# COMPOSITE ZONING ORDINANCE

**CONTEXTUALLY ADAPTIVE**

★

**FORM INTEGRATED**

★

**ADMINISTRATIVELY FLEXIBLE**

**USE**

**SITE**

**ARCHITECTURE**

City of Leander

**Updated 07/21/2016**
**Adopted 09/01/2005**

# COMPOSITE ZONING ORDINANCE

***CITY OF LEANDER, TEXAS***

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# FOREWORD – WHAT IS COMPOSITE ZONING?

(THIS FORWARD IS PROVIDED FOR EXPLANATORY PURPOSES ONLY
AND IS NOT TO BE INTERPRETED AS REGULATIONS)

In most zoning ordinances, a zoning district may be any one of a list of use districts. In an attempt to provide for districts that fit within the context of different locations, a city will typically add to the list of use districts with districts that have more and more narrowly defined lists of uses and perhaps some form based rules that define what site and architectural standards apply. As new zoning situations arise which may not be appropriate to the existing districts, either more districts are created, or a Planned Unit Development (PUD) or special permit may be employed to further customize the rules. These customized districts may be narrowly defined and, as they become more numerous in a city, they become more and more difficult to administer because every tract of land handled in this way has its own unique standards. This can eventually result in confusion about what rules do and do not apply to a tract of land.

The comment heard frequently from developers is that standard zoning use districts become too narrowly defined with respect to permitted uses. They find it difficult to market property with uses being so narrowly defined. PUD districts and special use permits can be even more narrowly defined and the approval process can be time consuming and unpredictable.

The comment heard from neighbors and the community at large is that standard zoning districts do not adequately define the standards that are most important to them such as form based standards, i.e. what the project will look like. Frequently the site and architectural standards have to be structured to fit the lowest common denominator of standards appropriate for the full list of allowable uses. Zoning districts often fail to provide the predictability necessary to protect the community from inappropriate development.

The problem is that standard zoning districts tend to be too narrowly defined with regard to permitted uses and there are no choices with respect to form and esthetic standards. This problem is caused by the structure of the code. Zoning choices that involve use, site and architectural standards should not be made with a one-dimensional approach whereby all standards are lumped into single category.

Take, for instance, ordering food at a restaurant. Imagine ordering soup, a salad and a main entrée. You decide that you would like vegetable soup, a garden salad and shrimp with bow tie pasta only to learn that with the shrimp dish you get bean soup and a Caesar salad. You would probably be disappointed with the lack of choice you have and the inflexibility of the menu. The same situation exists with standard zoning districts. They lack a flexible menu. If you want a particular use, the site and architectural standards come with the use choice and cannot be changed. You may want different site and architectural standards, but if you choose a particular use district, the site and architectural standards come with that use district and there is no flexibility in changing them even if they do not fit within the context of the location.

Why not order your courses separately and get what you want? Why not make separate decisions about the use, the site standards and the architectural standards the same way you make separate decisions about soup, salad and an entrée? In this way you can mix and match these standards to better fit within the context of a particular tract of land. Every individual has different tastes in food, and every tract of land falls within a different context. Why be forced to utilize the lowest common denominator of site and architectural standards when higher standards may be appropriate? Why not expand your zoning menu options to allow you to select the right mix of standards? This is what Composite Zoning provides. It allows choices to be made independently for appropriate use, site and architectural standards.

The concept of Composite Zoning is not new. Some of our earliest zoning ordinances were composite zoning ordinances. The Village of Euclid adopted a zoning ordinance in 1924 that included a use district, a height district and an area district. One of each of these districts was combined to create a "composite" zoning district. This ordinance was tested in a 1926 Supreme Court decision which validated the ordinance and established the constitutional footing for zoning in this country. With time, height and area standards were integrated into the use districts in most cities. Following with the older traditions, this ordinance re-establishes Composite Zoning, but in a new way. This new way expands the old height and area districts to incorporate more form standards. It is form standards that establish important criteria that determine what we actually see when a project is built, not what activity goes on inside the building.

This ordinance provides three zoning components to choose from and mix and match. Just like a meal which may include soup, salad and an entrée, this composite zoning ordinance includes a use component, a site component and an architectural component. The menu includes a number of options in each category just like you have a choice of different soups, salads and entrées. One option is selected from each category to create the composite zoning district that is appropriate for a specific location. Article II, Section 2, b describes the different combinations that are available.

For example, you may select a GC (General Commercial) use component from the list (menu) of different use components. The GC component may be combined with any of five different site components and any of four architectural components. This creates twenty possible combinations of composite zoning options that include the GC use component. In other words, assume that the GC use component is your entrée. You can match that use component with any of five choices of soup and any of four choices of salad for twenty different possible combinations to suit your tastes, or in this case, to best suit the context of the site, the needs of the developer and the desires of the community. With more choices we are more likely to be successful in suiting the tastes of all involved and in establishing the zoning appropriate to the context of the site.

Such an approach to zoning provides for the following:

(1) *Composite zoning offers greater potential to mix land uses:* It creates opportunities to avoid compartmentalization into single-use neighborhoods physically separated from each other and accessible only by car, and offers potential for integrating compatible land uses into development patterns which promote walking, biking, and community life in general, and allow residents to satisfy their daily needs within walking distance. This in turn reduces the number of car trips per day, reduces pollution, reduces trip length and time lost in travel. The integration of uses, if done thoughtfully, encourages human interaction and promotes more authentic and real neighborhoods.

(2) *Places higher priority on site and building standards:* Site and building development standards are frequently as important as, or sometimes even more important than, the building use. As an example, a manufacturer of computer chips is an industrial use. But such a user may be able to occupy a building that is built to high architectural standards and the site may resemble a campus environment with no outdoor storage or other intensive site use characteristics. However, a standard industrial district may permit low architectural standards including corrugated metal siding, and intensive site conditions such as outdoor storage of materials and heavy equipment. By combining a heavy commercial use component with site and architectural components that require high site and architectural standards, a composite district can be created to accommodate the desired use without the fear relegating the site to more intensive conditions in the future if that computer chip manufacturer should either change its plans and not purchase the site or leave the site at a later date and sell to another industry. Composite zoning can thereby enable the location of needed economic development projects in closer proximity

to more restricted districts without the fear of negative impacts in the future. Such an approach can result in allowing employers to locate in a more desirable area of the city closer to their employees. This can help to decrease traffic, save time in commuting and reduce air pollution while enabling successful location of a needed employer.

(3) *Better zoning protection:* By creating zoning districts with multiple components, it is easier to zone property for compatibility with adjacent properties. This is often referred to as "contextual" zoning. Even if the uses vary from one site to the next, consistent or compatible site and building standards can be maintained thereby enabling harmonious development with adjacent properties.

(4) *Helps to reduce the number of use districts and re-zoning requests:* The number of use districts can be reduced because additional use districts no longer have to be created to distinguish between a variety of site and architectural standards. A City no longer has to create an R & D district, an employment district, or other versions of light industrial and commercial districts because the uses permitted by such districts may be combined with different site and architectural components to create the desired mix of development standards. By reducing the number of use districts (components), each district can be more flexible with regard to the types of uses that are permitted. Re-zoning requests to accommodate a change of use within a developed site can be reduced in number because a single district can now accommodate more types of uses. For example, a developed shopping center that wants to change a use from a video store to a hardware store can be accommodated because there are more uses included in commercial use districts. The center has already been built to the desired site and architectural standards. It makes little, if any, difference that the land use changes from a video store to a hardware store. With composite zoning districts this change of use can be accomplished without re-zoning while maintaining the desired development standards.

(5) *Benefits decision making:* Under standard zoning districts, a zoning consensus can be difficult to achieve. In order to accommodate the need for a drive-through service lane or limited outdoor storage, a more intensive use district may be the only choice for a use that does not require such an intensive use district. Without composite zoning, a donut shop that needs a drive-through service lane may be forced into requesting more intensive commercial zoning that would permit this lane but would also permit potential undesirable uses such as liquor stores, gasoline service stations or car washes. With composite zoning, a local commercial use component that would permit a donut shop could be combined with a site component that would permit a drive-through service lane thereby avoiding a decision to risk more intensive uses under a more intensive use district and also avoiding the requirement for a Conditional Use Permit.

(6) *Provides more options:* Since use components, site components and architectural components can be combined in multiple combinations, composite zoning provides more options for development standards. This results in better definition to zoning standards with less reliance on Planned Unit Development districts or Conditional Use Permits to provide a successful combination of standards for a particular site.

This ordinance defines a zoning district in the City of Leander as a composite of three different components:

- **A Use Component**
- **A Site Component**
- **An Architectural Component**

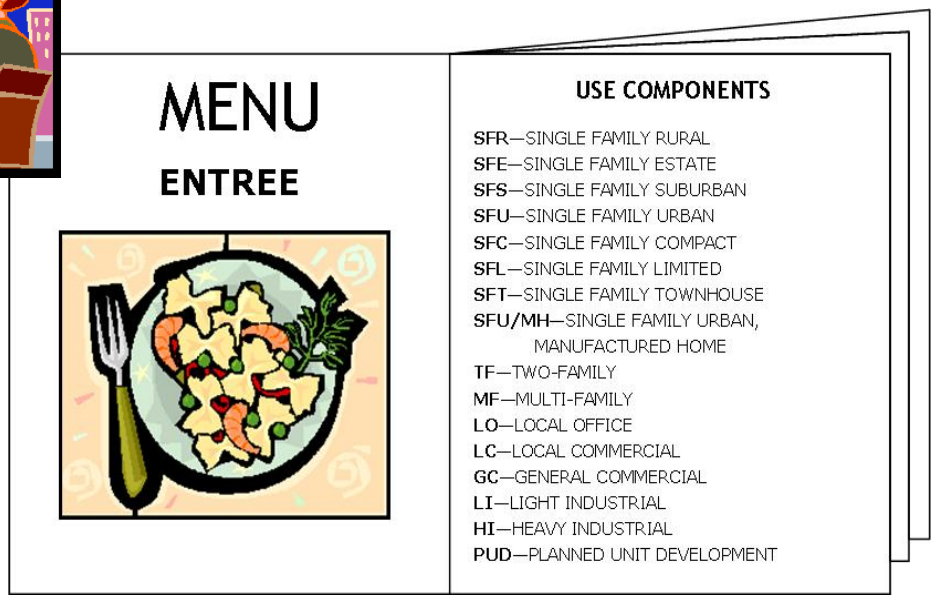
A **Use Component** (Article III) may be any one of the following (see Figure A)

- **SFR** Single-Family Rural
- **SFE** Single-Family Estate
- **SFS** Single-Family Suburban
- **SFU** Single-Family Urban

- **SFC** Single-Family Compact
- **SFL** Single-Family Limited
- **SFT** Single-Family Townhouse
- **SFU/MH** Single-Family Urban , Manufactured Home
- **TF** Two-Family
- **MF** Multi-Family
- **LO** Local Office
- **LC** Local Commercial
- **GC** General Commercial
- **HC** Heavy Commercial
- **HI** Heavy Industrial
- **PUD** Planned Unit Development
- **TOD** Transit Oriented Development

These options primarily determine what use the building will be utilized for and any special considerations for that use such as residential lot sizes and if there are any special location considerations for specific uses. Note that the list of use components is in order of increasing intensity (decreasing restrictions) except for a PUD district (because this district is a customized zoning district).

*Figure A: Use Component*

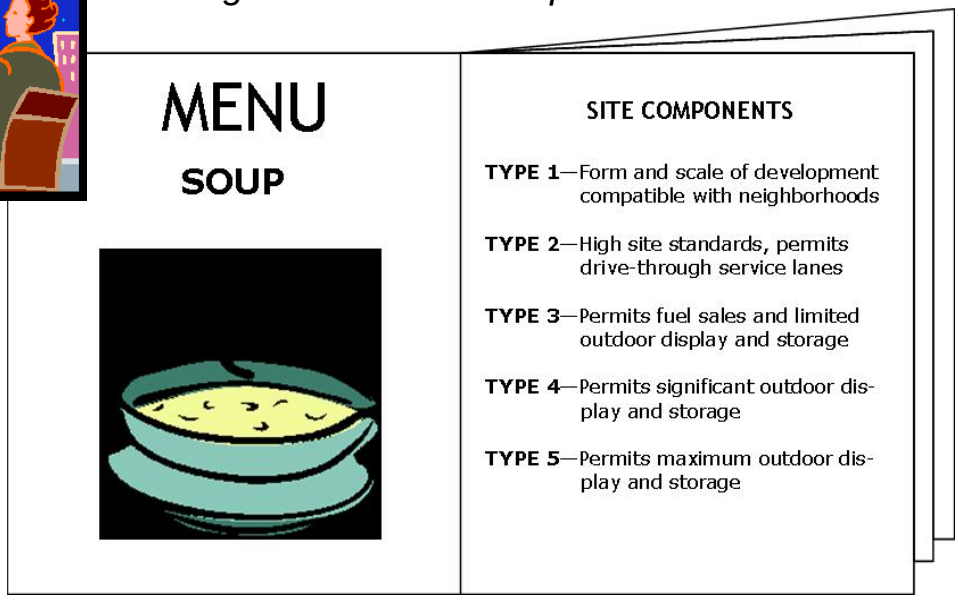


A **Site Component** (Article V) may be any one of the following (see Figure B):

- **Type 1** - Utilized with developments not requiring site intensive uses and contains high standards that help to ensure a type and scale of development that is compatible with residential neighborhoods.
- **Type 2** - Utilized with developments that want to maintain high site standards and do not have a need to utilize the outdoor site area for commercial activities but may require drive-through service lanes.
- **Type 3** - Utilized with single family developments that have accessory dwellings or non-residential developments that have a need to utilize the outdoor site area for commercial activities such as outdoor fuel sales and / or limited outdoor display, storage and accessory buildings.
- **Type 4** - Utilized with non-residential developments that have moderately intense outdoor site requirements and a need to utilize the outdoor site area for significant outdoor display, storage and / or accessory buildings, etc.
- **Type 5** - Utilized with non-residential developments that have intense outdoor site requirements and a need to utilize the outdoor site area for maximum outdoor display, storage and / or accessory buildings.

Note that the list of site components is in order of increasing intensity (decreasing restrictions).

*Figure B: Site Component*

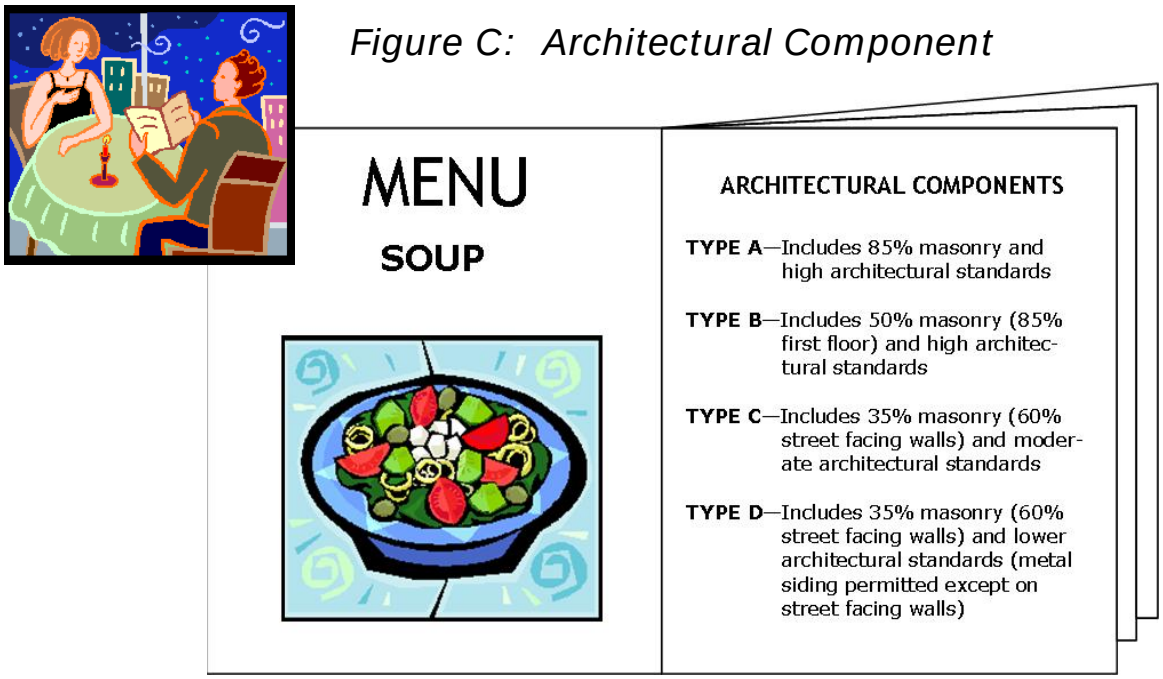



An **Architectural Component** (Article VII) may be any one of the following (see Figure C – following page):

- **Type A** – Includes the highest architectural standards and a requirement for 85% masonry.
- **Type B** – Includes high architectural standards and a requirement for 85% masonry for the first floor and a total of not less than 50% masonry overall.
- **Type C** – Includes moderate architectural standards and a requirement for 35% masonry overall and 60% for street facing walls (not applicable to residential uses).
- **Type D** – Includes moderate architectural standards and a requirement for 35% masonry overall, 60% for street facing walls and permits metal walls for remainder of walls not facing a street (not applicable to residential uses).

Note that the list of architectural components is in order of increasing intensity (decreasing restrictions).

*Figure C: Architectural Component*

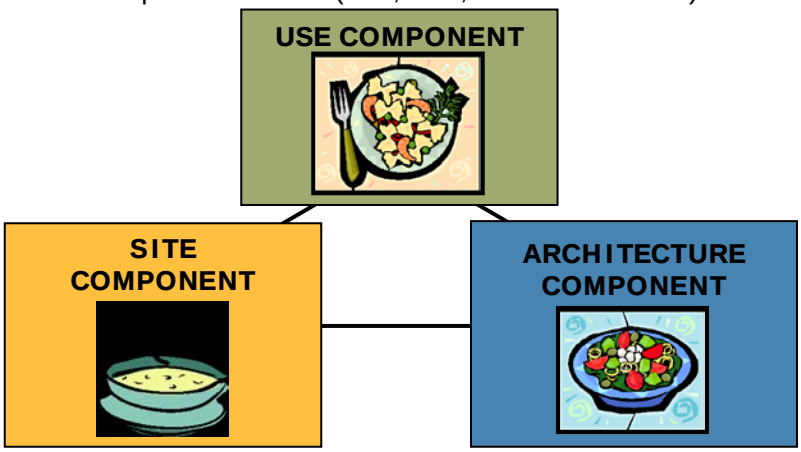



All use components are required to be combined with a site and an architectural component. These combined components are called **Composite Zoning Districts** (see Figure D). For example, if an LC use component is combined with a Type 1 site component and a Type B architectural component, the composite zoning district is LC-1-B. This ordinance contains rules with regard to how the components can be combined (see Article II, Sec. 2, B). There are over one hundred (100) combining options.

*Figure D: Composite Zoning District*

(SOUP, SALAD & ENTRÉE)

A Composite Zoning District is created when one selection is made from each of the component menus (Use, Site, and Architecture)



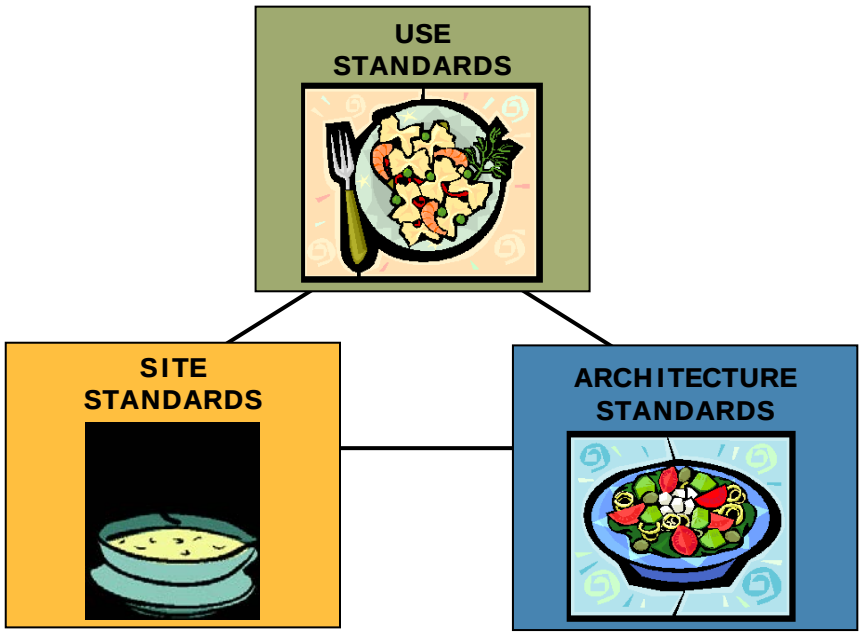
In addition to the standards contained in each component, general zoning standards are identified in this code. These general zoning standards may be thought of as the basic ingredients that go into the entrée, soup and salad that you order. (See Figure E)

- **Use Standards** (Article IV)
- **Site Standards** (Article VI)
- **Architectural Standards** (Article VIII)

*Figure E: General Standards*

(BASIC INGREDIENTS)

In addition to the Component Standards, general standards apply to all districts.




