is attached. The total area of all signs shall not exceed a size larger than an area equal to three square feet for each lineal foot of frontage of the building to which the sign is attached. In the case of a building occupied by more than one business, each tenant's frontage shall be treated as a separate building.

4. Corridor Sign

Businesses located in the Corridor Zone or on legally platted lots with U.S. Highway 181 frontage may have a Corridor Sign. A Corridor Sign shall be permanently constructed, installed in the ground and located on the same lot as the business establishment to which it refers. The total sign face area shall not exceed two (2) square feet for each lineal foot of frontage of the lot (platted street frontage) or two hundred (200) square feet, whichever is smaller, and shall not exceed fifty (50) feet in height. A corridor sign of up to two hundred (200) square feet is allowed on platted lots with less than one hundred (100) feet of frontage if the platted lot is greater than one (1) acre. A business with retail gasoline sales, or a single business or a shopping area with ten thousand (10,000) or more square feet of floor area is permitted to have a second Corridor Sign. A single business or a shopping area as above described with over twenty thousand (20,000) square feet of floor area is permitted to have a third Corridor Sign.

5. Electronic Message Boards

Electronic message board signs are allowed in addition to but on the same support structure as a "Freestanding Sign - B" sign. The maximum size shall be no larger than forty (40) square feet for signs within the Highway 181 corridor, and no larger than twenty-four sq. ft. for all other allowed areas. Maximum sign heights shall be in accordance with required height regulations applicable to all signs. Electronic messages shall appear and remain for a period of no less than six (6) seconds, whereas such message shall either scroll off the display rapidly or immediately be replaced by another message or symbol. Such electronic message board sign shall not be allowed as a wall sign.

6. Freestanding Sign Type A

A permanently constructed sign, installed in the ground and located on the same lot as the business establishment to which it refers that appears to be a solid mass through specific material (masonry, metal, routed wood planks, routed wood beams or durable plastic) construction. The total sign face area shall not exceed eighty (80) square feet and a height of six (6) feet. The intensity of any direct or indirect lighting, whether internal or external, shall not exceed fifty (50) foot candles measured at the sign face and external light, if used, shall be directed specifically at the sign. A business with retail gasoline sales, or a shopping area with ten thousand (10,000) square feet of floor area is permitted to have a second Freestanding Sign. A single business or shopping area as above described with over twenty thousand (20,000) square feet of floor area is permitted to have a third Freestanding Sign.

7. Freestanding Sign Type B

A permanently constructed sign, installed in the ground and located on the same lot as the business establishment to which it refers. The total sign area shall not exceed a size larger than two (2) square feet for each lineal foot of frontage of the lot (platted street frontage) or two hundred (200) square feet, whichever is smaller, and not to exceed twenty-five (25) feet in height. A business with retail gasoline sales, or a single business or a shopping area with 10,000 or more square feet of floor area is permitted to have a second freestanding sign. A single business or a shopping area with over 20,000 square feet of floor area is permitted to have a third freestanding sign.

8. Temporary Banner Sign

An on-site banner made of lightweight fabric no more than thirty-two (32) square feet in sign face area advertising an on-site product or service may be used a total of one hundred twenty (120) days each calendar year. Banners shall not exceed twenty (20) percent of the front wall area. Streamers of any kind, pennants of any kind and temporary flags no more than thirty-two (32) square feet in area shall be treated as temporary banner signs. One (1) temporary flag may be permitted each twenty-five (25) feet of lot frontage (platted street frontage). The distance between flags shall not be less than twenty-five (25) feet

and all flags must be placed parallel the street frontage. Neither streamers, pennants nor temporary flags shall be flown at a height that exceeds twenty-five (25) feet.

9. Temporary Portable Sign

A temporary sign may be used 30 continuous days each calendar year. Such sign shall not exceed fifty (50) square feet in total sign area and must be anchored down so it will, at all times, withstand a wind load of thirty (30) pounds per square foot in any direction.

10. Projecting Signs

Projecting signs shall be considered as Building Signs, and the total area of a projecting sign shall be considered when calculating the allowable area of a Building Sign.

11. Inflatable Signs or Objects

Balloons or similar inflatable objects shall be permitted no more than twenty-one (21) days each calendar year. Only one (1) inflatable object shall be permitted each business and it shall not exceed twenty-five (25) feet in height or be flown above twenty-five (25) feet in height.

12. Searchlights

Searchlights, or spotlights, may be permitted and may include traditional searchlight devices or laser-type devices. A permit for the use of an advertising searchlight may be granted under the following additional regulations:

- a. A searchlight shall be located a minimum distance of fifty (50) feet from any public right-of-way and from side or rear property lines, and shall be positioned so as to project all beams at minimum angle of thirty (30) degrees upward from grade level. No searchlight beam may project onto adjacent property onto property or buildings not owned/operated by the business utilizing the searchlight.
- b. The maximum light intensity generated by searchlights on any premise may not exceed a total of one thousand six hundred (1,600) million foot candlepower. No more than four (4) beams of light may be projected from any premise at any point in time.
- c. All searchlights must be designed and maintained so as to prevent beam rays of light (or laser beams) from being directed at any portion of the traveled ways, and no light shall be of such intensity or brilliance as to cause glare or to impair the vision of the driver of any vehicle, or to create any other type of traffic hazard (i.e. cannot be such an unusual, eye-catching display that would distract the attention of motorists).
- d. No advertising searchlight may be operated between the hours of midnight and 7:00 a.m.
- e. No advertising searchlight may be operated on a premise for more than fifteen (15) days within any calendar year. No permit for an advertising searchlight may be issued for any business entity for which a permit has been issued for a searchlight on the same premise within the last six (6) months preceding the date of the permit application.