These **General Standards** contain general rules applicable to all composite zoning districts. A PUD may include customized rules that may differ from the general rules.

The combination of a **Composite Zoning District** (entrée, soup and salad) which includes the rules for the applicable districts, and the **General Standards** (basic ingredients) which provides general standards for all districts, constitutes the **Zoning Standards** (meal) for land within the City of Leander (see Figure F – following page). In order to determine which composite district standards are applicable to a certain tract, refer to the Leander Zoning Map (a copy is available at the City of Leander Planning Department). The map indicates the composite zoning district for all land within the City.

The pages of this ordinance are color coded based on whether the section pertains to use, site or architectural standards. Use related sections are green. Site related sections are gold. Architectural related sections are blue. The white sections include administrative and procedural rules as well as general information such as definitions, purpose, intent, etc.

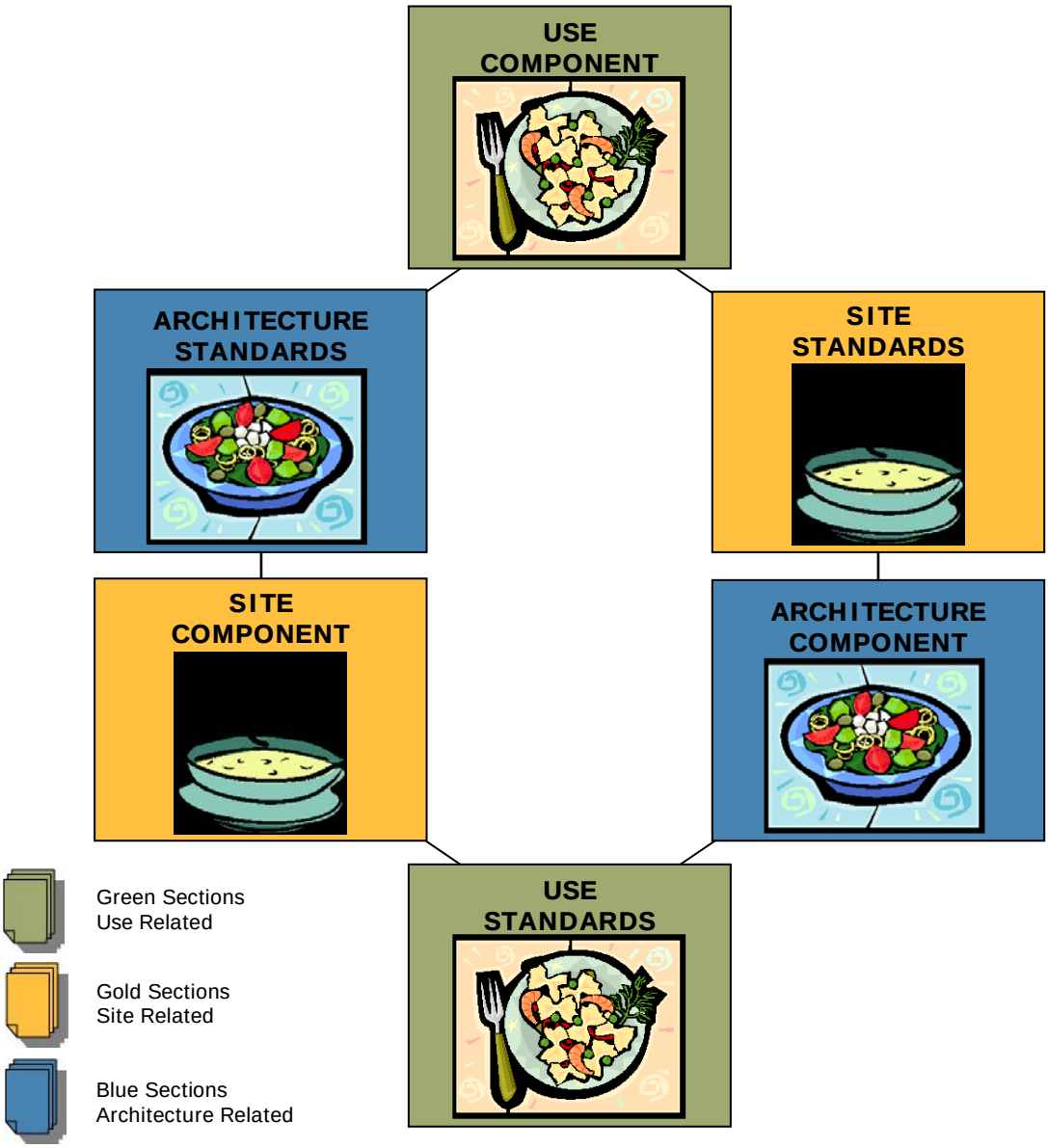
If you, as a land owner, desire to request a zoning change for property, obtain a zoning application form on line at the City's web site (www.leandertx.org) or obtain one at the Planning Department. Meet with a representative of the Planning Department to discuss your proposed application. The zoning request should be tailored to fit within the context of the site location and the type of development that is desired. Select a use, site and architectural component that

best suits these goals and is in compliance with the general purpose of this ordinance (see Article I, Sec. 3). Complete the application and prepare or obtain all information requested in the application form. Once the application has been submitted with all information required, the request will be reviewed by the Planning and Zoning Commission and acted on by the City Council in conjunction with public hearings. The process typically takes about six to seven weeks to complete. A PUD district may take longer to process.

To obtain a building permit, a building permit application must be completed and submitted to the Permits Division. The application is reviewed for compliance with the Zoning Standards and the Building Standards (refer to the Permits Division for a copy of the most recently adopted Building Standards).

*Figure F:*

COMPOSITE ZONING DISTRICT + GENERAL STANDARDS = ZONING STANDARDS



**ORDINANCE NO. 05-018**

**AN ORDINANCE OF THE CITY OF LEANDER, TEXAS, AMENDING ORDINANCES 02-016-00, 02-029-00, 02-029-01, 02-029-02, 02-029-03, 02-029-04, 02-029-05, 02-029-06 AND 04-039-00, AS AMENDED, IN THEIR ENTIRETY; ADOPTING A COMPOSITE ZONING ORDINANCE; PROVIDING ZONING DISTRICTS, ZONING REGULATIONS, AND STANDARDS FOR THE DEVELOPMENT AND USE OF LAND WITHIN THE CITY; PROVIDING THE ADOPTION OF AN OFFICIAL ZONING MAP; PROVIDING SEVERABILITY, OPEN MEETINGS AND EFFECTIVE DATE CLAUSES; PROVIDING PENALTIES; AND PROVIDING FOR RELATED MATTERS.**

-EXHIBIT A-

# ZONING ORDINANCE

WHEREAS, included purposes of this ordinance are to implement the goals of the Comprehensive Plan, to assist in the creation of a positive mix of land uses, to maintain and improve the quality of life, to add diversity to and protections for our neighborhoods, to increase economic development and tax revenue, to benefit job creation, to maintain and protect the attractiveness of our community, to maximize the potential of the U. S. Highway 183 corridor, to aid in the creation of urban centers, protect property values, and provide for the public health, safety and welfare;

WHEREAS, the ordinances of the City establishing zoning districts within the City limits should be flexible to meet the changing needs of the City and its commerce and economy;

WHEREAS, this ordinance creates contextually adaptive zoning standards to increase the effectiveness of zoning districts by broadening the scope of uses while creating more choices for form integrated zoning decisions through the incorporation of site and architectural standards;

WHEREAS, a purpose of this ordinance is to protect residential neighborhoods by creating districts that exclude uses that are incompatible due to a difference in the character of development, traffic generation, scale and type of buildings and site development, parking requirements and other factors, including the exclusion of commercial, retail, office, industrial, warehouse and similar facilities of an incompatible nature;

WHEREAS, a purpose of this ordinance is to streamline the development process by adding more administrative flexibility and by creating better defined standards that can be easily understood and objectively enforced;

WHEREAS, a purpose of this ordinance is to maintain and improve high standards of development while creating greater variety to the urban fabric;

WHEREAS, additional purposes of this ordinance are to stimulate economic development by creating more effective zoning standards with greater available options, by creating a more diversified work force through the creation of more housing alternatives, by establishing standards that will add greater certainty to development expectations, and by establishing high standards that will improve quality of life and the work environment thereby making the community more attractive for business development and growth;

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LEANDER, TEXAS, THAT:

# ARTICLE I - GENERAL

## SECTION 1: AUTHORITY

This ordinance is adopted pursuant to the police powers of the City of Leander and under the authority of the City Charter, the Constitution and general laws of the State of Texas, including, but not limited to, *Chapter 211, Texas Local Government Code*.

## SECTION 2: TITLE

This ordinance shall be known, and may be cited, as the Composite Zoning Ordinance, or Zoning Ordinance of the City of Leander, Texas.

## SECTION 3: GENERAL PURPOSE

(a) The general purposes of this ordinance are as follows:

- To provide reasonable regulations and requirements to protect, preserve, improve and provide for the health, safety and general welfare of the present and future citizens of the City;
- To establish a framework of zoning guidelines and criteria that will provide for and support the development of a quality living and work environment; and
- To incorporate provisions requiring all future development and redevelopment to provide a compatible plan for residential, civic, community services, commercial and industrial uses, while providing reasonable protections for both the public and persons having an ownership interest in property affected by these regulations.

(b) This ordinance should be administered and applied consistent with its terms and provisions to serve general purposes and to result in development superior to that otherwise achievable and that will promote the following additional purposes:

(1) Assist the safe, orderly, healthful and coordinated development of the City;
(2) Conserve existing and future neighborhoods;
(3) Protect the value of real property throughout the community;
(4) Conserve, develop, protect, and utilize natural resources, as appropriate and consistent with the public interest, to enhance the preservation of the environment;
(5) Protect and preserve places and areas of historical and cultural importance and significance to the community;
(6) Lessen congestion in the streets and provide convenient, safe, and efficient circulation of vehicular and pedestrian traffic appropriate to the character of the surrounding environment;
(7) Facilitate the adequate and efficient provision of transportation, water, wastewater, schools, parks, emergency and recreational facilities, and other public requirements;
(8) Promote economic development through an efficient and practical means by which development will promote a prosperous economic environment;
(9) Promote compatible residential, commercial and industrial uses to harmoniously relate future development and redevelopment to the existing community and facilitate the development of adjoining properties;
(10) Standardize the procedure and requirements for zoning, building permits, and certificates of occupancy to provide administrative efficiency and protect property owner rights; and
(11) Provide an opportunity and venue for the appropriate reconciliation of any differences of interest among property owners, developers, neighborhoods and the City.
(12) Help the region retain its natural features and visual character derived from topography, woodlands, riparian corridors, and shorelines.
(13) Provide growth opportunities that encourage infill and redevelopment.

(14) Enable transportation corridors to be planned in coordination with land use.
(15) Distribute affordable housing to match job opportunities and avoid undue concentrations.
(16) Preserve greenbelt corridors, floodways, riparian corridors, and help connect neighborhoods.
(17) Enable a finer grained mix of land uses to create opportunities for better transit, pedestrian, and bicycle systems that provide alternatives to the automobile.
(18) Create neighborhoods and regional centers that are compact, pedestrian-oriented, and mixed-use.
(19) Enable ordinary activities of daily living to occur within walking distance of many dwellings, allowing independence to those who do not drive.
(20) Provide interconnected networks of thoroughfares to disperse traffic and reduce the length of automobile trips.
(21) Provide a range of housing types and price levels within neighborhoods to accommodate diverse ages and incomes.
(22) Integrate civic, institutional, and commercial activity with town centers, not isolated in single-use complexes.
(23) Provide for open space including parks, squares, and playgrounds within neighborhoods and town centers.
(24) Create quality buildings and landscaping that contribute to the physical definition of thoroughfares as civic spaces.
(25) Accommodate the automobile while respecting the pedestrian and the spatial form of public space.
(26) Create architectural standards and landscape design to reflect local climate, topography, history, and building practice.
(27) Encourage civic buildings and public gathering places to be provided at locations that reinforce community identity.

## SECTION 4: JURISDICTION AND INTENT

The requirements of this ordinance shall apply to all property within the City; provide for the implementation of site development regulations; provide a voluntary guide for the development of property within the extraterritorial jurisdiction in order that such property may be developed in a manner consistent with neighboring areas and existing or planned infrastructure; and be construed and applied in a manner to give effect to the City of Leander Comprehensive Plan. The development of land within the City limits should be of a quality to carry out the purpose and spirit of the policies expressed in the Comprehensive Plan and in this ordinance, rather than be limited to the minimum standards required herein.

## SECTION 5: FINDINGS

The findings and recitations set out above are found to be true and correct and are hereby adopted by the City Council as findings of fact made a part hereof for all purposes. The City Council further finds and determines that the terms and provisions of this ordinance are reasonable, necessary and required to protect the public health, safety and general welfare of the City and its residents.

## SECTION 6: DEFINITIONS

The following words, terms and phrases, when used in this ordinance, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning. Words used in the present tense include the future tense. Words used in the plural include the singular, and words in the singular include the plural. The word "shall" is always mandatory. The word "herein" means in this ordinance. The word "regulations" means the provisions of any applicable ordinance, rule, regulation or policy. The word “person"

means any human being or legal entity and includes a corporation, a partnership, and an incorporated or unincorporated association. The words "used or occupied" as applied to any land or building shall be construed to include the words intended, arranged, or designed to be used or occupied.

***Access*** means a way of approaching or entering a property.

***Accessory Building or Accessory Structure*** means:
(a) In residential districts, an accessory building / structure is incidental to and customarily associated with a specific principal use or principal building on the same site, attached to or detached from the main building, not used for commercial purposes and not rented.
(b) In non-residential districts, an accessory building / structure is a subordinate building, the use of which is secondary to and supportive of the main building.

***Accessory Use*** means a use on the same lot or tract of land and of a nature customarily incidental and subordinate to the principal use.

***Adjacent*** means abutting, directly connected to, bordering or across a public ROW.

***Alley*** means a minor right-of-way, dedicated to public use, which gives a secondary means of vehicular access to the back or side of properties otherwise abutting a street, and which may be used for such access or for public utility purposes.

***Animals*** means as designated in Ordinance Number 421-89 or any future amendments.

***Animal Boarding*** means a commercial enterprise for lodging and feeding of more than five animals for a specified period or time where those animals are not owned by the land owner or lessee.

***Antenna*** means any exterior apparatus designed for telephonic, radio or television communications through the sending and/or receiving of electromagnetic waves including equipment attached to a tower, building, or other structure for the purpose of providing personal wireless services. Antennas include the following types:
(a) Omni-Directional (or "Whip") Antenna. Receives and transmits signals in a three hundred sixty (360) degree pattern, and which is up to fifteen (15) feet in height and up to four inches in diameter;
(b) Directional (or "Panel") Antenna. Receives and transmits signals in a directional pattern typically encompassing an arc of one hundred twenty (120) degrees;
(c) Parabolic (or "Dish") Antenna. A bowl shaped device that receives and transmits signals in a specific directional pattern;
(d) Ancillary Antenna. An antenna that is less than twelve (12) inches in its largest dimension and that is not directly used to provide personal wireless communication services. An example would be a global positioning satellite antenna (GPS);
(e) Other. All other transmitting or receiving equipment not specifically described in this ordinance which most closely resembles such equipment.

***Apartment House (Apartments)*** means any building, or portion thereof, which is designed or occupied as the home or residence of three (3) or more households living independently of each other and doing their own cooking in the said building, and shall include flats and other multi-family dwellings.

***Applicant*** means a person applying for zoning approval under this ordinance.

***Approval*** means the final approval in a series of required actions. For instance, the approval date of a zoning application requiring approval of the Commission and then the Council is the date of Council approval.

***Assisted living.*** A facility providing residence, supervision and daily assistance for individuals, generally persons 55 years of age or older, with common dining and recreational areas designed for the needs of the elderly. Services in these establishments include assistance with routine living functions that are non-medical in nature, such as dressing, grooming, bathing, and social and recreational services, such as meal services, transportation, housekeeping, linen, and organized social activities. An assisted living facility may include an adult daycare as an accessory use. In addition, portions of the facility may be utilized for independent living without assistance. However, independent living may not be a standalone use.

***Attendant Documents*** means materials needed to address the specific requirements of this ordinance which the applicant feels necessary to explain the submittal.

***Bar*** means an establishment where seventy-five percent (75%) or more of monthly gross revenue sale is alcoholic beverages.

***Board*** means the Board of Adjustments of the City of Leander, Texas.

***Board of Adjustments*** means a quasi-judicial body appointed by the Council which interprets the provisions of this ordinance as provided by state law.

***Boarding House*** means a building other than a hotel occupied as a single housekeeping unit where lodging or meals are provided for five (5) or more persons for compensation, pursuant to previous arrangements for definite periods, but not to the public or transients.

***Building*** means any permanent structure built for the shelter or enclosure of persons, animals, chattels or property of any kind, which is permanently affixed to the land and has one or more floors and a roof.

***Building Front (a.k.a. Front Primary Building Façade)*** means the side or sides of the building facing a street with a door or other primary frontage features.

***Building Height*** see Height.

***Building Setback Line*** means a line or lines designating the limit of the area of a lot where structures may be erected. The building lines generally provide the boundaries of the permissible building footprint on any given lot and no structure or building shall be erected between a building setback line and the corresponding lot line. The building line does not apply to building projections, e.g. eaves, awnings, window boxes, and porch overhangs that do not extend further that 24" from the building line or other projections as specifically stated herein.

***Building Setback Line, Front*** means a line or lines designating the minimum distance the front wall of a structure is required to be from the front property line. The front wall shall be considered to be the wall or walls on the side of the house where the front door is located. For reverse frontage lots where the front and rear of the house face a street, both frontages shall be considered the front for purposes of establishing the building setback and the exterior wall building materials. The building line does not apply to building projections, e.g. eaves, awnings, window boxes, and porch overhangs that do not extend further than two feet from the building line or other projections as specifically stated herein.

***Building Permit*** means a permit issued by the City of Leander which is required prior to commencing construction or reconstruction of any structure.

***Caliper*** means the trunk diameter of a tree at four (4) feet above natural grade.

***Carrier*** means a company that provides wireless services for a fee directly to the public, or to such classes of users as to be effectively available directly to the public, regardless of the facilities used.

***Centerline of a Waterway*** means a line that follows the lowest cross-sectional elevations of the waterway. If not readily discernible, the centerline shall be determined by (first) the low flow line, or (second) the center of the two (2) year flood plain.

***City*** means the City of Leander, Texas.

***City Building Official*** means a member of City staff who has the duty of administering this ordinance.

***City Council or Council*** means the Leander City Council.

***City Engineer*** means the City Engineer for the City or his/her designated representative.

***City Limits*** means within the incorporated boundaries of the City.

***City Manager*** means the chief executive officer of the City of Leander, Texas or his/her authorized designee.

***City Staff*** means the officers, employees and agents of the City assigned and designated from time to time by the City Manager and/or Council, including but not limited to the Director of Planning, to review, comment and/or report on zoning applications.

***City Standard Details and Specifications*** means a collection of City approved drawings and technical data, as amended from time to time, representing typical drainage, transportation, erosion & sedimentation control, and utility appurtenance standards.

***Clinic*** means an establishment where patients, who are not lodged overnight, are admitted for examination and treatment by a group of physicians practicing medicine individually or collectively.

***Club*** means a building or portion thereof or premises owned or operated by a corporation, association, person or persons for a social, educational or recreational purpose, but not for profit or to render a service which is customarily carried on as a business.