13. Permitted signs shall be designed in accordance with the City of Portland Construction Codes, and a permit fee shall be paid prior to sign erection.

14. No sign face shall be permitted at the intersection of two streets in the area between three (3) feet in height and seven (7) feet in height in order to maintain a vision triangle as defined in Chapter 10. Definitions.

15. Temporary On-Site Residential Subdivision Sign. One (1) temporary on-site residential subdivision sign advertising new residential subdivision units, new residential lots, new home construction, and new home sales may be permitted in each new residential subdivision unit under the following conditions:
 - a. Such signs shall be permitted prior to installation. The permits for temporary on-site residential subdivision signs shall only be good for two (2) years, but may be continuously renewed until the residential subdivision that the sign advertises is built out. Such signs shall be removed within thirty (30) days of the sale of the last new home within each new residential subdivision unit.
 - b. The sign face area of such signs shall not exceed sixty-four (64) square feet.
 - c. The sign height of such signs shall not exceed ten (10) feet.
 - d. Such signs may be lighted.
 - e. Such signs shall be designed and constructed to meet all windstorm requirements.
 - f. Such signs shall be properly maintained at all times.

D. Signs Types Allowed by District

1. Permitted sign types are allowed in districts in accordance with the following chart and the standards above.
2. Notwithstanding the district restrictions below, sites with frontage on an arterial street shall be allowed to have a Freestanding Sign Type B and a Building Sign Type B. Sites with frontage on a collector street shall be allowed to have a Freestanding Sign Type A.

Sign Type	District									
	R-2, R-6, R-7, R-8, R-8D, R-15	RMH	R-20	RST	OT-1	OT-2	P	C-R	C-G	I
Awning Sign				●	●	●	●	●	●	●
Building Sign Type A	●	●	●		●					
Building Sign Type B				●		●	●	●	●	●
Corridor Sign				●		●	●	●	●	●
Electronic Message Boards				●		●	●	●	●	●
Freestanding Sign Type A			●	●	●	●	●	●	●	●
Freestanding Sign Type B						●	●	●	●	●
Temporary Banner Sign and Streamers			●	●	●	●	●	●	●	●
Temporary Portable Sign						●		●	●	●
Projecting Sign				●	●	●	●		●	
Inflatable Signs or Objects			●			●	●	●	●	●
Searchlights								●	●	●

(Ord No. 2094, 10-9-14)

E. Sign Maintenance

All signs, including those painted on the walls of buildings, shall be permanently maintained in a safe, presentable condition. All signs shall be kept in good repair and, unless of galvanized or non-corroding metal or plastic, or treated with appropriate wood preservative, shall be thoroughly painted as often as is necessary consistent with good maintenance. All braces, bolts, clips, supporting frames and fastenings shall be free from deterioration, termite infestation, rot or loosening.

F. Abandoned Signs

1. An abandoned sign depicts or refers to a product, business, service, activity, condition or person that has changed in such a fashion that the sign no longer correctly identifies or describes him or it, that no longer exists at the location referred to in the sign, or that no longer exists in any way or at any place.
2. Abandoned building signs shall be removed or painted out within ninety days of the cessation of such business or sale of such product by the owner, agent or person having the beneficial interest in the building or premises on which such sign is located.
3. Abandoned freestanding signs shall be removed in accordance with the following provisions:
 - a. Sign faces shall be removed within ninety days of abandonment. The Administrative Official may grant one extension of up to ninety (90) days upon a showing of good cause.
 - b. Sign supports shall be removed within three hundred sixty-five (365) days of abandonment. The Administrative Official may grant one extension of up to one hundred eighty days upon a showing of a good cause.

Section 713. Exterior Lighting**A. Nonresidential and Multifamily Exterior Building Lighting.**

1. Exterior lighting shall be aimed and shielded to prevent glare.
2. Lots abutting residential dwellings or residential zoning districts shall use low-level lighting, as defined by the Illuminating Engineering Society of North America (IESNA), to minimize light visibility on adjoining properties.
3. Exterior lighting fixtures shall be full cut-off fixtures as defined by the Illuminating Engineering Society of North America (IESNA) in order to direct light downward.
4. Incandescent, fluorescent, color-corrected high-pressure sodium, or metal halide lighting are acceptable fixtures. The use of solar-powered lighting and LED lighting is encouraged where feasible. Exterior lighting installations shall include timers, dimmers, sensors, or photocell controllers that turn the light off during daylight hours or hours when lighting is not needed.
5. The following shall be exempt from this subsection:
 - a. Lighting or illumination required by the building code.
 - b. Holiday and temporary lighting.
 - c. Athletic field lighting.
 - d. Low voltage landscape lighting.

B. Parking Lot Lighting.

1. Parking lot lighting shall be aimed and shielded to prevent glare.
2. Lots abutting residential dwellings or residential zoning districts shall use low-level lighting and a maximum pole height of 12 feet to minimize light visibility on adjoining properties.
3. Lighting fixtures serving parking lots shall be full cut-off fixtures as defined by the Illuminating Engineering Society of North America (IESNA) in order to direct light downward.

4. Incandescent, fluorescent, color-corrected high-pressure sodium, or metal halide lighting are acceptable fixtures. The use of solar-powered lighting and LED lighting is encouraged where feasible. Exterior lighting installations shall include timers, dimmers, sensors, or photocell controllers that turn the light off during daylight hours or hours when lighting is not needed.

(Ord No. 2087, 5-6-14)

Chapter 8. Nonconformities

Section 801. Nonconforming Lots of Record

Any lot of record and separately owned at the time of passage of this Ordinance having less area or width than herein required may be used only for a single-family dwelling, or any of the nonresidential uses permitted in the district in which the lot is located.

Section 802. Nonconforming Uses

A nonconforming use is a legally existing use which, by the adoption of a previous Ordinance, this Ordinance, an amendment to this Ordinance, or by Annexation, does not conform to the use regulations of the district in which the use is situated (See Section 406). Nonconforming uses shall be regulated as follows:

- A. The lawful use of land or a building existing at the time of the adoption of this Ordinance may be continued even though such use does not conform to the provisions herein. If no structural alterations are made, a nonconforming use of a building may be changed to another nonconforming use of the same or more restricted classification. The foregoing provisions shall also apply to nonconforming uses in districts as may be hereafter changed. Whenever a nonconforming use of a building has been changed to a more restrictive use or to a conforming use, such use shall not thereafter be changed to a less restricted use.
- B. Where a nonconforming use is allowed in the district by a Special Use Permit in the Permitted Use Table (Section 406), such existing use shall be considered as having a special use permit and shall be considered a conforming use. No special use permit shall be required for reconstruction of the use, however a special use permit shall be required for the expansion of the use (see subsection G below).
- C. A building which has been structurally damaged more than fifty (50) percent by fire, explosion, act of God or the public enemy may be restored following approval of a Special Use Permit in accordance with Section 315 and the following provisions:
 1. Such permit shall not be denied for reasons relating to the use of the building, provided the proposed use continues the previously established use or a less intensive use.
 2. Such use shall, however, meet the regulations of this Ordinance to the maximum practical extent as determined by the Administrative Official, and may be required to meet additional conditions imposed through the special use permit process.
- D. In the event that the nonconforming use of any building or premises is discontinued or its normal operation stopped for a period of one year, the use of the same shall thereafter conform to the regulations of the district in which it is located.
- E. A nonconforming use occupying only a portion of a building may be extended throughout the building if the same has been lawfully acquired and actually devoted to such use previous to the adoption of this Ordinance or to any affecting amendment thereof.
- F. If by amendment to this Ordinance any property has been transferred to a more restricted district by a change in the district boundaries, or the regulations and restrictions in any district are made more restrictive or of a higher classification, the provisions of this Ordinance relating to the nonconforming use of buildings or premises occupied and used upon the effective date of such amendment shall apply. Repairs and alterations may be made to a nonconforming building; provided, that no structural alterations or extensions shall be made except those required by law or ordinance, unless the building is changed to a conforming use.

- G. A nonconforming use or structure may be made conforming or may be expanded through approval of a special use permit in accordance with Section 315. Such expansion shall meet the regulations of this Ordinance to the maximum practical extent as determined by the Administrative Official, and may be required to meet additional conditions imposed through the special use permit process.
- H. The following nonconforming uses or structures may be expanded outside the Special Use Permit process with the approval of the Administrative Official and written consent of seventy-five (75) percent of the adjacent property owners of record:
 - 1. Nonconforming uses or structures located within the OT-1, Olde Town Residential district.
 - 2. Uses listed within the Institutional/Civic/Utility category of Section 406 Permitted Use Table as well as vehicle sales and service establishments (new car dealerships, used car dealerships, vehicle part sales, limited vehicle service and general vehicle service) that wish to do one or more of the following things:
 - a. Expand an existing metal building that does not have a Section 705.A required façade (legally nonconforming structure).
 - b. Replace an existing metal building that does not have a Section 705.A required façade (legally nonconforming structure).
 - c. Construct additional metal buildings adjacent to or behind an existing metal building that does not have a Section 705.A required façade (legally nonconforming structure).
 - d. Expand customer parking or outside vehicle storage that does not have Section 709 Buffers and Landscaping requirements (legally nonconforming use).
 - e. Expand customer parking or outside vehicle storage that does not meet requirements of Section 711 Off-Street Parking and Loading, A through F (legally nonconforming use).

Such expansion shall meet the regulations of this Ordinance to the maximum practical extent and any additional conditions the Administrative Official deems necessary.

If fewer than seventy-five (75) percent of the adjacent property owners of record give their consent in writing to the proposed nonconforming use or structure expansion, nonconforming use or structure expansion may only be permitted through the Special Use Permit process.

Section 803. Nonconforming Signs

- A. Signs existing at the time of the effective date of this Ordinance and in compliance with the then-current Ordinance and not in compliance herewith shall be regarded as nonconforming signs, which may continue to exist until structurally altered, removed, destroyed as an act of God, or until the business that they are advertising is no longer in existence. Nonconforming signs that are structurally altered, relocated or replaced shall comply immediately with all provisions of this Ordinance.
- B. Any nonconforming sign that has been damaged by fire, wind or other cause in excess of fifty (50) percent of its replacement cost shall not be restored except in conformance with the provisions of this Ordinance.