***Co-location*** means the use of a single support system on the ground by more than one carrier (vertical co-location) and/or several support systems on an existing building or structure by more than one carrier.

***Commercial District*** means one or more composite districts containing a commercial component (LO – Local Office, LC – Local Commercial, GC – General Commercial, HC – Heavy Commercial) or a PUD district approved for such uses.

***Commercial Motor Vehicle*** means a motor vehicle or combination of motor vehicles used to transport passengers or property that:

(a) has a gross combination weight rating of 17,000 or more pounds, including a towed unit with a gross vehicle weight rating of more than 10,000 pounds;
(b) has a gross vehicle weight rating of 17,000 or more pounds;
(c) is designed to transport 16 or more passengers, including the driver; or
(d) is transporting hazardous materials and is required to be placarded under 49 C.F.R. Part 172, Subpart F.

***Commission*** means the Planning and Zoning Commission of the City of Leander.

***Composite Zoning District*** means a City zoning district defined by this ordinance and consisting of a use component, a site component and an architectural component.

***Construction Plans*** mean the maps, drawings, plans and specifications indicating the proposed location and design of improvements to be installed as part of a development.

***Contiguous*** means adjacent property whose property lines are shared or are separated by only a street, alley, easement or right-of-way.

***Controller*** means an electric timing device that operates each zone of an irrigation system for a preset time and frequency. Water conservation features include cycle and soak (multiple cycle), rain sensor capability and a water budget feature.

***Corner Lot*** means a lot located contiguous to the intersection of two (2) or more streets.

***Council*** means the City Council of the City of Leander.

***County*** means Williamson County with respect to land located in Williamson County, Texas; and, Travis County with respect to land located within Travis County, Texas.

***County Appraisal District*** means the Williamson County Appraisal District for land in Williamson County; and the Travis Central Appraisal District for land in Travis County.

***Critical Root Zone*** means a circular area centered around the trunk of a Significant Tree, equal to one (1) foot in radius for each one (1) inch Caliper.

***Dark Sky*** means the use of lighting in a way that directs the light source away from the sky in order for the night sky to remain relatively free of interference from artificial light. This type of lighting is in compliance with the International Dark Sky Association standards.

***Day Care Center*** means a child care facility that provides care less than 24 hours a day for more than twelve (12) children under age fourteen (14) and licensed by the State of Texas.

***Developed Area*** means the area of the lot or tract of land utilized for a development. When the lot is not proposed for full development and is anticipated to have additional phases of development, such area includes all portions of the lot necessary for the proposed phase of the development. Such area includes all proposed structures, parking areas, setbacks, landscaping, utilities, drainage facilities (including detention and water quality ponds), outdoor storage areas, recreational areas, and any other improvements or uses associated with the proposed development phase.

***Developer*** means the legal owner or lessee of land to be improved and/or subdivided or authorized representative of any such owner or lessee.

***Development*** means the construction or placement of any buildings, utilities, access, roads, parking facilities, driveways or other structures or physical improvements, excavation, mining, dredging, grading, filling, clearing or removing vegetation, and the deposit of refuse, waste or fill. Lawn and yard care, including mowing of tall weeds and grass, gardening, tree care and maintenance, removal of trees or other vegetation damaged by natural forces, and ranching and farming shall not constitute development. Utility, drainage, and street repair, and any construction maintenance and installation which does not require land disturbance or result in additional impervious cover shall also not constitute development.

***Director of Planning and Community Development or Director of Planning*** means the Director of Planning and Community Development for the City or his/her designated representative.

***District*** means a composite zoning district or a PUD district as described herein, which is a part of the City of Leander, Texas, wherein the regulations of this section are uniform. A use, site or architectural component is not considered a zoning district except for a PUD. Use, site and architectural components must be combined to create a composite zoning district.

***Dog Park*** means a facility set aside for dogs to exercise and play off-leash in a controlled environment under the supervision of their owners.

***Double Frontage Lot*** (see Reverse Frontage Lot)

***Drainageway*** (see Waterway)

***Drive Approach*** means a paved surface connecting the street to a front lot line.

***Driveway*** means any vehicular driving surface connecting a drive approach.

***Dwelling*** means any building or portion thereof which is designed for or used exclusively for residential purposes, including single-family, two-family and multi-family dwellings, but not including hotels, motels, campers, trailers, or other similar structures.

***Dwelling, Accessory*** means a secondary dwelling unit built on a legal lot in addition to a principal dwelling unit or primary residence.

***Dwelling Unit*** means a residential unit designed to accommodate one (1) household for living, sleeping, eating, cooking and sanitation.

***EIA*** means Electronic Industries Association.

***EIA-222*** means Electronics Industries Association Standard 222, “Structural Standards for Steel Antenna Towers and Antennas Support Structures.”

***ETT (Electric Transmission Tower)*** means a self supporting structure in excess of 50 feet (15 meters) in height designed to support high voltage electric lines. This does not include local utility or distribution poles (with or without transformers) designed to provide electric service to individual customers.

***Easement*** means that portion of land or property reserved for present or future use by a person or agency other than the legal fee owner(s) of the property. The easement shall be permitted to be for use under, on or above said property.

***Environment*** means the aggregate of social and physical conditions that influence the life of the individual and/or community.

***Equipment Enclosure*** means a small enclosed structure, shelter, cabinet, box or vault at the base of the support system within which are housed batteries, electrical equipment, mechanical equipment or other equipment either below, above or at grade.

***FAA*** means Federal Aviation Administration.

***FCC*** means Federal Communications Commission.

***Family*** means one (1) or more individuals living together as a single housekeeping unit (a household), as distinguished from a group occupying a boarding house or hotel as defined herein.

***Family Home*** means the use of a site for the provision of a family-based facility providing 24 hour care in a protected living arrangement with not more than two supervisory personnel and not more than six residents who are suffering from orthopedic, visual, speech, or hearing impairments, Alzheimer's disease, pre-senile dementia, cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, autism or emotional illness.

***Fire Chief*** means the Fire Chief for the City or his/her designated representative.

***Flood Plain*** means a waterway and the adjacent land area subject to inundation during the design storm.

***Floor Area, Gross*** means the sum of the horizontal areas of the floors of a building measured from the exterior face of exterior walls or, if appropriate, from the center line of a dividing wall.

***Front Yard*** means an area between any required front building setback and the front property line.

***Frontage*** means the width of a lot or parcel abutting a public right-of-way measured at the property line.

***Fully Automated WCF*** means no on-site personnel required for the daily operation of the WCF.

***Gaming Device*** means a clock, tape machine, slot machine, or other machine or device for the reception of money or other thing of value on chance or skill or upon action of which money or other thing of value is staked, hazarded, bet, won, or lost; or any mechanism, furniture, fixture, equipment or other device designed primarily for use in a gambling place. It does not include: (1) A coin-in-slot-operated mechanical device played for amusement that rewards the player with the right to replay such mechanical device; or (2) Vending machines by which full and adequate return is made for the money invested and in which there is no element of chance or hazard.

***Gaming Room Facility*** means a place to deal, operate, carry on, conduct, maintain, or expose for play any game, sports book, promotion, sweepstakes, or other activity electronic or otherwise that may or may not confer upon the patrons or participants the right, chance, or ability to win and or claim prizes.

***Grade*** means slope; the topographic relief of the land surface; or a standard of material such as “exterior grade”.

***Grading*** means any stripping, cutting, filling or stockpiling of earth or land, including the land in its cut or filled condition.

***Group Day Care Home*** means a facility that provides care for less than 24 hours a day for seven (7) to twelve (12) children under fourteen (14) years old.

***Group Home*** means any Group Home-Class 1, Group Home- Class 2 or Group Home-Class 3.

***Group Home-Class 1*** means the use of a site for the provision of a family-based facility providing 24 hour care in a protected living arrangement for not more than 6 residents and 2 supervisory personnel. This use includes foster homes, congregate living facilities for persons 60 years of age or older, maternity homes, and homes for persons with physical or mental impairments not listed in the description of family home use. Persons with physical or mental impairments are persons whose impairments substantially limit one or more of the persons' major life activities, who have a record of the impairment, or who are regarded as having the impairment, as defined in the Americans with Disabilities Act.

***Group Home, Class 2*** means the use of a site for the provision of a family-based facility providing 24 hour care in a protected living arrangement for more than 6 but not more than 15 residents and not more than 3 supervisory personnel. This use includes foster homes, homes for the physically and mentally impaired, homes for the developmentally disabled, congregate living facilities for persons 60 years of age or older, maternity homes, emergency shelters for victims of crime, abuse, or neglect, and residential rehabilitation facilities for alcohol and chemical dependence.

***Group Home, Class 3*** means the use of a site for the provision of a family-based facility providing 24 hour care in a protected living arrangement for not more than 15 residents and not more than 3 supervisory personnel. This use includes homes for juvenile delinquents, halfway houses providing residence instead of institutional sentencing, and halfway houses providing residence to those needing correctional and mental institutionalization.

***Grow Green Guide*** means the Grow Green Guide to Native & Adaptive Landscape Plants published by the City of Austin Watershed Protection Department and the Texas AgriLife Extension Service as amended from time to time. This guide provides earthwise plant choices for developments in the region.

***Guy Wire*** means diagonal cables utilized to tie towers to the ground or other surfaces.

***Hardscape*** means non-living materials utilized as landscape improvements such as sidewalks, decks, fences, statuary, fountains, benches, etc.

***Height*** means the vertical distance measured from the finished floor to the highest point of any and all components of the structure, including roof, antennas, hazard lighting, and other appurtenances, if any, except for those improvements listed in Article VIII, Sec. 8.

***Heritage Tree*** means a living tree that the City desires to preserve to the greatest extent possible. They are those trees identified in the preferred plant list maintained by the Planning Department or the Grow Green Guide that are greater than twenty-six (26) caliper inches. They do not include hackberry, mountain juniper, ash juniper, bois d'arc, cottonwood,

chinaberry or sycamore or any other invasive species listed in the Grow Green Guide, except for an unusually large or significant specimen.

***Home Occupation*** means an occupation that is incidental and secondary to the primary use of the premises as a residence and customarily conducted in a residential dwelling unit by a member of the occupant's family, entirely within an enclosed structure, provided such use is not detrimental or injurious to adjoining property and meets the conditions established in Article IV, Section 9.

***Hotel*** means 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 and inside a lobby or office supervised by a person in charge at all hours. As such, it is open to the public in contradiction to a boarding house, a lodging house, or an apartment.

***Illegal Lot*** means a lot which is part of a subdivision recorded at the county, created when it was subject to approval by a governmental entity which has subdivision approval authority as enabled by the State of Texas, was not approved by such entity, and was not otherwise exempt from such approval.

***Illegal Tract*** means a tract which was created when it was subject to review by a governmental entity which has subdivision approval authority as enabled by the State of Texas, was not approved by such entity and was not otherwise exempt from such approval.

***Impervious Cover*** means roads, parking areas, buildings, swimming pools, rooftop landscapes and other construction limiting the absorption of water by covering the natural land surface; this shall include, but not be limited to, all streets and pavement within the development.

***Improvements*** means any street, alley, roadway, barricade, sidewalk, bikeway, pedestrian way, water distribution system, wastewater collection system, storm drainage system, public park land, landscaping, or other facility or portion thereof for which the local government may ultimately assume responsibility for maintenance and operation or which may affect an improvement for which local government responsibility is established.

***Industrial District*** means one or more composite districts containing an industrial component (HC – Heavy Commercial, HI – Heavy Industrial) or a PUD district approved for such uses.

***Interior Lot*** means a lot other than a Corner Lot.

***Landscaping*** means any combination of living plants, such as trees, shrubs, vines, groundcover, flowers or grass; natural features such as rock, stone, bark chips or shavings; and structural features, including but not limited to, fountains, reflecting pools, outdoor art work, screen walls, fences or benches.

***Landscape Plan*** means a graphic that includes a planting plan, an irrigation plan and a grading plan drawn at the same scale and that clearly and accurately identify specified plants, irrigation layout, equipment, finish grade and drainage, specifications and construction details, plan sheet numbers and drawing date of plans and may include hardscape features.

***Landscape Reviewer*** means an employee or agent of the City who reviews site development permit applications for compliance with the landscaping and screening requirements of the zoning ordinance.

***Lattice Tower*** means a support structure that consists of a network of crossed metal braces, forming a tower that is usually triangular or square in cross section.

***Legal Lot*** means either:

(a) a lot recorded in the official county plat records pursuant to and approved in compliance with the subdivision regulations in effect at the time of the subdivision or platting of such lot, by a governmental entity or entities which had subdivision approval authority as enabled by the State of Texas; or

(b) a lot, which is part of a subdivision recorded in the official county plat records, that existed in its present configuration prior to subdivision regulations applicable to the lot being in effect or that is otherwise exempt from such subdivision regulations.

The City of Leander's subdivision regulations were first enacted on 4-24-78. The Williamson County subdivision regulations were first enacted on 2-21-85. The Travis County subdivision regulations were first enacted on 9-1-83.

***Legally Platted Lot*** a lot which is part of a subdivision approved by a governmental entity which has, or entities which have, subdivision approval authority as enabled by the State of Texas, and recorded in the official county plat records.

***Legal Tract*** means a tract of land recorded in the official county deed records and having existed in its present configuration prior to applicable subdivision regulations being in effect or otherwise being exempt from such regulations. The City of Leander Subdivision Ordinance was in effect on 4-24-78. The Williamson County Subdivision Ordinance was in effect on 2-21-85. The Travis County Subdivision Ordinance was in effect on 9-1-83.

***Licensed Carrier*** means a company authorized by the FCC.

***Loading Space*** means an off-street space designed or used for a vehicle while loading or unloading merchandise or materials.

***Lot*** means a subdivision of land, tract or parcel intended as a unit for transfer of ownership, or for development, or for occupancy and/or use.

***Lot Depth*** means the average horizontal distance between the front and rear property or lot lines.

***Lot Width*** means the average horizontal distance between side property or lot lines. Lot width can also be identified as the measurement of the lot at the building setback line. The minimum lot width for lots fronting a cul-de-sac may be reduced to a minimum of thirty (30') feet at the front property line provided that the minimum required lot width is provided at the front setback line.

***Mobile Home*** means a residential structure constructed prior to June 15, 1976, that is transportable in one (1) or more sections, which is built on a permanent chassis and designed to be used as a dwelling. No mobile home shall be placed or installed on any lot, tract or parcel of land within the City after the effective date of this ordinance.

***Manufactured Home*** means a residential structure constructed on or after June 15, 1976, in compliance with the rules and regulations of the United States Department of Housing and Urban Development, that is transportable in one (1) or more sections, which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning and electrical systems.

***Monopole*** means a self-supporting telecommunications tower, which consists of a single vertical pole, fixed into the ground and/or attached to a foundation.

***Motel*** means a building or group of buildings used as a residence for motorists or travelers.

***Multi-Family Dwelling*** means a single structure designed to accommodate three (3) or more households.

***Natural Channel*** means the topography of a waterway prior to construction, installation or improvements thereof.

***Natural Drainage*** means a stormwater runoff conveyance system not altered by development.

***Natural State*** means substantially the same conditions of the land which existed prior to its development, including but not limited to, the same type, quality, quantity and distribution of soils, ground cover, vegetation and topographic features.

***Neighborhood*** means the area of the City characterized by residential land uses which is bounded by physical features (such as river, major street, common access) and/or political features (such as voting districts, subdivision boundaries).

***Neighborhood Park*** means a privately owned parcel of land, within a subdivision, dedicated solely for recreational uses and maintained by the residents of said subdivision.

***Night Club*** means an establishment where seventy-five percent (75%) or more of monthly gross revenue sale is alcoholic beverages and entertainment is provided.

***Non-Automated WCF*** means **a** WCF with on-site personnel (see WCF this section).

***Nonconforming Use*** means a use, building, or yard, lawfully existing on the effective date of this ordinance, which does not, by reason of design or use, conform to the regulations of the district in which it is situated.

***Non-Residential Structure*** means a building or structure not constructed for residential purposes or as an accessory structure for residential purposes, not including non-conforming uses.

***Nursing home.*** A facility housing and providing care for persons who are aged, chronically ill, or incurable who are unable to care for themselves, but who do not need medical, surgical or other specialized treatment normally provided by a hospital. Services typically include custodial or attendant care and meals, but may or may not provide for routine and regular medical and nursing services. Nursing home includes homes for the aged, convalescent and rest homes, but does not include assisted living or senior apartments or hospitals or similar medical facilities.

***Off-Site Improvements*** means any required improvement which lies outside of the property boundary of the land being developed.

***Off-Street Parking Space*** means an area for one (1) motor vehicle not on a public street or alley, with an all weather surface. A public street shall not be classified as off-street use, however, head-in parking or parallel parking spaces protected by raised peninsulas or islands adjacent to a public street may be considered as off-street parking if approved by the Director of Planning.

***One Hundred (100) Year Flood Plain*** (see Regulatory 100-year flood plain)

***Open Air Vending*** means engaging in a commercial business within the City selling, displaying, exhibiting or offering for sale or for the purpose of taking orders, any goods, merchandise, products or services from any vehicle, cart, stand, stall, tent, or other such structure, from, in or upon any private premises or public property, outside a permanent, established structure which has received a certificate of occupancy and complies with the applicable zoning, building codes, and site development requirements of the City. The term does not include peddlers, solicitors, or itinerant vendors who continuously move about from place to place and who do not occupy any particular parcel of private property as a permanent or stationary place for the conduct of their business. The term shall exclude authorized mobile food, seasonal and temporary food establishments and garage sales compliant with the requirements of City code.

***Ornamental Tree*** means a tree that is identified as a small tree/large shrub in the preferred plant list maintained by the Planning Department or the Grow Green Guide.

***Outdoor Animal Yard, Outdoor Animal Boarding or Other Un-soundproofed Animal Area*** means a commercial enterprise which includes an outdoor animal yard or any other commercial un-soundproofed animal area containing five or more animals and which charges a fee for services such as animal adoption, selling, trading, sitting, boarding, kenneling, training, veterinary care or exhibits, shows or similar activities where such activities are conducted in an outdoor animal yard or any other un-soundproofed animal area; and does not include public or private animal parks or activities associated with residential uses that are not on a fee basis. Un-soundproofed animal area does not include an area within a completely enclosed building that is insulated for typical weather conditions.

***Outdoor Display*** means the display of sample inventory, merchandise, consignment items or other items for sale, rent or lease and outside a permanent, established structure which has received a certificate of occupancy and complies with the applicable zoning, building codes, and site development requirements of the City. Outdoor display includes landscaping, landscaping supplies, vehicles, RV's, trailers, farm equipment, construction equipment and accessory buildings for sale, rent or lease, but display of such items, or other similar items that would normally be utilized outside, is not limited to sample items. Except for items that would normally be stored and utilized outside, outdoor display occurs only during the business hours of the applicable business establishment.

***Outdoor Storage*** means the storage or placement of any inventory; building, landscaping, construction or other materials; machinery; supplies; equipment; merchandise; and items being repaired or otherwise processed, stored, re-equipped, handled, assembled, distributed, inventoried, re-fitted, mixed, parked, or altered and not located within a permanent building approved by the City for such purpose. Outdoor storage includes inactive vehicles associated with the business, farm equipment, permanent outdoor equipment, construction equipment or other equipment waiting for repair, under repair, waiting for customer pick-up or temporarily idle; RV and trailer storage; commercial vehicle parking, and wrecker impoundment vehicles. Outdoor storage does not include materials for a resident's personal use on a residential lot such as firewood, gardening materials, etc. or agricultural goods and equipment or vehicles for sale or lease.

***Overspray*** means water that hits the hardscape or non-irrigated areas. Overspray is a major source of water waste in the landscape.

***Parking Module*** means a parking area consisting of an aisle and parking spaces on at least one side of the aisle. Parking spaces on one side of an aisle is a single loaded parking module. Parking spaces on both sides of an aisle is a double loaded parking module.

***Parking Space*** (see Off-Street Parking Space)

***Paved Area*** means an area surfaced with asphalt, concrete or similar impervious pavement, providing an all-weather surface. Gravel or base material is not considered a paved surface.

***Permanent*** means intended to last indefinitely, a minimum of six (6) months.

***Planting Area*** means any area designed for landscape planting having a minimum of ten (10) square feet of actual plantable area and a minimum inside dimension on any side of eighteen (18) inches.

***Primary Structure*** means a structure in which the principal use of the lot is conducted. For example, for single-family residential lots, the house is the primary structure.

***Privacy Fence*** means an opaque fence or screen at least six (6) feet in height. A fence shall be considered opaque if it is made of opaque materials and constructed so that gaps in the fence do not exceed one-half (1/2) inch. Fences using boards placed on alternating sides of fence runners shall be considered opaque if the boards overlap at least one-half (1/2) inch.

***Private Club*** (see Bar).

***Public*** means, with respect to land and interests in land within the City limits, the City; and, with respect to land and interests in land within the ETJ limits, the general public.

***PUD means*** a Planned Unit Development zoning district.

***Public Park*** means a City owned or leased parcel of land dedicated solely for public recreational uses and maintained by the City.

***Public Use*** means places of non-commercial public assembly or administrative functions where the primary activity is contained within a building(s), including but not limited to churches, schools and government buildings.

***Rain Sensor*** means an electric device that measures rainfall and will override the irrigation cycle of an irrigation system, turning it off when a predetermined amount of rain has fallen. It is suggested that rain sensors be set/adjusted so they automatically shut off the irrigation system after not more than one-fourth inch (1/4-inch) of rainfall has occurred. Rain sensors must be installed according to manufacturer's instructions in a location that will provide full exposure to rainfall. They should also be maintained in good working condition.

***Rainwater Harvesting System*** means all improvements associated with the collection, filtration, storage and conveyance of rainwater for purposes of utilizing this water for approved uses.

***Rear Yard*** means an area between any required rear building setback line and the rear property line.

***Regulatory 100-Year Flood Plain*** means the One hundred (100) year flood plain as defined by the Federal Emergency Management Act (FEMA).

***Replacement Trees*** means new landscape trees to be planted by the developer to replace Significant Trees removed during the development of property.

***Research, Testing and Development Laboratory*** means an indoor facility where scientific research and development, not including biotechnology and nanotechnology or other research deemed hazardous by the Planning or Fire Departments, is conducted and analyses performed. These uses are typically characterized by controlled uniformity of conditions (constant temperature, humidity, cleanliness). No facilities for overnight stays by human test subjects shall be provided, nor shall such overnight stays be permitted. Typical uses include pharmaceuticals, medical instrumentation or supplies, communications and information technology, electronics and instrumentation and computer hardware and software. Allowed uses do not include the mass manufacture, fabrication, or processing of products. No outdoor storage is permitted. Research involving the use of animals or human cadavers is not permitted.

***Research, Testing and Development Laboratory (Intense)*** means an indoor facility where scientific research and development is conducted and analyses performed. The business may include testing laboratories for product development, including the construction and testing of prototypes. Typical uses include biotechnology, nanotechnology, pharmaceuticals, medical instrumentation or supplies, communications and information technology, electronics and instrumentation and computer hardware and software. Allowed uses also include the mass manufacture, fabrication, processing or on-site retail sale of products. Outdoor storage is permitted with the combination of the appropriate site component and adhering to the screening requirements listed in Article VI of the Composite Zoning Ordinance. Research involving the use of animals or human cadavers is not permitted unless conducted wholly within a building, and must be conducted in accordance with all applicable local, state, and federal regulations.

***Residential Areas and Residential Districts*** mean one or more composite districts containing a residential component (SFR, SFE, SFS, SFU, SFC, SFL, SFT, SFU/MH, TF, MF) or a PUD district approved for such uses.

***Restaurant*** means an establishment which collects revenues from the sale of prepared food for on-premise consumption and less than 75% of the revenues are from alcoholic beverages.

***Reverse Frontage Lot*** means a double frontage lot which is to be developed with the rear yard adjacent to a major street and with the primary means of ingress and egress provided on an adjacent minor street.

***Reviewing Departments*** means all departments of the City, or agents thereof, that engage in the review of site development permit applications for compliance with City code.

***Right-of-Way*** means a strip of land occupied or intended to be occupied by a street, crosswalk, railroad, road, electric transmission line, or oil or gas pipe line, water distribution main, wastewater or storm sewer main, or for other similar purpose or use. The usage of the term "right-of-way" for land platting purposes shall mean that every right-of-way hereinafter established is to be separate and distinct from the lots or parcels adjoining such right-of-way and not included within the dimensions or areas of such lots or parcels. Right-of-way intended for streets, crosswalks, water distribution mains, wastewater and stormwater collection systems, or any other use involving maintenance by a public agency shall be dedicated to the public by the developer where such right-of-way is established.

***Right-of-Way*** (With specific regards to wireless communication facilities) means all public streets and utility easements, now and hereafter owned by the City of Leander or other public

entity, but only to the extent of the city or public entity's right, title, interest or authority to grant license to occupy and use such streets and easements for wireless communication facilities.

***Riparian Corridor*** means any defined stream channel including the area up to the ordinary high water (or bankfull-flow line), as well as all riparian (streamside) vegetation in contiguous adjacent uplands. Riparian Corridors also includes the Secondary and Connector Trail Corridors identified in the City of Leander Parks, Recreation & Open Space Master Plan and the Transportation Plan.

***Service Area*** means contained areas within which a wireless communication facility is able to transmit clear signals, generally circular in form.

***Setback Line*** (see Building Setback Line)

***Sexually Oriented Business*** means an adult arcade, adult bookstore or adult video store, adult cabaret, adult motel, adult motion picture theater, escort agency, or nude model studio.

***Shadow flicker*** means the visible flicker effect when rotating blades of the wind generator cast shadows on the ground and nearby structures causing a repeating pattern of light and shadow.

***Shrub*** means any self-supporting woody evergreen and/or deciduous species.

***Side Yard*** means an area between any required side building setback and the side property line.

***Sign Band*** means a portion of the exterior wall of the building generally located near of the eve of a structure and out of a material different from the remainder of the wall or along the eve of a canopy, usually oriented horizontally, and including business or industry identification colors, logos, signage or other similar features.

***Significant Tree*** means a living tree that the City desires to preserve to the greatest extent possible. They are those trees identified in the preferred plant list maintained by the Planning Department or the Grow Green Guide. They do not include hackberry, mountain juniper, ash juniper, bois d'arc, cottonwood, chinaberry or sycamore, except for an unusually large or significant specimen or any other invasive species listed in the Grow Green Guide.

***Single-Family Dwelling*** means a building designed for or occupied exclusively by one (1) household.

***Single-Family District*** means one or more composite districts containing a single-family residential component (SFR, SFE, SFS, SFU, SFC, SFL, SFT or SFU/MH) or a PUD district containing such uses.

***Site Plan*** means a layout of all proposed site development showing the information required on the most recent site development application/checklist and this Chapter. A copy of the most recent site development application/checklist shall be kept on file in the Planning Department. The site development shall include all utility lines and utility facilities present and proposed to be installed on private property and/or street ROW.

***Slope*** means the vertical change in elevation divided by the horizontal distance over which that vertical change occurred. The slope is usually given as a percentage.

***Small wind energy system*** means a wind energy conversion system consisting of a wind generator, a tower, and associated control or conversion electronics, which has a rated capacity of 100 kilowatts or less and will be used primarily for onsite consumption.

***Smart Code*** means the Smart Code adopted by the City of Leander, Texas.

***Soil*** means the upper layer of the earth in which plants grow and contains humus, minerals, available nutrients, and beneficial micro-organisms, resulting in a favorable condition for vegetative growth.

***Solar Energy System*** means either of the following:

(a) Any solar collector or other solar energy device, in compliance with the applicable International Building Code, along with its ancillary equipment, whose primary purpose is to provide for the collection, storage, and distribution of solar energy for space heating, space cooling, electric generation, or water heating.

(b) Any structural design feature of a building, whose primary purpose is to provide for the collection, storage, and distribution of solar energy for electricity generation, space heating or cooling, or for water heating.

***Stealth*** means a telecommunications tower or antenna that is effectively camouflaged or concealed from view, i.e.: a man made tree; clock tower; church steeple; bell tower; utility pole; light standard; identification pylon; flagpole; or similar structure, designed to support and camouflage or conceal the presence of telecommunications antennas.

***Story*** means that portion of a building other than a cellar, 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 the ceiling next above it. A storage area above a primary use is not considered a “story” for purposes of this ordinance. If a story is variable in height, for purposes of calculating masonry and other standards associated with this ordinance, the story shall be considered to be a consistent height equal to the height of the predominant story level.

***Street*** means any public or private right-of-way which affords the primary means of vehicular access to abutting property.

***Street Facing Wall*** means the exterior wall of a building, including any off-sets, projections or recesses, facing a street or within forty-five (45) degrees of such orientation and within four hundred (400) feet of the street. A wall is considered facing a street even if there is another public ROW between the wall and the street. A wall is not considered facing a street if another building or other permanent screening material on site is between the wall and the street and such building or materials block the view of the wall from the street by at least seventy-five percent (75%) from all adjacent primary view angles. Five year projected maturity of any on-site evergreen planted materials may be considered in the screening assessment.

***Street Facing Garage*** a garage that has a door oriented so that it faces a street or is within forty-five (45) degrees of such orientation. A garage door is considered facing a street even if there is another public ROW between the door and the street. A garage door is not considered facing a street if another building or other permanent screening material on site is between the wall and the street and such building or materials block the view of the wall from the street by at least seventy-five percent (75%) from all adjacent primary view angles. Five year projected maturity of any on-site evergreen planted materials may be considered in the screening assessment.

***Street Line*** means that line limiting the right-of-way of the street and being identical with the property line of persons owning property fronting on the streets.

***Street Pole*** means a telephone, electric or cable television pole located in a developed street right-of-way for public utility distribution.

***Street Side Yard*** means an area between any required side building setback line and the side property line abutting a public right-of-way, and measured perpendicular to the building to the closest point of the side property line abutting the right-of-way.

***Structural Alterations*** means any change in the supporting members of a structure, such as bearing walls, columns, beams, or girders.

***Structure*** means any building or anything constructed or erected on the ground or which is attached to something located on the ground. Structures include, but are not limited to, buildings, telecommunication towers, sheds, covered parking, retaining walls four (4) feet or higher (measured from the bottom of the footing to the top of the wall), permanent signs and other similar improvements.

***Subdivision*** means the division or re-division of land into two (2) or more lots, tracts or parcels for the purpose of development, laying out any addition to the City, or for laying out any subdivision or building lots, or any lot, street, alley, access easement, public utility easement, park or other portion intended for use by the public, or for the use of any owner, purchaser, occupant, person or entity.

***Support Structure*** means the structure to which an antenna and other necessary associated hardware are attached. Support structures include, but are not limited to, the following:
(a) Non-residential structure;
(b) Monopole – a single pole sunk into the ground and/or attached to a foundation;
(c) Street pole – a telephone, electric or cable television pole located in a street right-of-way.

***Tower*** means a mast, pole, monopole, lattice, other structure primarily used to support antennas or an area of any building structure no larger than 15x15 ft..

***Tower, Freestanding*** means a tower that is a self-supporting structure attached to the ground by a foundation, not physically attached to a building or structure.

***Traffic Impact Analysis (TIA)*** means a study of the impacts of a development on the City's transportation system conducted by a registered professional engineer.

***Trailer, Recreational Vehicle, Mobile Home or Manufactured Home Camp or Park*** means a lot or tract of land utilized for two or more recreational vehicles, mobile homes, manufactured homes or similar residences manufactured with or able to be fitted with a truck (wheel and axle) assembly for the purpose of mobility.

***Transportation Criteria Manual*** means the City of Austin Transportation Criteria Manual as adopted by the City of Leander.

***Tree*** means any living, self-supporting woody plant species which normally grows to an overall minimum height of at least fifteen (15) feet.

***Tree Survey*** means a scaled drawing accurately showing the location, caliper and critical root zone of significant trees in relation to the property boundaries.

***Two (2) Family Dwelling*** means a building designed for or occupied exclusively by two (2) families.

***Variance*** means a grant of relief to a person from the requirements of this ordinance when specific enforcement would result in unnecessary hardship. A variance, therefore, permits construction or development in a manner otherwise prohibited by this ordinance.

***Vines*** mean any woody or herbaceous plants which may cling by twining, by means of aerial rootlets or by means of tendrils, or which may simply sprawl over the ground or other plants.

***Wall, Front*** means any wall surface of a building or structure that includes the front door and faces a street adjacent to the building or structure, or is offset by less than forty-five (45) degrees from the street, or as determined by the Director of Planning, and includes all projections or insets from such wall.

***Wall, Side*** means any wall surface of a building or structure not a front wall that faces a side property line adjacent to the building or structure, or is offset by less than forty-five (45) degrees from the side property line, or as determined by the Director of Planning, and includes all projections or insets from such wall.

***Wall, Street Facing*** (See Street Facing Wall)

***Watershed*** means area from which stormwater drains into a given basin, river or creek.

***Waterway*** means any natural or man-made channel conducting storm water from a two (2) year storm event at a depth of eight (8) inches or more and at a rate of fifteen (15) cubic feet per second or more. Street pavement shall in no instance be considered a waterway.

***Whip Antenna*** (See “Omni-Directional Antenna”)

***Wildscape*** is a word combination of wildlife and landscape, denoting landscaping for wildlife. Wildscapes are small habitats that provide three essential ingredients for a variety of wildlife – food, water and shelter. Native plant materials are a major component of a wildscape.

***WCF (wireless communication facility)*** means a facility that transmits and/or receives electromagnetic signals, including antennas, microwave dishes, parabolic antennas, directional antennas and other types of equipment for the transmission or reception of such signals, towers or similar structures supporting the equipment, equipment buildings, shelters, cabinets, parking area, and other necessary development.

***Wood Yard*** means a tract of property used for the storage of wood either for use as firewood or as a building material. Usually the area is fenced for safety and security reasons.

***Yard*** means an open area between any required building setback line and the relevant property line not subject to public ROW.

## SECTION 7: POLICY

In order to carry out the purposes hereinabove stated, it is hereby declared to be the policy of the City to consider the zoning of land as subject to the control of the municipality, pursuant to this ordinance and the Comprehensive Plan, as adopted or amended from time to time, for the orderly, planned, efficient and economical development of the City and its jurisdiction.

## SECTION 8: APPLICATION

The provisions of this ordinance shall, except as specifically provided otherwise in this ordinance, apply to all land within the jurisdiction of the City.

## SECTION 9: EXEMPTIONS

The provisions of this ordinance shall not apply to:

(a) Cemeteries which obtain a Special Use Permit and comply with all state and local laws and regulations;

(b) Legal lots, parcels or tracts created by order of a court of competent jurisdiction;

(c) Commitments for the construction of public utility buildings for the City made prior to the passage of this ordinance.

## SECTION 10: ENFORCEMENT OF REGULATIONS

(a) No building permit, certificate of occupancy, plumbing permit, electrical permit, or utility tap shall be issued by the City for or with respect to any land within the City limits for any parcel or plat of land for which development was initiated or restarted after the effective date of, and not in conformity with, the provisions of this ordinance, until all applicable requirements of this ordinance have been satisfied and accepted by the City of Leander.

(b) This ordinance may be further enforced by injunction and other judicial proceedings, either at law or in equity; and, in lieu of or in addition to any other authorized enforcement or action taken, any person who violates any term or provision of this ordinance, with respect to any land or development within the City, by fine and penalties as provided herein.

# ARTICLE II - ESTABLISHMENT OF ZONING REGULATIONS

## SECTION 1: GENERAL

### (a) Conformity to Composite Zoning District Requirements

No building or site improvements shall be erected, structurally altered, enlarged, added to, or rebuilt; nor shall any land, building or premises be developed, or designated for use for any purpose or in any manner other than provided for hereinafter in the composite zoning district or PUD district in which the building, land or premises is located, and in the regulations of this ordinance; provided, however, that necessary structural repairs may be made where health and safety are endangered. Furthermore, no open space surrounding any building shall be encroached upon by a structure or reduced in any manner, unless the same shall conform to the regulations herein established.

### (b) Conformity to Other City Ordinances

No building or site improvements shall be constructed, installed, enlarged, erected, converted, reconstructed or altered except in conformance with the entire applicable ordinances and procedures of the City including, but not limited to, the Sign Ordinance, Business Regulations, Building Codes, permit requirements and procedures and the Subdivision Ordinance.

## SECTION 2: ESTABLISHMENT OF ZONING DISTRICTS

### (a) Zoning Districts

For the purposes of this ordinance, the City of Leander is hereby divided into composite zoning districts, which contain a use component, a site component and an architectural component. Uses as well as site and architectural regulations within each composite district are restricted solely to those uses and standards expressly permitted in this ordinance. Use components are required to be accompanied by a site component and an architectural component.

Certain uses listed in use components may not be feasible if they require site or architectural features not permitted by the site or architectural component. [Example: Vehicle sales is a permitted use in the GC (General Commercial) use component. However, if GC is not combined with a site component that permits the amount of outdoor display required for vehicle sales, the use may not be feasible. A GC use component combined with a Type 3 site component would limit outdoor display to not more than thirty percent (30%) of the area of the principal building. A Type 4 or Type 5 site component would increase outdoor display which could be more appropriate for a vehicle sales use.] [Example: Self-storage mini-warehouses are permitted in the HC (Heavy Commercial) use component. However, if HC is combined with an architectural component requiring mostly masonry exterior wall materials, such as a Type A or B architectural component, such use may not be economically feasible.] [Example: A fast food restaurant is permitted in an LC (Local Commercial) use component. However, if it is combined with a Type 1 use component, it would not be permitted to have a drive through service lane.]

These examples demonstrate how composite zoning districts can be structured to include uses, site conditions and/or architectural standards appropriate to the context of a particular location.

Each composite district, consisting of three components, is considered a discrete and unique zoning district unto itself. Except for a PUD district, no individual component, whether a use

component, a site component or an architectural component, is considered to be a zoning district. The following is a list of all zoning components including use, site and architectural components as well as PUD districts:

**(1) Use Components**

(i) **SFR** Single-Family Rural
(ii) **SFE** Single-Family Estate
(iii) **SFS** Single-Family Suburban
(iv) **SFU** Single-Family Urban
(v) **SFC** Single-Family Compact
(vi) **SFL** Single-Family Limited
(vii) **SFT** Single-Family Townhouse
(viii) **SFU/MH** Single-Family Urban, Manufactured Home
(ix) **TF** Two-Family
(x) **MF** Multi-Family
(xi) **LO** Local Office
(xii) **LC** Local Commercial
(xiii) **GC** General Commercial
(xiv) **HC** Heavy Commercial
(xv) **HI** Heavy Industrial
(xvi) **PUD** Planned Unit Development

**(2) Site Components**

**Type 1** - Utilized with developments not requiring site intensive uses and contains high standards that help to ensure a type and scale of development that is compatible with residential neighborhoods.

**Type 2** - Utilized with developments that want to maintain high site standards and do not have a need to utilize the outdoor site area for commercial activities but may need drive-through service lanes.

**Type 3** - Utilized with single-family developments that have accessory dwellings, or non-residential developments that have a need to utilize the outdoor site area for commercial activities such as outdoor fuel sales and / or limited outdoor display, storage and accessory buildings.

**Type 4** - Utilized with non-residential developments that have moderately intense outdoor site requirements and a need to utilize the outdoor site area for significant outdoor display, storage and / or accessory buildings, etc.

**Type 5** - Utilized with non-residential developments that have intense outdoor site requirements and a need to utilize the outdoor site area for maximum outdoor display, storage and / or accessory buildings.

**(3) Architectural Components**

**Type A** – Includes the highest building standards and a requirement for 85% masonry.

**Type B** – Includes high building standards and a requirement for 85% masonry for the first floor and a total of not less than 50% masonry overall.

**Type C** – Includes moderate building standards and a requirement for 35% masonry overall and 60% for street facing walls (not applicable to residential uses).

**Type D** – Includes moderate building standards and a requirement for 35% masonry overall and 60% for street facing walls and permits metal walls for the remainder of the building not facing a street (not applicable to residential uses).

**(b)** The following table illustrates the allowable combining options for composite districts. There are over one hundred possible combining options. If an option is not shown as permitted (P), that option is not-permitted.