Chapter 9. Enforcement and Penalties

Section 901. Enforcement by Administrative Officer

- A. It shall be the duty of the person designated by the City as the Administrative Officer to enforce this Ordinance. Appeal from any decision of the Administrative Officer may be made to the Board of Adjustment.
- B. The Administrative Officer or any duly authorized person shall have the right to enter upon any premises at any reasonable time for the purpose of making inspections of buildings or premises necessary to carry out his duties in the enforcement of this Ordinance.
 1. If such premises are occupied, the Administrative Officer shall first present proper credentials and request entry.
 2. If such premises are unoccupied, the Administrative Officer shall first make a reasonable effort to locate the owner of other persons having charge or control of such and request entry.
 3. If entry is refused, the Administrative Officer shall have recourse to every remedy provided by law to secure entry. When the Administrative Officer shall have first obtained a proper inspection warrant or other remedy provided by law to secure entry, no owner or occupant or any other persons having charge, care or control of any building, structure or premises shall fail or neglect, after proper request is made as provided herein, to promptly permit entry by the Administrative Officer for the purpose of inspection and examination pursuant to this Ordinance.
- C. Whenever any construction work is being done contrary to the provisions of this Ordinance, the Administrative Officer may order the work stopped by notice in writing served on the owner or contractor doing or causing such work to be done, and any such person shall forthwith stop work until authorized by the Administrative Officer to proceed with the work.

Section 902. Violation and Penalty

- A. Any person, firm or corporation who violates, disobeys, omits, neglects, or refuses to comply with, or who resists the enforcement of any of the provisions of this Ordinance shall, upon conviction, be fined not more than \$200.00 for each offense. Each day that a violation is permitted to exist shall constitute a separate offense.
- B. In case any building or structure is erected, constructed, reconstructed, altered, repaired, converted or maintained, or any building structure or land is used in violation of this Ordinance, the Administrative Officer, in addition to other remedies, may institute any proper action or proceedings in the name of the City of Portland to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance, or use, to restrain, correct or abate such violation, to prevent the occupancy of said building, structure or land, or to prevent any illegal act, conduct, business or use in or about said premises.

C. Revocation of Permits

The Administrative Officer may revoke a permit or approval issued under the provisions of this Ordinance if there has been any false statement or misrepresentation as to the material fact in the application or plans on which the permit or approval was based. The Administrative Official may also revoke a permit upon a determination that construction, erection, alteration, repair, moving demolition, removal or replacement for which a permit was issued is in violation of, not in conformity with, the provisions of this Ordinance.

Chapter 10. Definitions

Section 1001. General

In all cases throughout this Ordinance certain words, phrases and terms shall be construed as set out in this Chapter. Where a word, phrase or term is not defined here, the ordinary dictionary meaning of the word shall be used.

Section 1002. Rules of Construction

- A. Words used in the present tense include the past and/or future tense.
- B. Words in the singular include the plural, and words in the plural include the singular.
- C. Words used in the masculine include the feminine and words in the feminine include the masculine.
- D. The word "shall" or the word "must" is mandatory and is not discretionary.

Section 1003. Defined Terms

For the purpose of this Ordinance, certain terms and words are hereby defined as follows.

1. **Accessory Buildings.** A subordinate building, including canopies, or a portion of the main building, the use of which is incidental to that of the main building and located on the same lot occupied by the main use or building.
2. **Accessory Use.** A use which is clearly incidental or secondary to the principal use of a property.
3. **Aisle.** An open, unoccupied space, other than a street right-of-way, reserved as the principal means of access and maneuvering for a parking space.
4. **Alley.** A public way which affords a secondary means of access to property abutting thereon.
5. **Amusement Redemption Machine Establishment.** An establishment in which the main use or purpose is the operation of amusement redemption machines.
6. **Amusement Redemption Machine.** An amusement redemption machine is a skill or pleasure coin- operated machine that is designed, made and adapted solely for bona fide amusement purposes, and that by operation of chance or a combination of skill and chance affords the user, in addition to any right of replay, an opportunity to receive exclusively non-cash merchandise prizes, toys, novelties, or a representation of value redeemable for those items. Included in the foregoing, an amusement redemption machine is any electronic, electromechanical, or mechanical contrivance designed, made, and adapted solely for bona fide amusement purposes if the contrivance rewards the player exclusively with noncash merchandise, prizes, or novelties, or a representation of value redeemable for those items, that have a wholesale value available from a single play of the game or device of not more than ten (10) times the amount charged to play the game or device once or \$5, whichever is less.

Excluded Machines

- a. An amusement redemption machine does not include:
 - i. A machine that awards the user non-cash merchandise prizes, toys, or novelties solely and directly from the machine, including claw, crane, or similar machines; nor
 - ii. A machine from which the opportunity to receive non-cash merchandise prizes, toys, or

novelties, or a representation of value redeemable for those items, varies depending upon the user's ability to throw, roll, flip, toss, hit, or drop a ball, token, coin or other physical object into the machine or a part thereof, including basketball, skeet ball, golf, bowling, pusher, or similar machines,

iii. Any device, or any activity prohibited or described in Chapter 47, Penal Code.

7. **Apartment.** A multifamily dwelling unit that is part of, or within, an apartment house.
8. **Apartment Dwelling Group.** Two or more apartment buildings designed as an integral unit and occupying a lot or parcel of land in one ownership and connected by common water and sanitary system.
9. **Assisted Living Facility.** A facility providing responsible adult supervision of or assistance with routine living functions of an individual in instances where the individual's condition necessitates that supervision or assistance.
10. **Bar, Saloon or Lounge.** An establishment whose business is to prepare and serve alcoholic beverages.
11. **Bed and Breakfast.** A private, owner-occupied residence that provides overnight accommodations and meals, usually breakfasts, for a fee to guests. The Short Term Rental (fewer than thirty [30] continuous days) of private residences for uses like vacation is not a bed and breakfast.
12. **Billboards.** An outdoor advertising display sign when such sign is located off of the premises advertised and is supported by uprights or braces in or upon the ground.
13. **Block.** A piece or parcel of land entirely surrounded by public highways, streets, railway rights-of-way, parks, or a combination thereof.
14. **Building, Height of.** The vertical distance as measured from the average grade elevation of the ground around the structure to the highest point of the coping of a flat roof or to the mean height level between eaves and ridge for pitched roofs.
15. **Building Line.** A line parallel or approximately parallel to the street line and beyond which buildings may not be erected.
16. **Chairman.** The acting chairperson of the Portland Planning and Zoning Commission.
17. **City.** The City of Portland, Texas, as provided by the Home Rule Charter of the City, as amended, and further provided by State Laws.
18. **City Council.** The governing body of the City of Portland, Texas, as provided by the City Charter.
19. **City Engineer.** The engineer for the City of Portland, Texas, as appointed by the City Council.
20. **City Manager.** The executive officer for the City of Portland, Texas, as appointed by the City Council.
21. **City Staff.** Employees of the City of Portland, Texas; including, but not limited to, the City Manager and Director of Public Works and Development.
22. **Coin-Operated Machine.** A coin-operated machine includes a machine or device operated by the payment or insertion of paper currency or any other consideration.
23. **Commission.** The Planning and Zoning Commission of the City of Portland, Texas, as appointed by the City Council.
24. **Comprehensive Plan.** The planning document or documents adopted by the City which contain statements of official municipal policy pertaining to the subjects of land use, community facilities, transportation, housing and other related topics.

25. **Community Home.** A community-based residential home containing not more than 6 disabled persons and 2 supervisors that reside in the home and which otherwise meets the requirements of the Community Homes for Disabled Persons Location Act, Chapter 123, Texas Human Resources Code.
26. **Contractor's Professional Office.** A professional office which also is used as warehouse storage, overnight storage of vehicles or equipment or where employees meet each day to be given work assignments to be done at other locations.
27. **County.** San Patricio County, Texas.
28. **Country Club.** A private or semi-private establishment with recreational facilities for its members and invited guests including, but not limited to, a swimming pool, an eighteen (18) hole regulation-size golf course, one or more tennis courts, as well as accessory uses and structures such as a club house, locker rooms and a pro shop.
29. **Cul-de-Sac.** A street having one end open to traffic and the other end permanently terminated by a vehicular turn-around.
30. **Dance Hall.** An establishment in which dancing is permitted and which has a dance area of greater than ten percent of the total area of the building.
31. **Dead-End Street.** A street having one end open to traffic and the other end closed.
32. **Drinking Water.** All water distributed by any agency or individual, public or private, for the purpose of human consumption, use in the preparation of foods or beverages, cleaning any utensil or article used in the course of preparation or consumption of food or beverages for human beings, human bathing, or clothes washing.
33. **Dwelling.** Any building or portion thereof designed and used exclusively for residential purposes.
34. **Dwelling, Multifamily.** A building designed or occupied exclusively by three or more families, living independently of each other, for residential purposes.
35. **Dwelling, Single-Family.** A building designed for or occupied exclusively by one family as a residence.
36. **Dwelling, Two-Family.** A building designed for or occupied by two families, living independently of each other, for residential purposes.
37. **Easement.** A right given by the owner of a parcel of land to another person, entity, public agency or corporation for specific and limited use of that parcel.
38. **Easement Owner.** A person, entity, public agency or corporation with rights for specific and limited use of a parcel designated as an easement.
39. **Engineer.** A person licensed and authorized to practice engineering in the State of Texas under The Texas Engineering Practice Act.
40. **Extraterritorial Jurisdiction (ETJ).** An area of limited authority surrounding the City of Portland, as allowed by State Law, which extends in all directions from the municipal boundaries of the City.
41. **Family.** Any individual or two or more persons related by blood, adoption or marriage or not more than five (5) unrelated persons living and cooking as a single housekeeping unit. This definition expressly excludes lodging or boarding houses.
42. **Farm.** An area used for the growing of the usual farm products and their storage on the areas, as well as the raising thereon of the usual farm animals and poultry.
43. **Fence.** Any structure which exceeds twelve (12) inches in height above the nearest grade and which encloses partitions or divides any yard. Planter boxes no taller than thirty six (36) inches are excluded. A picket fence is

thirty six (36) inches tall with a horizontal top rail and bottom rail attached to fence posts which are installed upright into the ground. Evenly spaced boards are affixed vertically to the rails.