**Composite District Combining Options** (P – Permitted)

| Use Component | Site Component | | | | | Arch. Component | | | |
|---|---|---|---|---|---|---|---|---|---|
| | 1 | 2 | 3 | 4 | 5 | A | B | C | D |
| SFR | P | P | P | | | P | P | | |
| SFE | P | P | P | | | P | P | | |
| SFS | P | P | P | | | P | P | | |
| SFU | P | P | P | | | P | P | | |
| SFC | P | P | P | | | P | P | | |
| SFL | P | P | P | | | P | P | | |
| SFT | P | P | P | | | P | P | | |
| SFU/MH | P | P | P | | | P | P | | |
| TF | P | P | P | | | P | P | | |
| MF | P | P | P | | | P | P | | |
| LO | P | P | P | | | P | P | P | |
| LC | P | P | P | | | P | P | P | |
| GC | P | P | P | P | P | P | P | P | P |
| HC | P | P | P | P | P | P | P | P | P |
| HI | P | P | P | P | P | P | P | P | P |

**(c) Zoning Map**

(1) The location and boundaries of the districts herein established are shown on the Zoning Map, which is attached hereto and hereby incorporated by reference and made a part of this ordinance as Appendix 1. It shall be the duty of the Director of Planning to maintain the Zoning Map together with all notations, references, and other information shown thereon, and all amendments thereto.

(2) The conversion of districts established prior to the adoption of this ordinance shall be in accordance with, and the zoning map of the City of Leander is hereby amended, as described by the following zoning district conversion chart and statements:

(i) The portions of Leander Heights (all sections) and High Chaparral that are zoned R-1 are rezoned to SFU/MH-2-B.

(ii) Grand Mesa at Crystal Falls (all sections) are rezoned to SFR-2-B.

(iii) Crystal Falls golf course is rezoned to SFR-3-B.

(iv) Pleasant Hill Estates is rezoned to SFR-3-B.

(v) Overlook Estates Sections 1 and 2 are rezoned to SFE-2-B.

(vi) The portions of County Glen (all sections) currently zoned R-1 are rezoned to SFE-2-B.

(vii) The portions of Highway Village (all sections) currently zoned R-1 are rezoned to SFE-2-B.

(viii) The portions of Hernandos Hideaway (all sections) currently zoned R-1 are rezoned to SFE-2-B.

(ix) The portions of El Chaparral with a final plat submitted are rezoned to SFS-2-B.

(x) The portions of Timberline West (all sections) currently zoned R-1 are rezoned to SFE-2-B.

(xi) The portion of Ridge Oaks Sec. 1 currently zoned R-1 is rezoned to SFE-2-B.

(xii) Lakeline Ranch (all sections) and all other properties currently zoned PD shall retain their zoning in all respects as previously approved and shall be denoted as PUD.

(xiii) The City of Leander property 4.99 acres at 607 Municipal Dr., 2.07 acres at 609 and 701 Municipal Dr., and 3.42 acres west of 701 Municipal Dr. is rezoned to HC-5-D.

(xiv) The City of Leander property Lot 4, Bagdad Meadows is rezoned to HC-4-D.
(xv) The City wastewater treatment plant tract is rezoned to HC-5-D.
(xvi) PEC electrical substation tracts are rezoned to HC-5-D.
(xvii) Except for SFR districts, all single-family and two-family existing lots and future lots on land that is currently within single-family or two-family districts that back up to or side to a major arterial roadway, or tollway, are rezoned to their respective use and site components as shown in the Zoning District Conversion chart below, or as referenced by the above notations, except that such lots are rezoned to a Type A architectural component.

| ZONING DISTRICT CONVERSION | | | | | |
|---|---|---|---|---|---|
| **Old Zoning Districts** | | **New Composite Zoning Districts** | | | |
| | | **Use Component** | | **Site Component** | **Arch. Component** |
| R/A-1<br>R-1D | Rural Agricultural<br>Single-Family Residential | SFR | Single-Family Rural | 1 | B |
| R-1C | Single-Family Residential | SFS | Single-Family Suburban | 2 | B |
| R-1 | Single-Family Residential | SFU | Single-Family Urban | 2 | B |
| R-1A | Garden Home Residential | SFL | Single-Family Limited | 2 | B |
| R-1B | Small Lot Residential | SFC | Single-Family Compact | 2 | B |
| R-1E | Single-Family Attached | SFT | Single-Family Townhouse | 2 | B |
| M-1<br>M-2<br>M-3 | Manufactured Home<br>Manufactured Home Subdivision<br>Manufactured Home Park | SFU/MH | Single Family Urban, Manufactured Home | 2 | B |
| R-2 | Two (2) Family Residential | TF | Two Family | 2 | B |
| R-3<br>R-4 | Three (3) Family Residential<br>Multi-Family Residential | MF | Multi-Family | 2 | B |
| C-1A | Neighborhood Commercial | LC | Local Commercial | 2 | B |
| C-1B | Neighborhood Office | LO | Local Office | 2 | B |
| C-1 | Local Commercial | LC | Local Commercial | 2 | B |
| C-2<br>C-3 | Heavy Commercial<br>Intense Commercial | GC | General Commercial | 3<br>4 | C |
| C-4<br>C-5<br>I-1<br>I-2 | Light Commercial<br>Manufacturing<br>Retail Propane Sales<br>Light Industrial<br>Moderate Industrial | HC | Heavy Commercial | 4 | D |
| I-3<br>I-4 | Heavy Industrial<br>Intense Industrial | HI | Heavy Industrial | 5 | D |

**(d) District Boundaries**

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

(a) Where district boundaries are indicated as approximately following the centerlines of streets or highways, street lines or highway right-of-way lines shall be construed to be said boundaries.

(b) Where district boundaries are so indicated that they approximately follow the lot lines, such lot lines shall be construed to be said boundaries.

(c) Where district boundaries are so indicated that they are approximately parallel to the center lines of streets or highways, such district boundaries shall be construed as being parallel thereto and at such distance there from as indicated on the Zoning Map. If no distance is given, such dimension shall be determined by the use of the scale on said Zoning Map.

(d) In subdivided property, the district boundary lines on the Zoning Map shall be determined by use of the scale appearing on the map.

(e) In the case of a district boundary line dividing a property into two (2) parts, the district boundary line shall be construed to be the property line nearest the district line as shown unless such dividing line was intended during the zoning of the property.

(f) Whenever any street, alley or other public right-of-way is vacated by official action of the Council, the district shall be automatically extended to the center of such vacation and all area included in the vacation shall then and henceforth be subject to all regulations of the extended districts.

(g) Where the streets or highways on the ground differ from the streets shown on the Zoning Map, those on the ground shall control.

**(e) Uses Not Permitted in Any District**

The following uses are specifically prohibited in all areas of the City:

(1) Storage, manufacturing, purifying, packaging, re-packaging, processing, selling or supplying toxic or highly flammable chemicals, gases or other substances as a primary use regardless of quantities involved.

(2) Above ground tank farms for storage of gasoline, fuel oils, gases, propane, chemicals or other flammable, corrosive or toxic substances as a primary use or in total onsite quantities exceeding 30,000 liquid gallons or equivalent.

(3) Battery manufacturing or recycling; animal feed lots; meat packing (not including processing of game animals); petroleum drilling, refining and terminal storage; plastics manufacturing; pulp/ paper manufacturing; rubber manufacturing; tanneries; temporary buildings and structures except those described; toxic waste storage or disposal; vehicle and material recycling (salvage) and reclamation yards; billboards; off premise signs (except as otherwise approved by the City Council); tallow, grease or lard manufacture or refining; liquid asphalt manufacture or refining; coal yard or coke yard; fat rendering; garbage, offal or dead animals reduction or dumping; pot ash works; stock yard or slaughter of animals or fowl; tar distillation or manufacture; mixing plant for concrete, mortar, cement, plaster or paving materials except as temporarily permitted with a specific major project; rock crusher, stone mill; quarry and mining operations; explosives or fireworks manufacture or storage; fertilizer manufacture; acetylene gas manufacture or storage; ammonia, bleaching powder or chlorine manufacture; pyroxlin manufacture; gas manufacture; poison manufacture.

(4) Other similar uses as determined by the Director of Planning based on the criteria of paragraph (f) below.

(5) The following uses may be approved as a PUD district but is not permitted in any district:

(1) A recreational vehicle, mobile home or manufactured home camp or park;
(2) An outdoor vendor venue (fixed location); and
(3) Subdivisions with lots less than forty-one (41') feet in width.

**(f) Determination of Appropriate District**

For uses not classified in this ordinance, the Director of Planning shall work with the property owner to determine the district appropriate for the proposed use, site and architectural improvements. If the proposed use is not substantially similar to a use permitted within the district in which the property is located, or is not substantially similar to a use permitted within another district, or if agreement is not reached, the issue will be submitted to the Commission. The following criteria shall be used to determine the appropriate classification of any use not listed in this ordinance and whether a use is considered principal or accessory:

(1) The actual or projected characteristics of the activity in relationship to the stated characteristics of each use category.

(2) The relative amount of site area or floor space and equipment devoted to the activity.

(3) Relative amounts of sales from each activity.

(4) The customer type for each activity.

(5) The relative number of employees in each activity.

(6) Hours of operation.

(7) Building and site arrangement.

(8) Vehicles used and their parking requirements.

(9) The relative number of vehicle trips generated.

(10) The likely impact on surrounding properties.

(11) Whether the activity is likely to be found independent of the other activities on the site.

**(g) Minimum Requirements**

(1) In their interpretation and application, the provisions of this ordinance shall be held to be minimum requirements adopted for the promotion of public health, safety, and general welfare.

(2) Whenever the requirements of this ordinance are at variance with the requirements of any other lawfully adopted rules, regulations, or ordinances, the requirement that is most restrictive or that imposes higher standards as determined by the Director of Planning shall govern.

(3) The issuance of any permit, certificate or approval in accordance with the standards and requirements of this ordinance shall not relieve the recipient of such permit, certificate or approval from the responsibility of complying with all other applicable requirements of any other city, state or federal agency having jurisdiction over the structures or land uses for which the permit, certificate or approval was issued.

(4) Any use that is not specifically listed as permitted by this ordinance, and is deemed by the Director of Planning as to not be substantially similar in nature to a use specifically listed as permitted, shall be prohibited; unless this ordinance is amended by the City Council to permit such use.

## SECTION 3: ZONING OF ANNEXED AREAS

**(a) Interim Zoning District**

All territory hereafter annexed to the City of Leander shall be temporarily classified as SFR-1-B, Single-Family Rural use component, Type 1 site component, Type B architectural component (interim), pending subsequent action by the Commission and Council for permanent zoning. A land owner who is zoned temporarily and has been annexed involuntarily may request permanent zoning for no fee except for direct expenses incurred during the process as long as such application is submitted to the City within two years from the date of involuntary annexation.

**(b) Permits in Interim Zoned Areas**

In an area temporarily classified as SFR-1-B (interim), no permits for the construction of a building, site improvements or use of land other than uses allowed in said composite district under this ordinance shall be issued by the City Building Official.

# ARTICLE III – USE COMPONENTS

## SECTION 1: SFR – SINGLE-FAMILY RURAL

### (a) Statement of Intent

The Single-Family Rural use component is intended for the development of single-family detached dwellings on lots one acre or larger in size and for other uses that are compatible and complimentary to large lot and very low density residential development. The purpose of this component is to provide regulations to preserve rural character and maintain and protect the City's single-family residences and neighborhoods in an area with larger lot sizes. This component is also intended to preserve the larger tracts of land for future economic development in accordance with the Comprehensive Plan, while permitting rural/agricultural uses on the land to continue.

### (b) Conforming Uses

Certain uses listed in this use component may also need to be supported by an appropriate site component to be permitted. A building or premise shall be used only for the following purposes:

(1) Single-family dwelling of not less than sixteen hundred (1,600) square feet of living area; accessory dwelling with a minimum living area of four hundred (400) square feet; and a maximum living area of nine hundred (900) square feet or 40% of the gross living area of the primary dwelling, whichever is greater. However, for lots greater than three acres in size, there is no limit to the maximum size of the accessory dwelling.

(2) Community services including community center, civic organizations, fraternal organizations, and cemetery / mausoleum not including a crematory or embalming facilities

(3) Golf courses (public and private) and all associated improvements and activities, but not including miniature golf courses, golf practice ranges (unless associated with a golf course), or similar forms of commercial amusement

(4) Day care (in home) for 5 or fewer children

(5) Emergency services including fire, police and EMS stations

(6) Family Home and Group Home-Class 1

(7) Home occupations (see Article IV, Section 8 for Use Standards)

(8) Parks, playgrounds and associated equipment and facilities, recreational amenity center

(9) Place of worship

(10) Public buildings, including libraries, museums and administrative offices

(11) Real estate sales offices during the development and sale of a residential subdivision and subject to the restrictions contained in this ordinance

(12) Schools, public or private, including all levels up to and including secondary (high) school and equivalent curriculum including support facilities are permitted

(13) Temporary buildings incidental to construction work on the premises if such buildings are removed upon the completion or abandonment of construction work (see Article IV, Sec. 7)

(14) Utilities (minor) including ground mounted service equipment and minor structures and facilities such as poles, minor electrical switching facilities, lift stations, water pump stations and gas regulating facilities

(15) Water supply reservoirs and pumping plants when screened from public view

(16) Wireless communications facilities (WCFs) attached to street poles or facades attached to non-residential buildings or stealth WCFs are permitted subject to the provisions of this ordinance. Freestanding WCFs, including lattice towers and mono-poles, are prohibited.

(17) (For lots or tracts three or more acres in size) ranches, dairy farms, stables, riding academies and roping arenas; including the feeding, raising and breeding of agricultural livestock and exotic hoof stock; however, with exception of commercial feed lots which are not permitted, and the exception that not more than one large animal (e.g. a horse, cow, bull or similar animal) or five small animals (e.g. goats, sheep or similar animal) may be permitted for each acre of grazeable land. Grazeable land shall be land that is fenced and maintained with suitable forage for grazing of the particular species. Barns and stables shall not be located within 25 feet of any property line. (See Chap. 2, City Code for animal control regulations)

(18) Agricultural, small wind energy systems, solar energy systems and rainwater harvesting systems including or similar to:
   (i) As accessory uses, solar energy systems designed to supply energy for use on the premises, and rainwater harvesting systems meeting the standards of Article IV, Sec. 5 of Article 14.200. In addition, if approved with a special use permit, small wind energy systems may be approved as an accessory use if meeting the standards of Article IV, Sec. 5 of Article 14.200.
   (ii) Hunting and/or hunting leases (for lots or tracts three or more acres in size).
   (iii) Farming or truck gardens, limited to the propagation and cultivation of plants.

(19) Temporary parking associated with model homes and/or sales trailers prior to the completion of model homes. Article IX of this ordinance will apply to temporary parking lots

(20) Other similar uses as determined by the Director of Planning [see Article II, Sec. 2, (f)].

**(c) Lot Size Minimum**

| Interior Lots | | | Corner Lots | | |
|---|---|---|---|---|---|
| **Area** | **Width** | **Depth** | **Area** | **Width** | **Depth** |
| 1 acre | 120' | 160' | 1 acre | 120' | 160' |

(1) Up to ten percent (10%) of lots in any final plat may have widths, depths and/or areas up to ten percent (10%) less than requirements.

(2) In addition, for every one foot that a lot is wider or deeper than required, or for every one square foot that a lot is larger than required, another lot may be reduced by the equivalent amount, for up to ten percent (10%) of the lots in any final plat being allowed to have such reduced sizes, and up to ten percent (10%) less than requirements. The applicant may increase these prescribed limits to up to double the amounts if the applicant can demonstrate increased tree or other significant natural feature protection.

**(d) Enclosed Garage and Parking**

(1) Dwelling units with three or more bedrooms and lots having an accessory dwelling: A minimum of two garage-enclosed parking spaces and two additional off-street parking

spaces (driveway may be counted toward provision of off-street parking) shall be provided per lot.

(2) Dwelling units with two or less bedrooms and not having an accessory dwelling: A minimum of one garage-enclosed parking space and two additional off-street parking spaces (driveway may be counted toward provision of off-street parking) shall be provided for each lot.

(3) Parking for other uses shall be provided in accordance with Art. VI, Sec. 3.

**(e) Exceptions**

(1) Streets may be constructed to Alternate Urban Standards without curb and gutter (see Transportation Criteria Manual).

(2) Sidewalks are not required.

(3) Dip driveways (without a culvert) are permitted across "bar" ditches if the depth of the water is no greater than one foot during a twenty-five (25) year storm event.

(4) Street lights are not required.

**(f) Additional Requirements:** (Each of the uses denoted herein shall conform to the following development standards. Note: A site component – Type 1, 2 or 3 - and an architectural component – Type A or B – must be combined with this use component.)

(1) Use Standards (Article IV)
(2) Site Components (Article V)
(3) Site Standards (Article VI)
(4) Architectural Components (Article VII)
(5) Architectural Standards (Article VIII)

## SECTION 2: SFE – SINGLE-FAMILY ESTATE

**(a) Statement of Intent**

The Single-Family Estate use component provides for the development of single-family detached dwellings on large lots and for other compatible and complimentary uses. The purpose of this component is to provide regulations to maintain and protect the City's single-family residences and neighborhoods in an area with larger lot sizes.

**(b) Conforming Uses**

A building or premise shall be used only for the following purposes:

(1) All uses permitted in the SFR district with the exception that hunting and hunting leases are not permitted.

(2) Single-family dwelling of not less than sixteen hundred (1,600) square feet of living area, accessory dwelling with a minimum living area of four hundred (400) square feet; and a maximum living area of nine hundred (900) square feet or 40% of the gross living area of the primary dwelling, whichever is greater. However, for lots greater than three acres in size, there is no limit to the maximum size of the accessory dwelling.

**(c) Lot Size Minimum**

| Interior Lots | | | Corner Lots | | |
|---|---|---|---|---|---|
| **Area** | **Width** | **Depth** | **Area** | **Width** | **Depth** |
| 12,000 sq. ft. | 80' | 120' | 13,000 sq. ft. | 90' | 120' |

(1) Up to ten percent (10%) of lots in any final plat may have widths, depths and/or areas up to ten percent (10%) less than requirements.

(2) In addition, for every one foot that a lot is wider or deeper than required, or for every one square foot that a lot is larger than required, another lot may be reduced by the equivalent amount, for up to ten percent (10%) of the lots in any final plat being allowed to have such reduced sizes, and up to ten percent (10%) less than requirements. The applicant may increase these prescribed limits to up to double the amounts if the applicant can demonstrate increased tree or other significant natural feature protection.

**(d) Enclosed Garage and Parking**

(1) Dwelling units with three or more bedrooms and lots having an accessory dwelling: A minimum of two garage-enclosed parking spaces and two additional off-street parking spaces (driveway may be counted toward provision of off-street parking) shall be provided per lot.

(2) Dwelling units with two or less bedrooms and not having an accessory dwelling: A minimum of one garage-enclosed parking space and two additional off-street parking spaces (driveway may be counted toward provision of off-street parking) shall be provided for each lot.

(3) Parking for other uses shall be provided in accordance with Art. VI, Sec. 3.

**(e) Exceptions**

The following may be considered by the City Engineer for an SFE component if justified because of steep grades, excessive cut and/or fill requirements, or for tree preservation:

(1) Alternate Urban Streets (without curb and gutter – see Transportation Criteria Manual) if lots average at least one hundred (100) feet in width.

(2) Removal of sidewalk requirement for one side of the street if the option of re-routing the sidewalk into a yard area does not alleviate the problem.

(3) If Alternate Urban Street standards are utilized, dip driveways (without a culvert) are permitted across “bar” ditches if the depth of the water is no greater than one foot during a twenty-five (25) year storm event.

**(f) Additional Requirements: (Each of the uses denoted herein shall conform to the following development standards. Note: A site component – Type 1, 2 or 3 - and an architectural component – Type A or B – must be combined with this use component.)**

(1) Use Standards (Article IV)
(2) Site Components (Article V)
(3) Site Standards (Article VI)
(4) Architectural Components (Article VII)
(5) Architectural Standards (Article VIII)

## SECTION 3: SFS – SINGLE-FAMILY SUBURBAN

**(a) Statement of Intent**

The Single-Family Suburban use component provides for the development of single-family detached dwellings on intermediate suburban standard sized lots and for other compatible and complimentary uses. The purpose of this component is to provide regulations to maintain and protect the City's single-family residences and neighborhoods in areas with intermediate lot sizes.