44. **Frontage.** All the property abutting upon one side of a street between two intersecting streets measured along the street line, or if the street is dead ended, then all of the property abutting on one side between all intersecting street and the dead end of the street.
45. **Garage, Private.** A building used for the housing of motor vehicles which are the property of and for the private use of the occupants of the lot on which it is located. Not more than one of the vehicles may be a commercial vehicle of not more than three tons capacity.
46. **Garage, Public.** A garage other than a private garage where motor vehicles are equipped for operation, repaired or kept for remuneration, hire or sale.
47. **Group Home.** A family-based facility which provides twenty-four (24) hour care in a protected living arrangement for the mentally and/or physically impaired, developmentally disabled, or victims of abuse or neglect. This classification may include congregate living facilities for the elderly, maternity homes, emergency shelters during crisis intervention for victims of crime, abuse or neglect, and residential services licensed by the Texas Commission on Alcohol and Drug Abuse, but not primarily for criminal rehabilitation.
48. **Home Occupation.** See Section 504.
49. **Homeowners Association.** A formal organization operating under recorded instruments through which each lot and/or homeowner in a specific residential area is automatically a member, or each lot or property interest is automatically subject to a charge for a proportionate share of the expenses for the organization's activities, such as the maintenance of common property.
50. **Hotel.** A building in which lodging or Boarding and lodging are provided and offered to the public for compensation and in which ingress and egress to and from all rooms is made through an inside lobby or office supervised by a person in charge at all hours. As such, it is open to the public in contradistinction to a lodging house or Boardinghouse.
51. **Industrial, Heavy.** Any industrial use which does not meet the definition of Light Industrial.
52. **Industrial, Light.** Industrial and manufacturing plants including the processing or treatment of materials in such manner that only a nominal amount of dust, odor, gas, smoke, or noise is emitted and not more than 10 percent of the lot or tract is used for open storage of products, materials or equipment.
53. **Lodging (or Boarding) House.** A building other than a hotel occupied as a single housekeeping unit where lodging and meals for three or more persons are provided for compensation, pursuant to previous arrangements for definite periods, but not to the public or transients.
54. **Lot.** A parcel of land occupied or intended for occupancy by a use permitted in this Ordinance, including one main building or buildings together with accessory buildings, open spaces, and parking spaces required by this Ordinance, and having its principal frontage upon a street, or upon an officially approved place.
55. **Lot, Corner.** A lot abutting upon two intersecting streets at their intersection.
56. **Lot, Depth of.** The mean horizontal distance between the front and rear lot lines.
57. **Lot, Double Frontage.** A corner lot that has its side yard abutting the front yard of the adjoining lot.
58. **Lot, Reverse Frontage.** A lot which abuts a public street at both the front and rear lot line.
59. **Lot, Width.** The mean horizontal distance between side lot lines parallel to the street right-of-way and measured at the building line.

60. **Manufactured or Modular Home.** A dwelling unit fabricated on or after June 15, 1976, in an off-site manufacturing facility for installation or assembly at a building site as a permanent structure with transport features removed, bearing a seal certifying that it is built in compliance with the Federal Housing Construction and Safety Standards Code.
61. **Manufactured Housing Subdivision.** Any development, site, parcel or tract of land designed, platted and maintained for the purpose of providing permanent or long term residential occupancy of two or more manufactured homes. Such platted lots are intended for the sole ownership and use of such property by persons owning manufactured homes.
62. **Manufacturing, Light.** A manufacturing use which conducts all manufacturing indoors and which presents no imminent hazard to the public. The Administrative Official shall confer with the Building Official, the Fire Marshal, and other competent personnel in order to determine whether a business is light manufacturing or heavy manufacturing.
63. **Marina.** A boat basin or pier with facilities for berthing and securing all types of recreational craft, as well as providing adequate supplies, service and fueling facilities.
64. **Mobile Home Park.** Any plot of ground upon which facilities are provided for locating two or more mobile homes to be occupied for dwelling or sleeping purposes, regardless of whether or not a charge is made for such accommodation.
65. **Mobile Home.** A detached single-family dwelling unit built prior to June 15, 1976, the effective date for the Federal Mobile Home Construction and Safety Act of 1974, and designed to be transported after fabrication on its own wheels, or on a flatbed or other trailer or detachable wheels for long term occupancy, with plumbing and electrical connections provided for permanent attachment to outside systems.
66. **Motel.** A building or group of buildings used for the temporary residence of motorists or travelers.
67. **Neighborhood Area.** A geographic area of the community that is predominately residential in nature and is bounded by thoroughfares or collector streets, or by some other natural or manmade features such as railroads, industrial areas or topographic features. The area encompassed by a neighborhood may vary from about 300 acres to about 900 acres.
68. **Nonconforming Use.** Any use building or yard existing legally at the time of passage of this Ordinance which does not conform with the regulations of the district within which it is located.
69. **Non-Public Water System.** Any water system supplying water for domestic purposes which is not a public water system.
70. **Nursing or Convalescent Home.** An institution providing meals and resident care and services for persons who are generally admitted for periods of time exceeding thirty (30) days. Such service includes custodial or attendant care, and may or may not provide for routine and regular medical and nursing services. Nursing and care homes include homes for the aged and rest homes.
71. **Office Showroom.** An establishment with no more than twenty-five (25) percent of its total floor area devoted to storage and warehousing, but not accessible to the general public. The remaining floor area may include retail and wholesale sales areas, sales offices, and display areas for products sold and distributed from the storage and warehousing areas.
72. **Office Warehouse.** An establishment with more than twenty-five (25) percent of the total floor area devoted to storage and warehousing, but not generally accessible to the public.
73. **OSSF.** On-site sewage facilities as that term is defined in rules and/or regulations adopted by TCEQ, including,

but not limited to, 30 TAC Chapter 285, or as amended.

74. **Parking Space.** An all-weather surface for temporary parking of a vehicle.
75. **Plat.** A map or drawing detailing the specifics of the division of land for the development of a subdivision.
76. **Plat, Preliminary.** A map of a proposed land subdivision showing the character and proposed layout of the tract in sufficient detail to indicate the suitability of the proposed development.
77. **Plat, Final.** A map of a land subdivision prepared in a form suitable for filing of record with necessary affidavits, dedications and acceptances, and with complete bearings and dimensions of all lots and blocks, streets, alleys, public areas and other necessary or required information.
78. **Platted.** Recorded with the county in an official plat record.
79. **Potable Water.** See drinking water.
80. **Private Club.** An establishment open only to members and their guests. It is allowed to prepare and serve alcoholic beverages, as licensed by the Texas Alcoholic Beverage Commission. It may operate as either a bar, saloon, lounge, dance hall, lodge, fraternal organization, country club or restaurant, but in doing so must conform to all requirements and restrictions set forth in the definition of such establishment and must conform to those sections of the Code as pertain to areas of operation, distances, hours, dates, fees and parking.
81. **Public Water System.** A system for the provision to the public of water for human consumption through pipes or other constructed conveyances, which includes all uses described under the definition for drinking water. Such a system must have at least fifteen (15) service connections or serve at least twenty-five (25) individuals at least sixty (60) days out of the year. This term includes any collection, treatment, storage, and distribution facilities under the control of the operator of such system and used primarily in connection with such system; and any collection or pretreatment storage facilities not under such control which are used primarily in connection with such system. Two or more systems with each having a potential to serve less than fifteen (15) connections or less than twenty-five (25) individuals but owned by the same person, firm, or corporation and located on adjacent land will be considered a public water system when the total potential service connections in the combined systems are fifteen (15) or greater or if the total number of individuals served by the combined systems total twenty-five (25) or more at least sixty (60) days out of the year. Without excluding other meanings of the terms "individual" or "served," an individual shall be deemed to be served by a water system if he lives in, uses as his place of employment, or works in a place to which drinking water is supplied from the system.
82. **Purchaser.** Shall include purchasers under executory contracts for conveyance of real property.
83. **Recreational Vehicle.** A vehicular portable structure such as a travel trailer or camping trailer or self-propelled pickup truck camper or motor home designed as a temporary dwelling for travel, recreation and vacation uses.
84. **Representation of Value.** A representation of value includes cash paid under authority of sweepstakes contests as provided in the Texas Business and Commerce Code, Chapter 43 [B], or a gift certificate or gift card that is presented to a merchant in exchange for merchandise.
85. **Restaurant.** An establishment whose primary business is to prepare and serve food.
86. **Retail Public Utility.** Any entity meeting the definition of a retail public utility as defined in Water Code, §13.002.
87. **Right-of-Way.** The land opened, reserved, or dedicated as a public way for a street or roadway, sidewalk, drainage area, railroad, or other public purpose.
88. **Sanitarian.** A person registered as a Professional Sanitarian by the Texas Department of Health under the

authority of Vernon's Ann. Tex. Civ. Stat. Article 4477-3.

89. **Sewerage Facilities.** The devices and systems which transport domestic wastewater from residential property, treat the wastewater, and dispose of the treated water in accordance with the minimum state standards contained or referenced in these regulations.
90. **Shopping Center.** A group of two or more businesses sharing a common parking area, located on one platted tract of land.
91. **Short Term Rental.** A private residence that is rented for fewer than thirty (30) continuous days for uses like vacation.
92. **Sign.** A sign is any structure or part thereof or any device attached to or represented on a building, fence or other structure upon which is displayed or included any letter, work, model, banner, flag, pennant, insignia, decoration, device or representation used as, or which is in the nature of an announcement, direction, advertisement or other attention-getting device. A sign shall not include a similar structure or device located within a building except illuminated signs within show windows. A sign includes any billboard, but does not include the flag or pennant or insignia of any nation or association of nations, or of any state, city or other political unit, or of any charitable, educational, philanthropic, civic or religious organizations. A sign shall include all types of mobile signs in all cases where the principal use of the vehicle, trailer or mobile structure containing or supporting such sign is for the purpose of advertising. In determining the area of a sign regulated by this Ordinance, only one side of a double-faced sign shall be included.
93. **Specified Anatomical Areas.** The following portions of the human body:
 - a. Genitals, whether or not in a state of sexual arousal;
 - b. Pubic region or pubic hair;
 - c. Buttock(s);
 - d. The portions of the female breast(s) beginning from a point immediately above the top of the areola and continuing downward to the lowest portion of the breast(s); or
 - e. Any combination of the above.
 - f. Specified Sexual Activities. Includes one or more of the following:
 - g. The fondling, massaging or other erotic touching or stimulation of "specified anatomical areas" or of an erogenous zone;
 - h. Normal or perverted sexual activity, actual or simulated, including intercourse, oral copulation, or sodomy;
 - i. Masturbation, actual or simulated; or
 - j. Excretory functions as part of or in conjunction with any of the activities above.
94. **Story.** That portion of a building, other than a basement, included between the surface of any floor and the surface of the floor next above it or, if there is no floor above it, then the space between the floor and ceiling next above it.
95. **Story, Half.** A space under a sloping roof which has the line of intersection of roof decking and wall face not more than three (3) feet above the top floor level, and in which space not more than sixty (60) percent of the floor area is finished off for use. A half story may be used for occupancy only in conjunction with and by the occupants of the floor immediately below.