**(b) Conforming Uses**

A building or premise shall be used only for the following purposes:

(1) Any use permitted in the "SFE" – Single-Family Estate component except that an accessory dwelling is only permitted with a Type 2 or 3 site component unless such lot exceeds the minimum lot size of the SFE district.

(2) Single-family dwelling of not less than fifteen hundred (1,500) square feet of living area

**(c) Lot Size Minimum**

| Interior Lots | | | Corner Lots | | |
|---|---|---|---|---|---|
| **Area** | **Width** | **Depth** | **Area** | **Width** | **Depth** |
| 9,000 sq. ft. | 70' | 115' | 10,000 sq. ft. | 80' | 115' |

(1) Up to ten percent (10%) of lots in any final plat may have widths, depths and/or areas up to ten percent (10%) less than requirements.

(2) In addition, for every one foot that a lot is wider or deeper than required, or for every one square foot that a lot is larger than required, another lot may be reduced by the equivalent amount, for up to ten percent (10%) of the lots in any final plat being allowed to have such reduced sizes, and up to ten percent (10%) less than requirements. The applicant may increase these prescribed limits to up to double the amounts if the applicant can demonstrate increased tree or other significant natural feature protection.

**(d) Enclosed Garage and Parking**

(1) Dwelling units with three or more bedrooms and lots having an accessory dwelling: A minimum of two garage-enclosed parking spaces and two additional off-street parking spaces (driveway may be counted toward provision of off-street parking) shall be provided per lot.

(2) Dwelling units with two or less bedrooms and not having an accessory dwelling: A minimum of one garage-enclosed parking space and two additional off-street parking spaces (driveway may be counted toward provision of off-street parking) shall be provided for each lot.

(3) Parking for other uses shall be provided in accordance with Art. VI, Sec. 3.

**(e) Additional Requirements:** (Each of the uses denoted herein shall conform to the following development standards. Note: A site component – Type 1, 2 or 3 - and an architectural component – Type A or B – must be combined with this use component.)

(1) Use Standards (Article IV)
(2) Site Components (Article V)
(3) Site Standards (Article VI)
(4) Architectural Components (Article VII)
(5) Architectural Standards (Article VIII)

## SECTION 4: SFU – SINGLE-FAMILY URBAN

**(a) Statement of Intent**

The Single-Family Urban use component provides for the development of single-family detached dwellings on moderate urban standard sized lots and for other compatible and complimentary uses. The purpose of this component is to provide regulations to maintain and protect the City's single-family residences and neighborhoods in areas with moderate lot sizes. Such components are generally intended to offer variety in housing opportunities and in the fabric of the neighborhoods.

**(b) Conforming Uses**

A building or premise shall be used only for the following purposes:

(1) Any use permitted in the "SFS" – Single-Family Suburban component except that an accessory dwelling is only permitted with a Type 3 site component unless such lot meets the standards of the SFS or SFE district.

(2) Single-family dwelling of not less than twelve hundred (1,200) square feet of living area

**(c) Lot Size Minimum**

| Interior Lots | | | Corner Lots | | |
|---|---|---|---|---|---|
| **Area** | **Width** | **Depth** | **Area** | **Width** | **Depth** |
| 7,200 sq. ft. | 60' | 110' | 8,000 sq. ft. | 70' | 110' |

(1) Up to ten percent (10%) of lots in any final plat may have widths, depths and/or areas up to ten percent (10%) less than requirements.

(2) In addition, for every one foot that a lot is wider or deeper than required, or for every one square foot that a lot is larger than required, another lot may be reduced by the equivalent amount, for up to ten percent (10%) of the lots in any final plat being allowed to have such reduced sizes, and up to ten percent (10%) less than requirements. The applicant may increase these prescribed limits to up to double the amounts if the applicant can demonstrate increased tree or other significant natural feature protection.

**(d) Enclosed Garage and Parking**

(1) Dwelling units with three or more bedrooms and lots having an accessory dwelling: A minimum of two garage-enclosed parking spaces and two additional off-street parking spaces (driveway may be counted toward provision of off-street parking) shall be provided per lot.

(2) Dwelling units with two or less bedrooms and not having an accessory dwelling: A minimum of one garage-enclosed parking space and two additional off-street parking spaces (driveway may be counted toward provision of off-street parking) shall be provided for each lot.

(3) Parking for other uses shall be provided in accordance with Art. VI, Sec. 3.

**(d) Additional Requirements:** (Each of the uses denoted herein shall conform to the following development standards. Note: A site component – Type 1, 2 or 3 - and an architectural component – Type A or B – must be combined with this use component.)

(1) Use Standards (Article IV)

(2) Site Components (Article V)

(3) Site Standards (Article VI)

(4) Architectural Components (Article VII)

(5) Architectural Standards (Article VIII)

## SECTION 5: SFC – SINGLE-FAMILY COMPACT

**(a) Statement of Intent**

The Single-Family Compact use component provides for the development of single-family detached dwellings on small lots and for other compatible and complimentary uses. The purpose of this component is to provide regulations to maintain and protect the City's single-family residences and neighborhoods in areas with small lot sizes. Such components are generally intended to offer variety in housing opportunities and in the fabric of the neighborhoods, and to be developed on a moderate scale with a maximum district size of seventy-five (75) acres.

**(b) Conforming Uses**

A building or premise shall be used only for the following purposes:

(1) Any use permitted in the "SFU" – Single-Family Urban component

(2) Single-family dwelling of not less than eleven hundred (1,100) square feet of living area

**(c) Lot Size Minimum**

| Interior Lots | | | Corner Lots | | |
|---|---|---|---|---|---|
| **Area** | **Width** | **Depth** | **Area** | **Width** | **Depth** |
| 5,500 sq. ft. | 50' | 105' | 6,500 sq. ft. | 60' | 105' |

(1) Up to ten percent (10%) of lots in any final plat may have widths, depths and/or areas up to ten percent (10%) less than requirements.

(2) In addition, for every one foot that a lot is wider or deeper than required, or for every one square foot that a lot is larger than required, another lot may be reduced by the equivalent amount, for up to ten percent (10%) of the lots in any final plat being allowed to have such reduced sizes, and up to ten percent (10%) less than requirements. The applicant may increase these prescribed limits to up to double the amounts if the applicant can demonstrate increased tree or other significant natural feature protection.

**(d) Enclosed Garage and Parking**

(1) Dwelling units with three or more bedrooms and lots having an accessory dwelling: A minimum of two garage-enclosed parking spaces and two additional off-street parking spaces (driveway may be counted toward provision of off-street parking) shall be provided per lot.

(2) Dwelling units with two or less bedrooms and not having an accessory dwelling: A minimum of one garage-enclosed parking space and two additional off-street parking spaces (driveway may be counted toward provision of off-street parking) shall be provided for each lot.

(3) Parking for other uses shall be provided in accordance with Art. VI, Sec. 3.

**(e) Additional Requirements:** (Each of the uses denoted herein shall conform to the following development standards. Note: A site component – Type 1, 2 or 3 - and an architectural component – Type A or B – must be combined with this use component.)

(1) Use Standards (Article IV)

(2) Site Components (Article V)

(3) Site Standards (Article VI)

(4) Architectural Components (Article VII)

(5) Architectural Standards (Article VIII)

## SECTION 6: SFL – SINGLE-FAMILY LIMITED

### (a) Statement of Intent

The Single-Family Limited use component provides for the development of single-family detached dwellings on small lots, including zero lot line development, and for other compatible and complimentary uses. The purpose of this component is to provide regulations to maintain and protect the City's single-family residences and neighborhoods in areas where it is appropriate to have small lot sizes and reduced setbacks. This component is generally intended as follows:

(1) To provide an orderly transition to and create a buffer between larger lot neighborhoods and more intensive uses such as multi-family or commercial uses or arterial roadways.

(2) To create more variety in housing opportunities in the fabric of neighborhoods.

(3) To be located in planned developments of greater than 100 acres and comprising less than twenty percent (20%) of the lots, or to provide infill opportunities in appropriate areas of the City.

(4) To include or be located within six hundred feet of parkland or other recreational open space and/or transit opportunities.

(5) Lots that average less than forty-five (45') feet in width along a block shall front on a street with a ROW of fifty-six (56) feet or greater and a pavement width of thirty-six (36) feet or greater unless access to garages on such lots is from an alley.

(6) Proposals for lots less than forty-one (41') feet wide require PUD zoning as stated in Article II, Section 2 (e) (5) (iii).

### (b) Conforming Uses

A building or premise shall be used only for the following purposes:

(1) Any use permitted in the "SFC" – Single-Family Compact component

(2) Single-family dwelling of not less than one thousand (1,050) square feet of living area

### (c) Lot Size Minimum

| Interior Lots | | | Corner Lots | | |
|---|---|---|---|---|---|
| **Area** | **Width** | **Depth** | **Area** | **Width** | **Depth** |
| 4,100 sq. ft. | 41' | 100' | 5,100 sq. ft. | 51' | 100' |

(1) Up to ten percent (10%) of lots in any final plat may have widths, depths and/or areas up to ten percent (10%) less than requirements.

(2) In addition, for every one foot that a lot is wider or deeper than required, or for every one square foot that a lot is larger than required, another lot may be reduced by the equivalent amount, for up to ten percent (10%) of the lots in any final plat being allowed to have such reduced sizes, and up to ten percent (10%) less than requirements. The applicant may increase these prescribed limits to up to double the amounts if the applicant can demonstrate increased tree or other significant natural feature protection.

### (d) Enclosed Garage and Parking

(1) A minimum of one garage-enclosed parking space and two additional off-street parking spaces (driveway may be counted toward provision of off-street parking) shall be provided per lot.

(2) Parking for other uses shall be provided in accordance with Art. VI, Sec. 3.

**(e) Additional Requirements**: (Each of the uses denoted herein shall conform to the following development standards. Note: A site component – Type 1, 2 or 3 - and an architectural component – Type A or B – must be combined with this use component.)

(1) Use Standards (Article IV)
(2) Site Components (Article V)
(3) Site Standards (Article VI)
(4) Architectural Components (Article VII)
(5) Architectural Standards (Article VIII)

## SECTION 7: SFT – SINGLE-FAMILY TOWNHOUSE

**(a) Statement of Intent**

The Single-Family Townhouse use component provides for the development of single-family attached dwellings on very small sized lots and for other uses that are compatible and complimentary to attached residential development. This component is generally intended as follows:

(1) To provide an orderly transition and serve as a buffer between larger lot neighborhoods and more intensive uses such as multi-family or commercial uses or arterial roadways.

(2) To create more variety in housing opportunities and in the fabric of the neighborhoods.

(3) To include or be located within six hundred feet of parkland or other recreational open space.

(4) To be located in planned communities of greater than 100 acres and comprising less than ten percent (10%) of the lots, or to provide infill opportunities in appropriate areas of the City such as in areas under transition.

Frontage for such lots shall be provided by a street with a ROW of fifty-six (56) feet or greater and a pavement width of thirty-six (36) feet or greater unless access to garages on such lots is from an alley.

**(b) Conforming Uses**

A building or premise shall be used only for the following purposes:

(1) Any use permitted in the "SFL" – Single-Family Limited component,

(2) Single-family dwelling of not less than nine hundred (900) square feet of living area.

**(c) Lot Size Minimum**

| Interior Lots | | | Corner Lots | | |
|---|---|---|---|---|---|
| **Area** | **Width** | **Depth** | **Area** | **Width** | **Depth** |
| 2,000 sq. ft. | 20' | 90' | 3,500 sq. ft. | 35' | 90' |

(1) Up to ten percent (10%) of lots in any final plat may have widths, depths and/or areas up to ten percent (10%) less than requirements.

(2) In addition, for every one foot that a lot is wider or deeper than required, or for every one square foot that a lot is larger than required, another lot may be reduced by the equivalent amount, for up to ten percent (10%) of the lots in any final plat being allowed to have such reduced sizes, and up to ten percent (10%) less than requirements. The applicant may increase these prescribed limits to up to double the amounts if the applicant can demonstrate increased tree or other significant natural feature protection.

**(d) Enclosed Garage and Parking**

(1) A minimum of one garage-enclosed parking space and two additional off-street parking spaces (driveway may be counted toward provision of off-street parking) shall be provided for each lot.

(2) Parking for other uses shall be provided in accordance with Art. VI, Sec. 3.

**(e) Miscellaneous Standards**

(1) A maximum of eight townhouse units may be connected.

(2) Units shall have a common wall or be separated by at least twenty feet from an adjacent unit.

**(f) Additional Requirements:** (Each of the uses denoted herein shall conform to the following development standards. Note: A site component – Type 1, 2 or 3 - and an architectural component – Type A or B – must be combined with this use component.)

(1) Use Standards (Article IV)
(2) Site Components (Article V)
(3) Site Standards (Article VI)
(4) Architectural Components (Article VII)
(5) Architectural Standards (Article VIII)

## SECTION 8: SFU/MH – SINGLE-FAMILY URBAN, MANUFACTURED HOME

**(a) Statement of Intent**

The Single-Family Urban, Manufactured Home component provides for the development of single-family homes and manufactured homes on moderate sized lots and for other uses that are compatible and complimentary to such uses on moderate sized lots. Such components are also intended to create more variety in housing opportunities.

**(b) Conforming Uses**

A building or premise shall be used only for the following purposes:

(1) Any use permitted in the "SFU" Single-Family Urban component

(2) Existing mobile homes, provided that no mobile home shall be hereafter placed or installed on any lot, tract or parcel of land within the City.

(3) Manufactured homes (they are exempt from architectural component requirements and architectural standards except as required in this section )

(4) Municipal buildings

**(c) Lot Size Minimum**

| Interior Lots | | | Corner Lots | | |
|---|---|---|---|---|---|
| **Area** | **Width** | **Depth** | **Area** | **Width** | **Depth** |
| 7,200 sq. ft | 60' | 110' | 8,000 sq. ft. | 70' | 110' |

(1) Up to ten percent (10%) of lots in any final plat may have widths, depths and/or areas up to ten percent (10%) less than requirements.

(2) In addition, for every one foot that a lot is wider or deeper than required, or for every one square foot that a lot is larger than required, another lot may be reduced by the equivalent amount, for up to ten percent (10%) of the lots in any final plat being allowed to have such reduced sizes, and up to ten percent (10%) less than requirements. The applicant may increase these prescribed limits to up to double the amounts if the applicant can demonstrate increased tree or other significant natural feature protection.

**(d) Authorized in Specified Areas**

No manufactured home shall be located in any use component other than SFU/MH except that manufactured homes shall be an additional permitted use in any zoning classification within the following geographic areas of the City: Leander Heights Subdivision, Section 1, 2 and 3; and High Chaparral Subdivision.

**(e) Miscellaneous Standards for the SFU/MH district and any district within the Leander Heights Subdivision, Sections 1, 2 and 3 and High Chaparral Subdivision:** All primary single family and duplex structures other than manufactured homes shall comply with the applicable architectural component except that up to 100% of the exterior surface area may be comprised of cementious-fiber planking (not panels), and there is no requirement for brick, stone, stucco or other specified materials other than cementious-fiber planking. All manufactured homes shall meet the following standards and are not required to meet the exterior wall standards of the applicable architectural component

(1) Manufactured homes must have a minimum of seven hundred and twenty (720) square feet of living area.

(2) Manufactured homes must be skirted within ninety (90) days from date installed.

(3) Manufactured homes must be tied down securely and in compliance with applicable regulations prior to occupancy.

(4) No outside horizontal dimension of the building shall be less than fourteen (14) feet, except for original extensions of subsequent additions containing less than fifty percent (50%) of the total enclosed floor area.

(5) The exterior siding material, excluding skirting, shall be nonmetallic.

(6) The structures shall be of adequate quality and safe design, as certified by a label stating that the unit is constructed in conformance with the Federal Construction and Safety Standards in effect on the date of manufacture, or other such applicable standards as required by State or Federal law. Any such structure without such certification, but meeting all other requirements, may be accepted as safe and quality construction provided it meets the following criteria:

(i) All electrical material, devices, appliances and equipment are in sound and safe condition. Aluminum conductors are not permitted.

(ii) All mechanical systems including space and water heating, are in sound and safe condition.

(iii) All plumbing, gas piping and wastewater systems are in sound and safe condition.

(iv) The unit is in sound and safe structural condition. Uncompressed finish floorings greater than 1/8 inch thickness beneath load-bearing walls that are fastened to the floor structure are not acceptable. A structure that shows signs of fire damage will not be acceptable.

(v) The determination of the foregoing acceptance of any non-certified unit shall be made by the Building Official and / or Fire Chief.

(7) Manufactured homes shall be installed in accordance with the following criteria:

(i) By a person licensed by the State of Texas in compliance with state law, or the frame shall be supported by, and tied to, a foundation system capable of safely supporting the loads imposed as determined from the character of the soil. The minimum acceptable foundation design shall be a series of eight-inch solid grout-filled concrete block piers spaced no more than eight feet on center and bearing on minimum 12” x 12” solid concrete footings. A tie-down and anchoring system separate and apart from the foundation ties shall be provided as recommended by the manufacturer, if different from the foundation ties.

(ii) Axle and hitch assemblies shall be removed at the time of placement on the foundation.

(iii) Each manufactured home shall be totally skirted with metal, masonry, pressure-treated wood, or other non-degradable material which is compatible with the design and exterior materials of the primary structure.

(iv) Electrical power supply shall be from a meter installation on the manufactured home, or from a permanent meter pedestal.

(v) Garage and carport additions are permitted, provided they cover a paved parking area and are connected to a street by a paved drive, meet the minimum building setback requirements, and have roof and siding material compatible with the primary structure.

(vi) Patio and porch covers are permitted, provided they cover an improved patio, deck or porch and meet the minimum building setback requirements.

(vii) Living area additions are permitted provided they meet the minimum building requirements, have roof and siding material that is compatible with the primary structure, and comply with the same structural standards as the primary structure.

(viii) All accessory structures and additions shall comply with all applicable City ordinances.

**(f) Additional Requirements:** (Each of the uses denoted herein shall conform to the following development standards. Note: A site component – Type 1, 2 or 3 - must be combined with this use component.)

(1) Use Standards (Article IV)
(2) Site Components (Article V)
(3) Site Standards (Article VI)
(4) Architectural Components (Article VII)
(5) Architectural Standards (Article VIII)

## SECTION 9: TF – TWO-FAMILY

**(a) Statement of Intent**

The Two-Family use component provides for the development of two-family dwelling structures on intermediate sized lots and for other uses that are compatible and complimentary to intermediate sized lots and two-family dwellings. Such components are generally intended to provide an orderly transition and serve as a buffer between larger lot neighborhoods and more intensive uses and to create more variety in housing opportunities and in the fabric of the neighborhoods. The goal is to avoid more than ten acres of contiguous land having a two-family component. This component should include or be located within six hundred feet of parkland or other recreational open space. To avoid street congestion due to additional on-street parking, access to lots shall be provided by a street with a ROW of fifty-six (56) feet or greater and a pavement width of thirty-six (36) feet or greater unless lots average at least one hundred feet in width or unless garage access is from an alley.

**(b) Conforming Uses**

A building or premise shall be used only for the following purposes:

(1) Any use permitted in the "SFS" – Single-Family Suburban component
(2) One or two single-family dwellings with a minimum living area of twelve hundred (1,200) square feet per dwelling.
(3) Two (2) family dwellings, minimum living area - nine hundred (900) square feet per dwelling.

**(c) Lot Size Minimum**

| Interior Lots | | | Corner Lots | | |
|---|---|---|---|---|---|
| **Area** | **Width** | **Depth** | **Area** | **Width** | **Depth** |
| 9,000 sq. ft. | 70' | 115' | 10,000 sq. ft. | 80' | 115' |

(1) Up to ten percent (10%) of lots in any final plat may have widths, depths and/or areas up to ten percent (10%) less than requirements.
(2) In addition, for every one foot that a lot is wider or deeper than required, or for every one square foot that a lot is larger than required, another lot may be reduced by the equivalent amount, for up to ten percent (10%) of the lots in any final plat being allowed to have such reduced sizes, and up to ten percent (10%) less than requirements. The applicant may increase these prescribed limits to up to double the amounts if the applicant can demonstrate increased tree or other significant natural feature protection.

**(d) Enclosed Garage and Parking**

A minimum of one garage-enclosed parking space shall be provided for each dwelling unit. At least two additional off-street parking spaces are required to be provided for each unit and may be tandem parking spaces located on the driveway.