96. **Street.** Any public way set aside as a permanent right-of-way for street purposes and used as a means of access to abutting property. See Section 607 and Chapter 3: *Thoroughfares* of the 2012 Comprehensive Plan.
97. **Structural Alteration.** Any change in structural members of a building, such as bearing walls, columns, beams or girders.
98. **Structure.** Anything constructed or erected, the use of which requires permanent location on the ground or attached to something having a location on the ground, including but not limited to buildings of all types, advertising signs, billboards, and poster panels, but exclusive of customary fences or boundary or retaining walls.
99. **Subdivider.** Any owner of land or authorized agent thereof proposing to subdivide or dividing land so as to constitute a subdivision.
100. **Subdivision.** Any tract of land divided into two or more parts that results in the creation of two or more lots of five acres or less intended for residential purposes. A subdivision includes re-subdivision (replat) of land which was previously divided.
101. **Subdivision, Nonresidential.** The subdivision of land for commercial or industrial purposes.
102. **Substantial Change.** Considerable deviations to street courses and widths, street intersections, service utilities, drainage systems and easements, lot sizes, major entrances and exits, park sites, etc. Minor changes may include slight street curve adjustments, street name changes, minor shifts in service utilities or other considerations due to engineering and construction plans.
103. **TAC.** Texas Administrative Code, as compiled by the Texas Secretary of State. All references shall be as stated or as amended.
104. **TCEQ.** Texas Commission on Environmental Quality, or its successor.
105. **Temporary or Itinerant Vendors.** Includes persons, agents, corporations or other business entities who engage in a temporary or transient business in the City, either in one locality or in traveling from place to place selling goods, wares or merchandise, and who, for the purpose of carrying on such business, hire, lease or occupy a building, structure, vehicle, cart or other device from which goods are sold. Does not include agents, corporations or other business entities exclusively selling fruits, vegetables or other farm produce.
106. **Townhouse.** One of a series of single-family dwelling units which are either structurally connected, or which are constructed immediately adjacent to each other without side yard between the dwelling units; shall be privately owned as to building and underlying ground and any other land allocated to such townhouse; may or may not have an owner's association; and may have proportionate ownership of a common area.
107. **Townhouse Common Area.** Private property areas owned, designed and designated principally for the common use of the owners or occupants of a townhouse project.
108. **Townhouse Group.** Four or more contiguous townhouses constructed as an integral part of a townhouse project.
109. **Townhouse Lot.** Townhouse lot is a lot within a subdivision that has four of or more individual townhouse building sites. The townhouse lot may or may not also include common areas and including the following:
 - a. A legal opinion by an attorney licensed to practice law in the state, accurately describing and defining the rights and duties of the owners, the legal status of common areas and facilities and provisions for taxation and maintenance of such areas, shall accompany each subdivision with townhouse lots.
 - b. All common areas shall be clearly identified on the plat and adequate provisions made for

maintenance and taxation. Project area, area per unit, lot area, lot width and setback shall conform to the requirements for townhouses.

110. **Townhouse Project.** A townhouse development of one or more townhouse groups, constructed on contiguous land, all uninterrupted by intervening public streets, together with commonly owned structures or areas.
111. **Townhouse Subdivision.** One or more townhouse projects.
112. **Vacate.** To annul, cancel, or relinquish right to a subdivision plat, street or easement.
113. **Vehicle Service, General.** Vehicle services that do not meet the definition of limited vehicle services. Customers typically leave their vehicle for service, including transmission shops, paint and body shops, alignment shops, auto detailing, etc.
114. **Vehicle Service, Limited.** Uses that provide direct services to motor vehicles. May include firms that service passenger vehicles, light and medium trucks, and other consumer motor vehicles such as motorcycles. Limited vehicle service includes those uses where customers routinely wait with their vehicles for such services, including quick lubrication services and car washes.
115. **Vision Triangle.** That area created by a straight line from the points of the two intersecting right-of-way lines twenty (20) feet back from their common intersection.
116. **Vocational School.** A school or training facility that offers instruction and practical introductory experience in skilled trades such as mechanics, carpentry, plumbing, and construction.
117. **Waiver, Major Subdivision.** A significant change to both the standards and intent of the UDO subdivision regulations, which involves Planning and Zoning Commission approval.
118. **Waiver, Minor Subdivision.** A minor change to the standards, but not the intent, of the UDO subdivision regulations, which involves the Administrative Official (as applicable) approval unless otherwise noted.
119. **Water Bodies.** Any body of water, such as a sea, ocean, lake, river, stream, creek, cattle tank and/or man-made pond, which separates buildable areas of land from other areas. A canal, drainage channel or other watercourse may be considered as a water body.
120. **Water Facilities.** Any devices and systems which are used in the supply, collection, development, protection, storage, transmission, treatment, or retail distribution of water for safe human use and consumption.
121. **Yard.** An open space at grade between a building and the adjoining lot lines, unoccupied and unobstructed by any portion of a structure from the ground upward, except as otherwise provided. A yard extends along a lot line and at right angles to such lot line to a depth or width specified in the yard regulations of the district in which such building lot is located.
122. **Yard, Front.** A yard extending across the front of a lot between the side lot lines, and being the minimum horizontal distance between the street or place line and the main building or any projections thereof, other than the projections of the usual uncovered steps, terraces, porches or entrance ways. On corner lots the front yard shall be considered as parallel to the street upon which the lot has its least dimension.
123. **Yard, Rear.** A yard extending across the rear of the lot, measured between the side lot lines, and being the minimum horizontal distance between the rear lot line and rear of the main building or any projection other than uncovered steps, porches, entrance ways or private garages.
124. **Yard, Side.** A yard between the main building and the side line of the lot and extending from the required front yard to the required rear yard, and being the minimum horizontal distance between a side lot line and the side of a main building or projections thereto.