**(e) Additional Requirements:** (Each of the uses denoted herein shall conform to the following development standards. Note: A site component – Type 1, 2 or 3 - and an architectural component – Type A or B – must be combined with this use component.)

(1) Use Standards (Article IV)
(2) Site Components (Article V)
(3) Site Standards (Article VI)
(4) Architectural Components (Article VII)
(5) Architectural Standards (Article VIII)

## SECTION 10: MF – MULTI-FAMILY

**(a) Statement of Intent**

The Multi-Family use component provides for the development of multi-family dwelling structures. Such components are generally intended to serve as a buffer between single-family neighborhoods and more intensive uses such as commercial uses or arterial roadways. Such components are also intended to create more variety in housing opportunities and in the fabric of the community but are intended to be utilized in small areas to avoid large tracts devoted to strictly multi-family residential development. The goal is to avoid more than twenty-five (25) acres of contiguous land having a Multi-Family component. Access should be provided by a collector or higher classification street.

**(b) Conforming Uses**

A building or premise shall be used only for the following purposes:

(1) Three or more dwellings on one lot or tract, attached or detached, with a minimum living area of five hundred (500) square feet per dwelling unit for efficiency units, six hundred fifty (650) square feet per dwelling unit for one bedroom units, eight hundred fifty (850) square feet per dwelling unit for two bedroom units and one hundred fifty (150) additional square feet for each bedroom thereafter.

(2) All uses permitted in the LC – Local Commercial use component with the following conditions:

(i) Such uses shall not exceed seven percent (7%) of the gross floor area of all multi-family building square footage on the lot.

(ii) Such uses shall not be located in "stand alone" buildings but shall be seamlessly integrated with multi-family units, or community/recreation facilities associated with the multi-family development, in buildings having the same residential architectural style, materials, layout and setting as the remainder of the buildings on the site.

(iii) The lot shall have frontage on an arterial roadway or tollway or the corner of two collector streets.

(3) Family Home, Group Home-Class 1.

(4) All non-residential uses permitted in the SFR district.

**(c) Density**

| Architectural Component | Maximum Density |
|---|---|
| Type A | 25 units / acre |
| Type B | 18 units / acre |

**(d) Additional Requirements:** (Each of the uses denoted herein shall conform to the following development standards. Note: A site component – Type 1, 2 or 3 - and an architectural component – Type A or B – must be combined with this use component.)

(1) Use Standards (Article IV)

(2) Site Components (Article V)

(3) Site Standards (Article VI)

(4) Architectural Components (Article VII)

(5) Architectural Standards (Article VIII)

(6) Park Land Dedication and Park Improvements as required by Sec. 61 of the Subdivision Ordinance

## SECTION 11: LO – LOCAL OFFICE

**(a) Statement of Intent**

The Local Office use component allows for the development of small scale, limited impact office uses or similar uses which may be located adjacent to residential neighborhoods. Access should be provided by a collector or higher classification street. This component is intended to help provide for land use transitions from local or general commercial or from arterial streets to residential development.

**(b) Conforming Uses**

Certain uses listed in this use component may also need to be supported by an appropriate site component in order to be permitted. A building or premise shall be used only for the following purposes:

(1) Any residential use if such use was established on the property as of September 1, 2005, the effective date of this ordinance.
(2) Group Home-Class 3 with approval of a Special Permit, Family Home, Group Home-Class 1 and Group Home-Class 2.
(3) Community services including community center and civic and fraternal organizations.
(4) Day care centers and group day care homes
(5) Non-residential uses permitted in the "SFE" component
(6) Office including professional offices, medical offices, public offices, etc.
(7) Parks, playgrounds, community buildings, amenity center and other recreational facilities
(8) Place of worship
(9) Public buildings, including libraries, museums and administrative offices
(10) Residential may be located above the first floor; one residential unit per lot, or multiple residential units comprising less than ten percent (10%) of the ground floor area, whichever is greater, may be located on the first floor of a business or other use located on the site. The minimum living area for a residential use is five hundred (500) square feet for an efficiency unit, six hundred fifty (650) square feet per dwelling unit for one bedroom units, eight hundred fifty (850) square feet per dwelling unit for two bedroom units and one hundred fifty (150) additional square feet for each bedroom thereafter.
(11) Schools, public or private up to and including secondary (high) school and equivalent curriculum including support facilities are permitted
(12) Veterinarian office (no animal hospital or outdoor boarding facilities)
(13) Wireless communications facilities subject to the provisions of this ordinance
(14) Other similar uses as determined by the Director of Planning based on the criteria of Article II, Sec. 2, (f)

**(c) Hours of Operation**

Hours of operation to the general public shall be between 7:00 a.m. to 10:00 p.m. Sunday through Thursday, and between 7:00 a.m. and 11:00 p.m. Friday and Saturday (except for emergency services, public property and facilities or any activity not open to the public).

**(d) Additional Requirements:** (Each of the uses denoted herein shall conform to the following development standards. Note: A site component – Type 1, 2 or 3 - and an architectural component – Type A, B or C – must be combined with this use component.)

(1) Use Standards (Article IV)
(2) Site Components (Article V)
(3) Site Standards (Article VI)
(4) Architectural Components (Article VII)
(5) Architectural Standards (Article VIII)

## SECTION 12: LC – LOCAL COMMERCIAL

**(a) Statement of Intent**

The Local Commercial use component allows for the development of small scale, limited impact commercial, retail, personal services and office uses located in close proximity to their primary customers, which cater to the everyday needs of the nearby residents, and which may be located near residential neighborhoods. Access should be provided by a collector or higher classification street.

**(b) Conforming Uses**

Certain uses listed in this use component may also need to be supported by appropriate site components in order to be permitted. A building or premise shall be used only for the following purposes:

(1) Any use permitted in the "LO" Local Office component
(2) Artisan and handcraft activities and sales if such activities are located completely within an enclosed structure except for specific activities as provided in the applicable site component
(3) Bank or other lending institution (Note that drive-through service lanes are permitted only if provided in the applicable site component)
(4) Bed and breakfast
(5) Colleges, universities, vocational schools or other institutions of higher learning including related facilities
(6) Cultural facilities including art gallery, museum, dancing or music academy, fitness center, martial arts academy, photographic or artist studio
(7) Florist shop, greenhouse or nursery
(8) Funeral home including embalming facilities associated with an on site funeral home or cemetery, but no crematory.
(9) Grocery and dry goods sales including convenience stores (Note: Refer to Type 3 site component for outdoor fuel sales)
(10) Medical clinics
(11) Personal services including, but not limited to, barber shops, beauty parlors, tailoring, dressmaking, shoe repair, small appliance repair, bicycle repair, retail bakeries, catering and, under the following conditions, dry cleaning and laundry (including self service):
    (i) Dry cleaning machines shall be an EPA-approved non-vent unit and have an enclosed trough to accommodate any solvent spill.
    (ii) Solvent use shall be wet system utilizing only water and detergents or PERC systems, which is nonflammable perchloroethylene, and which is limited to 50 gallons on-site at any one time. Other alternative solvent may be considered (e.g. D-5) by the Director of Planning on a case by case basis.
    (iii) No fumes, odor or noise shall be detectable beyond the premises of the business.
    (iv) No chemical discharge shall be allowed into an organized central sewer system or private septic disposal system unless such system is a wet system utilizing only water and detergents.
    (v) There shall be a maximum of 1,800 square feet for the gross area of the business.
    (vi) Dry clean processing is limited to on-site business, not trucked-in processing.
    (vii) Used chemicals and filters shall be disposed of weekly or after every 8,000 pounds of processing and be transported by a state-licensed disposal company.
(12) Pharmacies
(13) Restaurants
(14) Retail sales of new product and services

(15) Other similar uses as determined by the Director of Planning based on the criteria of Article II, Sec. 2, (f)

**(c) Hours of Operation**

Hours of operation to the general public shall be between 5:00 a.m. to 10:00 p.m. Sunday through Thursday, and between 5:00 a.m. and 11:00 p.m. Friday and Saturday (except for emergency services, public property and facilities or any activity not open to the public; and a for a fitness center or gymnasium if services have previously been contracted by membership, access is provided only for such members, such activity is a self-help personal activity, no business transaction nor any organized instructional activity takes place, and such facility is located on an arterial roadway with at least ninety (90) feet of ROW).

**(d) Additional Requirements:** (Each of the uses denoted herein shall conform to the following development standards. Note: A site component – Type 1, 2 or 3 - and an architectural component – Type A, B or C – must be combined with this use component.)

(1) Use Standards (Article IV)
(2) Site Components (Article V)
(3) Site Standards (Article VI)
(4) Architectural Components (Article VII)
(5) Architectural Standards (Article VIII)

## SECTION 13: GC – GENERAL COMMERCIAL

**(a) Statement of Intent**

The General Commercial use component allows for the development of small to large scale commercial, retail, and commercial service uses located in high traffic areas. Access to this component should be provided by an arterial street. The heaviest concentration of this component should be located at intersections of arterial streets.

**(b) Conforming Uses**

Certain uses listed in this use component also need to be supported by an appropriate site component in order to be permitted. A building or premise shall be used only for the following purposes:

(1) Any use permitted in the "LC" – Local Commercial component with no limit in square footage
(2) Animal hospital, veterinarian, animal boarding including a crematory associated with such use on site, or a crematory associated with a cemetery, as long as the crematory stack is located at least two hundred feet (200') from a restaurant, or associated parking, or a residential zoning district (unless such district is utilized for non-residential uses). Any commercial enterprise which includes an outdoor animal yard or any other commercial un-soundproofed animal area containing five or more animals is required to be at least two hundred feet (200') from any residential district (unless such district is utilized for non-residential uses) and is required to be combined with a Type 4 or 5 site component.
(3) Assisted Living or Nursing Home
(4) Bar, nightclub or private club
(5) Entertainment venues including bowling alleys, golf practice ranges, miniature golf establishments, theaters, amusement parks, arcades, arenas, stadiums, gymnasiums, skating rinks, commercial sports venues, indoor shooting range, etc. (Note that outdoor entertainment venues involving substantial outdoor equipment, unshielded stadium lighting, noise generation, outdoor amplified sound systems or similar conditions such as golf practice ranges open at night, sports stadiums, amusement parks, rodeo arenas, etc. require a Type 4 or 5 site component.)
(6) Equipment and furniture or other similar goods sales, repair and service
(7) Farms or truck gardens, limited to the propagation and cultivation of plants and provided further that no poultry or livestock shall be housed within two hundred (200) feet of any property line.
(8) Grocery and dry goods sales
(9) Hospital and other major medical facilities
(10) Hotel / Motel, boarding houses
(11) Liquor store
(12) Funeral home, including embalming and crematory facilities associated with an on site funeral home or cemetery, as long as the crematory stack is located at least two hundred feet (200') from a restaurant, or associated parking, or from a residential zoning district (unless such district is utilized for non-residential uses).
(13) Manufactured housing sales and accessory building sales
(14) Office / warehouse including painting, plumbing or other similar commercial service
(15) Pet shop
(16) Research, Testing, and Development Laboratory
(17) Retail sales of new products and services
(18) Transportation related facilities including commercial parking lots, passenger terminals, taxi cab stations and mass transit terminals

(19) New vehicle and major equipment sales, rental or leasing, repair, body shop [Small engine repair shops and motorcycle repair shops shall not be permitted within one-hundred fifty (150) feet of a residential district unless such repairs are conducted totally within a fully enclosed building.]
(20) Wholesale activities with less than 3,500 square feet of gross area of the business.
(21) Other similar uses as determined by the Director of Planning based on the criteria of Article II, Sec. 2, (f)

**(c) Additional Requirements:** (Each of the uses denoted herein shall conform to the following development standards. Note: A site component – Type 1, 2, 3, 4 or 5 - and an architectural component – Type A, B, C or D – must be combined with this use component.)
(1) Use Standards (Article IV)
(2) Site Components (Article V)
(3) Site Standards (Article VI)
(4) Architectural Components (Article VII)
(5) Architectural Standards (Article VIII)

## SECTION 14: HC – HEAVY COMMERCIAL

**(a) Statement of Intent**

The Heavy Commercial use component allows for the development of a variety of light manufacturing, assembly and processing businesses, storage, warehouses and lumber sales. Access should be provided by an industrial or commercial collector street.

**(b) Conforming Uses**

Certain uses listed in this use component also need to be supported by an appropriate site component in order to be permitted. A building or premise shall be used only for the following purposes:

(1) Any use permitted in the "GC" component
(2) Bingo
(3) Car Title Loans Shop/Business
(4) Commercial laundry
(5) Contractor and building material storage
(6) Gaming Room Facility/Gaming Device
(7) Hooka Lounge
(8) Manufacture, assembly or processing of materials not classified as hazardous by the Fire Chief
(9) Mini-warehouse or self-service storage facilities [required to be set back at least four hundred (400) feet from a tollway, highway or major arterial roadway if built to Type B, C or D architectural standards or such facilities include exterior warehouse doors], warehouse and distribution, commercial storage
(10) Pawn Shop
(11) Payday Lending Business
(12) Research, Testing, and Development Laboratory
(13) Research, Testing, and Development Laboratory (Intense)
(14) Retail sales, second hand resale, and services
(15) RV, trailer, commercial motor vehicle and boat outdoor storage [required to be set back at least four hundred (400) feet from a tollway, highway or major arterial roadway] (Note: refer to Article VI, Section 9 for rules on special vehicle storage)
(16) Tattoo and/or Body Piercing Parlor
(17) Utilities, including ground mounted service equipment and structures as a primary use and facilities such as poles, electrical switching facilities, lift stations, water pump stations, gas regulating facilities, electrical substations, generating plants, wastewater and water treatment plants, etc. (see screening requirements in Article VI, Sec. 1)
(18) Vehicle and major equipment sales, rental or leasing, repair, body shop [Small engine repair shops and motorcycle repair shops shall not be permitted within one-hundred fifty (150') feet of a residential district unless such repairs are conducted totally within a fully enclosed building.]
(19) Warehouse and distribution
(20) Wood yard
(21) Wholesale activities
(22) Wrecker Impoundment, Towing [required to be set back at least four hundred (400) feet from a tollway, highway or major arterial roadway]
(23) Stand alone crematory or embalming establishment as long as the crematory stack is no closer than 200' from a restaurant or associated parking or from a residential district (unless such district is utilized for non-residential uses).
(24) Other similar uses as determined by the Director of Planning based on the criteria of Article II, Sec. 2, (f)

**(c) Additional Requirements:** (Each of the uses denoted herein shall conform to the following development standards. Note: A site component – Type 1, 2, 3, 4 or 5 - and an architectural component – Type A, B, C or D – must be combined with this use component.)

(1) Use Standards (Article IV)
(2) Site Components (Article V)
(3) Site Standards (Article VI)
(4) Architectural Components (Article VII)
(5) Architectural Standards (Article VIII)

## SECTION 15: HI – HEAVY INDUSTRIAL

**(a) Statement of Intent**

The Heavy Industrial use component allows for the development of outdoor processing (when associated with a Type 5 site component) and large scale manufacturing, assembly and processing businesses. Access should be provided by an industrial or commercial collector street.

**(b) Conforming Uses**

Certain uses listed in this use component also need to be supported by an appropriate site component in order to be permitted. A building or premise shall be used only for the following purposes:

(1) Any use permitted in the "HC" component except for residential uses qualified below
(2) Manufacture, assembly or processing of materials
(3) One residential unit per lot may be located on any floor level of a business or other use located on the site. The minimum living area is five hundred (500) square feet for an efficiency unit, six hundred fifty (650) square feet per dwelling unit for one bedroom units, eight hundred fifty (850) square feet per dwelling unit for two bedroom units and one hundred fifty (150) additional square feet for each bedroom thereafter.
(4) Outdoor processing of materials except those prohibited by this ordinance or similar uses if combined with the Type 5 site component
(5) Sexually oriented businesses as permitted by City regulations [required to be set back at least four hundred (400) feet from a tollway, highway or major arterial roadway]
(6) Other similar uses as determined by the Director of Planning based on the criteria of Article II, Sec. 2, (f)

**(c) Additional Requirements:** (Each of the uses denoted herein shall conform to the following development standards. Note: A site component – Type 1, 2, 3, 4 or 5 - and an architectural component – Type A, B, C or D – must be combined with this use component.)

(1) Use Standards (Article IV)
(2) Site Components (Article V)
(3) Site Standards (Article VI)
(4) Architectural Components (Article VII)
(7) Architectural Standards (Article VIII)

## SECTION 16: PUD - PLANNED UNIT DEVELOPMENT

### (a) Purpose and Objectives

The purpose and intent of the Planned Unit Development (PUD) district is to create unified standards for development in order to provide flexible, customized zoning and subdivision standards to encourage imaginative and innovative designs for the development of property in the City consistent with this ordinance and accepted urban planning principles in accordance with the City of Leander Comprehensive Plan. The PUD rules are designed:

(1) To allow development which is harmonious with nearby areas;
(2) To enhance and preserve areas which are unique or have outstanding scenic, environmental, cultural or historic significance;
(3) To provide an alternative for more efficient use of land, resulting in smaller utility networks, safer streets, more open space and lower construction and maintenance costs;
(4) To encourage harmonious and coordinated development by developing plans that better address natural features, community facilities, circulation patterns and surrounding properties and neighborhoods;
(5) To enable productive development of land with unusual physical or location characteristics that may not be feasible under standard zoning district regulations;
(6) To facilitate the development of the tax base, the local economy, population and public facilities and provide additional protections to the environment;
(7) To provide and result in an enhanced residential and/or work environment for those persons living and/or working within the district; and
(8) To require the application of professional planning and design techniques to achieve overall coordinated mixed-use developments and avoid the negative effects of piecemeal, segregated, or unplanned development.

Toward these ends, rezoning of land and development under this district will be permitted only in accordance with the intent and purpose of the City's Comprehensive Plan and this ordinance, and to that end the PUD plan shall be prepared and approved in accordance with the provisions of this ordinance.

### (b) Mixed Use Development

The PUD district may include and allow for compatible mixed uses such as compatible residential, commercial and/or industrial uses within a single project in order to provide the flexibility required for a well-designed and innovative development that will conserve, develop, protect and utilize to their best use the natural resources of the area in a manner that ensures the safe, orderly and healthy development and expansion of the City. In order to promote such development, the PUD may be comprised of a combination of components provided for in this ordinance. The outer boundary of each such PUD district shall be shown on a Conceptual Site Layout and Land Use Plan, as will the area for each separate proposed zoning use. Zoning uses may also be vertically integrated within a building or area and denoted on the plan. Said plan shall include a descriptive legend, the specific boundaries of the area proposed for authorized use in any other zoning district, the percentage of the total area of such PUD which will comprise each such separate use, and all notations, references, and other information shown thereon. The Conceptual Site Layout and Land Use Plan shall be adopted by ordinance as an integral part of the PUD and, to the extent feasible, contain all notes and standards of the PUD.

### (c) Flexible Planning

When considering a PUD, the unique nature of each proposal for a PUD may require, under proper circumstances, the departure from the strict enforcement of certain present codes

and ordinances. Final approval of a PUD by the City Council shall constitute authority and approval for such flexible planning to the extent that the PUD, as approved, departs from existing codes and ordinances. The flexibility permitted for a PUD does not imply that any standard or requirement will be varied or decreased.

**(d) Rules Applicable**

The City Council, after public hearing and proper notice to all parties affected and after recommendation from the Planning and Zoning Commission (Commission), may attach a PUD district designation to any tract of land in the City. In approving a PUD, the City Council may require additional standards deemed necessary to create a reasonable transition to, and protection of, adjacent property and public areas, including land use limitations and standards and regulations for items listed below. Under the PUD designation the following rules apply:

(1) The approval of any proposed PUD or combination of uses proposed therein shall be subject to the discretion of the City Council, and no such approval will be inferred or implied.

(2) Permitted uses and other standards are those as specified in a base zoning district or other sections of the Zoning Ordinance with additions or deletions as described on a Conceptual Site Layout and Land Use Plan.

(3) A PUD district may be established where the principal purpose is to serve as a transitional district, or as an extension of an existing district whereby the provision of off-street parking, screening walls, fences, open space and/or planting, etc. would create a protective transition between a lesser and more restrictive district.

(4) In approving a PUD, additional uses not permitted in the base zoning district(s) may be permitted, and specific permitted uses may be prohibited.

(5) Standards required by the base zoning district(s) apply in a PUD except that the following regulations and standards may be varied in the adoption of the PUD provided that the plan is consistent with sound urban planning and engineering practices:
   - (i) Front, side and rear setbacks;
   - (ii) Maximum height;
   - (iii) Lot coverage;
   - (iv) Off-street parking (a PUD may propose a shared parking agreement, use limitations or other proposal to reduce off-street parking requirements);
   - (v) Special district requirements pertaining to the base zoning;
   - (vi) Lot size including, but not limited to, lot and yard area, widths and depths;
   - (vii) Accessory buildings and uses;
   - (viii) Signage;
   - (ix) Landscaping and tree preservation;
   - (x) Architectural, building materials and colors;
   - (xi) Outdoor lighting;
   - (xii) Screening and buffering;
   - (xiii) Fencing;
   - (xiv) Noise;
   - (xv) Outdoor display and storage;
   - (xvi) Hours of operation;
   - (xvii) Land use intensity and density;
   - (xviii) Project phasing and scheduling;
   - (xix) Management associations;
   - (xx) Building square footage;
   - (xxi) Other similar standards.

(6) Standards required by the Subdivision Ordinance apply in a PUD except that the following regulations and standards may be varied in the adoption of the PUD provided that the plan is consistent with sound urban planning, engineering and architectural design practices:
   (i) Procedure;
   (ii) Street widths and cross section design;
   (iii) Blocks and lots;
   (iv) Transportation criteria;
   (v) Parkland and facilities dedication; open spaces;
   (vi) Other similar standards.

(7) In approving a PUD, no standards shall be modified unless such modification is expressly permitted by this ordinance, and in no case shall standards be modified when such modifications are prohibited by this ordinance or may negatively impact the health, safety and welfare of the public.

(8) The PUD shall result in overall higher standards than what would be provided by the base zoning district. As examples: (1) if residential lot sizes are decreased or development densities are increased, the PUD will be expected to significantly exceed other standards such as parkland and facilities dedication, landscaping, architectural controls, thoroughfare or other transportation improvements, creation of unique characteristics of the neighborhood, retention of significant trees and/or provision of public facilities, etc., or (2) if masonry standards or building/development setbacks are proposed to be decreased, other standards would be expected to be increased such as landscaping, screening, retention of significant trees, architectural controls, land uses and/or unique site layout standards, etc. Other examples may include:
   (i) Designating the Type A Architectural Component
   (ii) Adding additional architectural features
   (iii) Provide a master architectural and signage plan that includes a cohesive materials palette
   (iv) Enhanced landscaping and/or trees
   (v) Increased landscape area
   (vi) Masonry perimeter walls for subdivisions
   (vii) Provide brick or stone instead of decorative concrete panels for screening walls
   (viii) Plant street trees
   (ix) Provide more parkland dedication
   (x) Increase recreation improvements
   (xi) Trails system in greenbelt areas
   (xii) Provide a Master Sign Plan including: proposed locations, provide cohesive materials palette, design specifications for signage, type of illumination
   (xiii) Limit fencing to wrought iron or decorative tubular metal fencing along greenbelt lots.
   (xiv) Provide unique characteristics of a neighborhood with a unique site layout
   (xv) Include a mixture of uses
   (xvi) Provide public spaces
   (xvii) Incorporate public art

(9) If the PUD is proposed to be developed in multiple phases, the phasing of improvements shall reflect consideration toward establishing important PUD objectives such as screening, landscaped areas, open space and recreational areas and amenities, necessary transportation improvements, and protections against negative impacts and safety features in the early phases of the PUD.

**(e) Conceptual Site Layout and Land Use Plan**

A Conceptual Site Layout and Land Use Plan of the entire property within the PUD will be considered by the Commission prior to any recommendation to, or consideration by, the City Council of the PUD district ordinance. A Conceptual Site Layout and Land Use Plan may also be considered as a Concept Plan and Preliminary Plat for subdivision purposes if it meets the standards of a Concept Plan and Preliminary Plat as contained in the Subdivision Ordinance or as modified and approved in the Conceptual Site Layout and Land Use Plan.

If an applicant requests that the PUD Conceptual Site Layout and Land Use Plan also be considered as a Concept Plan and Preliminary Plat, the applicant shall pay fees in accordance with the most current adopted fees for such Concept Plan and Preliminary Plat in addition to applicable PUD zoning application fees and other related fees. In addition, the notification, expiration, extension, revision and responsibility rules contained in the Subdivision Ordinance for the Concept Plan and Preliminary Plat shall apply.

The following rules shall be applicable to the Conceptual Site Layout and Land Use Plan:

(1) Approval of a Conceptual Site Layout and Land Use Plan will determine the location and mix of uses (including water quality, detention facilities and other drainage features as appropriate). If considered appropriate in the opinion of the City Council, the Conceptual Site Layout and Land Use Plan will also contain additional standards deemed necessary to create a reasonable transition to, and protection of, adjacent property and public areas, including land use limitations and standards and regulations for items listed in subsection (d) above.

(2) The Commission and/or City Council may approve, conditionally approve, request modifications, or deny approval of the Conceptual Site Layout and Land Use Plan based on evaluation of details with respect to:

(i) The plan's compliance with all provisions of the Subdivision and Zoning ordinances and other ordinances of the City;

(ii) The environmental impact of the development relating to the preservation of existing natural resources on the site and the impact on the natural resources of the surrounding properties and neighborhood;

(iii) The relationship of the development to adjacent uses in terms of harmonious use and design, setbacks, maintenance of property values, and negative impacts;

(iv) The provision of a safe and efficient vehicular and pedestrian circulation system;

(v) 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;

(vi) The sufficient width and suitable design and location of streets to accommodate prospective traffic and provide access for emergency equipment to buildings;

(vii) The coordination of streets so as to comprise a convenient system that retains neighborhood integrity, is adequate to service projected traffic, is safe, protects the public welfare, and is consistent with the Roadway Plan of the City.

(viii) The use of landscaping, screening and tree retention to provide buffers to shield lights, noise, movement or activities from adjacent properties; and to complement the design and location of buildings and be integrated into the overall site design.

(ix) The location, size and configuration of open space areas to ensure that such areas are suitable for intended recreation and conservation uses.

(x) The adequacy of water, drainage, sewerage facilities, garbage disposal and other utilities necessary for essential services to residents and occupants.

(xi) The method, timing and sequence of phasing of improvements for the PUD;

(xii) Other similar aspects of the Conceptual Site Layout and Land Use Plan.

**(f) Amendments**

Consideration of amendments to a PUD will take into consideration the effect of the proposed development on the remainder of the property and adjacent properties and neighborhoods. Amendments to the PUD that are substantive shall require public hearings in the manner required for any other zoning change.

Minor changes in the PUD that do not affect the major features or characteristics of the PUD or significantly change the boundaries of a use area shown on the Conceptual Site Layout and Land Use Plan may be approved administratively as determined by the appropriate departments. Minor changes shall not include changes that alter the basic relationship of the proposed development to adjacent property; change the uses permitted; increase the density, building height or coverage of the site; reduce yards provided at the boundary of the site or reduce the amount of land designated for open space or parkland. Minor changes may include minor adjustments to lot lines, parking and loading areas, driveways, parking counts, building configurations and orientations, architectural design, building materials, landscape materials, tree retention, street alignments, sidewalks, drainage facilities, project phasing, lighting, signage, site layout, changes of 5% or less in the areas of land use or other similar features.

**(g) Ordinance Amendment**

Every PUD district approved under the provisions of this ordinance is considered an amendment of this ordinance as to the property involved, and to the Comprehensive Plan. All PUD districts will be referenced on the Zoning District Map.

**(h) Certificate of Occupancy**

All PUD district conditions and special regulations must be complied with in the PUD, or in the separate section or phase, before a certificate of occupancy is issued for the use of land or any structure which is part of a PUD district, or, if applicable, the separate section or phase being developed.

## SECTION 17: USE MATRIX

Certain uses listed also need to be supported by an appropriate site component in order to be permitted. The uses set forth in this Use Matrix must also comply with any provisions governing that use set forth in Article III and Article V. In the event of a conflict between this Use Matrix and P = Permitted and S = Special Use Permit Required

| USE MATRIX | | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| **Use** | **SFR** | **SFE** | **SFS** | **SFU** | **SFC** | **SFL** | **SFT** | **SFU/MH** | **TF** | **MF** | **LO** | **LC** | **GC** | **HC** | **HI** |
| Amenity Center | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P |
| Apartment | | | | | | | | | | P | | | | | |
| Artisan & Handcraft Activities | | | | | | | | | | | P | P | P | P | P |
| Assisted Living or Nursing Home | | | | | | | | | | | | | P | P | P |
| Bar, Nightclub or Private Club | | | | | | | | | | | | | P | P | P |
| Bank | | | | | | | | | | | | P | P | P | P |
| Bed and Breakfast | | | | | | | | | | | | P | P | P | P |
| Bingo | | | | | | | | | | | | | | P | P |
| Car Title Loan Shop | | | | | | | | | | | | | | P | P |
| Carwash | | | | | | | | | | | | | P | P | P |
| Colleges, Universities, Vocational Schools, Higher Learning Institution | | | | | | | | | | | | P | P | P | P |
| Commercial parking | | | | | | | | | | | | | P | P | P |
| Commercial Laundry | | | | | | | | | | | | | | P | P |
| Community Service including Community Center, Civic Organization, and cemetery/ mausoleum (not including cremator or embalming) | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P |
| Contractor & Building Material Storage | | | | | | | | | | | | | | P | P |
| Cultural Facilities | | | | | | | | | | | | P | P | P | P |
| Day Care for 6 or fewer children | P | P | P | P | P | P | P | P | P | | P | P | P | P | P |
| Day Care, all other | | | | | | | | | | | P | P | P | P | P |
| Entertainment activities | | | | | | | | | | | | | P | P | P |
| Florist Shop | | | | | | | | | | | | P | P | P | P |
| Funeral Home, No Embalming or Cremation | | | | | | | | | | | | P | P | P | P |
| Funeral Home, Including Embalming & Cremation | | | | | | | | | | | | | P | P | P |
| Golf course/country club | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P |
| Grocery Store | | | | | | | | | | | | P | P | P | P |
| Group Home Class 1 | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P |
| Group Home Class 2 | | | | | | | | | | | P | P | P | P | P |
| Group Home Class 3 | | | | | | | | | | | S | S | S | S | S |
| Home Occupations | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P |
| Hooka Lounge | | | | | | | | | | | | | | P | P |
| Hospital | | | | | | | | | | | | | P | P | P |
| Hotel / Motel, Boarding Houses | | | | | | | | | | | | | P | P | P |
| Liquor Store | | | | | | | | | | | | | P | P | P |
| Major equipment sales and leasing | | | | | | | | | | | | | P | P | P |
| Manufacture, Assembly or Processing of Materials of Non Hazardous Materials | | | | | | | | | | | | | | P | P |
| Manufactured Homes | | | | | | | | P | | | | | | | |

| USE MATRIX | | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| **Use** | **SFR** | **SFE** | **SFS** | **SFU** | **SFC** | **SFL** | **SFT** | **SFU/MH** | **TF** | **MF** | **LO** | **LC** | **GC** | **HC** | **HI** |
| Manufactured Housing Sales | | | | | | | | | | | | | P | P | P |
| Mixed Use/ Apartment | | | | | | | | | | | P | P | P | P | P |
| Office | | | | | | | | | | | P | P | P | P | P |
| Office, Medical | | | | | | | | | | | P | P | P | P | P |
| Office/ Warehouse | | | | | | | | | | | | | P | P | P |
| Outdoor Processing of Materials | | | | | | | | | | | | | | P | P |
| Park and related facilities | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P |
| Passenger terminal | | | | | | | | | | | | | P | P | P |
| Personal Services (Barber Shop, Beauty Shop, Tailoring, Dressmaking, Shoe Repair, Small Appliance Repair, Bicycle Repair, Retail Bakeries, Catering, Dry Cleaning) | | | | | | | | | | | | P | P | P | P |
| Pet Shop | | | | | | | | | | | | | P | P | P |
| Pharmacy | | | | | | | | | | | | P | P | P | P |
| Place of Worship | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P |
| Public Buildings | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P |
| Medical Clinic | | | | | | | | | | | | P | P | P | P |
| Pawn Shop | | | | | | | | | | | | | | P | P |
| Payday Lending | | | | | | | | | | | | | | P | P |
| Real Estate Sales Office during the development and sale of a residential subdivision | P | P | P | P | P | P | P | P | P | P | | | | | |
| Restaurants | | | | | | | | | | | | P | P | P | P |
| Research, Testing & Development Laboratory | | | | | | | | | | | | | P | P | P |
| Retail Sales of New Products and Service | | | | | | | | | | | | P | P | P | P |
| Retail Sales, Second Hand Resale and Services | | | | | | | | | | | | | | P | P |
| RV, Trailer, Commercial Motor Vehicle, or Boat Outdoor Storage | | | | | | | | | | | | | | P | P |
| Schools, public or private including all levels up to high school | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P |
| Self-service storage/Mini-Warehouse | | | | | | | | | | | | | | P | P |
| Single-Family, Attached | | | | | | | P | | | | | | | | |
| Single-Family, Detached | P | P | P | P | P | P | P | P | P | | | | | | |
| Single-family, zero lot line | | | | | P | P | | | | | | | | | |
| Stand Alone Crematory or Embalming Establishment | | | | | | | | | | | | | | P | P |
| Tattoo and/or Body Piercing | | | | | | | | | | | | | | P | P |
| Townhouse | | | | | | | P | | | | | | | | |
| Two-Family Dwelling | | | | | | | | | P | | | | | | |
| Utility, Minor | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P |
| Utility, Major | | | | | | | | | | | | | | P | P |
| Vehicle Sales (New), Rental, Repair | | | | | | | | | | | | | P | P | P |
| Vehicle Sales (New & Used), Rental, Repair | | | | | | | | | | | | | | P | P |

| USE MATRIX | | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| **Use** | **SFR** | **SFE** | **SFS** | **SFU** | **SFC** | **SFL** | **SFT** | **SFU/MH** | **TF** | **MF** | **LO** | **LC** | **GC** | **HC** | **HI** |
| Veterinarian Office | | | | | | | | | | | P | P | P | P | P |
| Veterinarian Office, Animal Hospital or Animal Boarding | | | | | | | | | | | | | P | P | P |
| Warehouse and Distribution | | | | | | | | | | | | | | P | P |
| Wholesale Activities | | | | | | | | | | | | | | P | P |
| Wireless Communications - Stealth | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P |
| Wood yard | | | | | | | | | | | | | | P | P |
| Wrecker Impoundment, Towing | | | | | | | | | | | | | | P | P |
| WTF, Self-standing | | | | | | | | | | | | P | P | P | P |

## SECTION 18: LOT SIZE SUMMARY

| LOT SIZE SUMMARY | | | | | | |
|---|---|---|---|---|---|---|
| **USE** | **INTERIOR** | | | **CORNER** | | |
| **DISTRICT** | **Area** | **Width** | **Depth** | **Area** | **Width** | **Depth** |
| **SFR** | 1 acre | 120' | 160' | 1 acre | 120' | 160' |
| **SFE** | 12,000 | 80' | 120' | 13,000 | 90' | 120' |
| **SFS** | 9,000 | 70' | 115' | 10,000 | 80' | 115' |
| **SFU** | 7,200 | 60' | 110' | 8,000 | 70' | 110' |
| **SFC** | 5,500 | 50' | 105' | 6,500 | 60' | 105' |
| **SFL** | 4,100 | 41' | 100' | 5,100 | 51' | 100' |
| **SFT** | 2,000 | 20' | 90' | 3,500 | 35' | 90' |
| **SFU/MH** | 7,200 | 60' | 110' | 8,000 | 70' | 110' |
| **TF** | 9,000 | 70' | 115' | 10,000 | 80' | 115' |

# ARTICLE IV - USE STANDARDS

## SECTION 1: Wireless Communications Facilities

### Section 1.01: Purpose and Goals

The purpose of this section is to provide reasonable standards and procedures for the development of wireless communications facilities (WCFs) that will serve citizens, the traveling public and others within the city in order to:

(a) Preserve and protect the public safety;
(b) Preserve and protect property values;
(c) Preserve the character and aesthetics of areas which are in close proximity to WCFs by minimizing the visual, aesthetic and safety impacts through careful design, placement and screening;
(d) Provide development that is compatible in appearance with allowed uses of the underlying district;
(e) Facilitate the city's permitting process to encourage fair and meaningful competition and to extend to all people in all areas of the city high quality wireless communication services at reasonable costs to promote the public welfare; and,
(f) Encourage the joint use and clustering of antenna sites and structures, when practical, to help limit the number of such facilities which may be required in the future to service the needs of customers and, thus, avert unnecessary proliferation of facilities on private and public property.

### Section 1.02: Authority and Applicability

**(a) Guidelines**

The regulations contained in this ordinance have been developed under the following general guidelines as provided in the Federal Telecommunications Act of 1996:

(1) Cities have local authority over "placement, construction and modification" of cellular telephone facilities and other personal wireless communication service facilities.
(2) Regulations "shall not unreasonably discriminate among providers of functionally equivalent services."
(3) Regulations "shall not prohibit or have the effect of prohibiting the provision of personal wireless services."
(4) "Denial shall be in writing and supported by substantial evidence."
(5) Cities may not "regulate the placement, construction and modification of personal wireless service facilities on the basis of environmental or radio frequency emissions to the extent that such facilities comply with the Federal Communication Commissions regulations concerning such emissions."
(6) Notwithstanding any other provision of this ordinance, wireless telecommunication towers and antennas, when permitted by federal law and the laws of the State of Texas, shall be regulated and governed by the following use regulations and requirements provided in this ordinance.

**(b) Applicability**

The placement, use or modification of any wireless communication facilities at any location within the city is subject to the provisions of this section.

**(c) Authority**

This ordinance is adopted pursuant to the general police powers of the City of Leander under the state and federal law, including specifically the authority of the City under the City of Leander Charter, the Texas Constitution and the general laws of the State of Texas.

**Section 1.03 General Provisions**

**(a) Use**

WCFs shall be an additional permitted use as follows:

(1) Residential Areas: Freestanding WCFs, including lattice towers, are prohibited. WCFs attached to street poles or facades attached to non-residential buildings or stealth WCFs are permitted subject to the provisions of this ordinance.

(2) Non-Residential Areas: WCFs are permitted subject to the provisions of this section.

(3) City owned property within any district.

**(b) Siting and Facility Type Priorities**

(1) Site Selection Criteria: A development plan shall be submitted and approved prior to any site development permit or building permit issuance for a WCF. The development plan shall be based upon reasonable engineering constraints and desired areas of service. WCFs shall be located on the development plan in the following priority order:

(i) Co-location on an existing tower, structure or building. The applicant shall have the burden of documenting and showing that there are no feasible existing structures upon which to locate as described in subsection (c) of this section below.

(ii) In areas where the existing topography, vegetation, buildings and other structures provide the greatest amount of screening;

(iii) Use of city owned property; then,

(iv) Other non-residential buildings or vacant non-residentially zoned land.

(2) Facility Type Preferred: Based on potential aesthetic and public safety impacts, the order of preference for facility type is as follows: existing tower or structures, roof attached, facade attached, street pole attached and freestanding tower.

**(c) Co-Location Requirement**

Co-location is considered to be a visually unobtrusive installation method because the equipment is attached to an existing structure. No new tower shall be permitted unless the applicant demonstrates a good faith effort to co-locate on an existing facility including good faith efforts to negotiate lease rights. Evidence submitted to demonstrate that no existing tower or structure can accommodate the applicant's proposed antennas may consist of any of the following:

(1) No existing towers or structures are located within the geographic area required to meet the applicant's engineering requirements;

(2) Existing towers or structures are not sufficiently designed to meet the applicants engineering requirements as indicated in their development plan;

(3) Existing towers or structures do not have sufficient structural strength to support the applicant's proposed antenna and related equipment;

(4) The applicant's proposed antenna would cause electromagnetic interference with the antenna on the existing towers or structures or the antenna on the existing towers or structures would cause interference with the applicant's proposed antenna; and/or

(5) The fees, costs or contractual provisions required by the owner in order to share an existing tower or structure or to adapt an existing tower or structure for share are unreasonable. Costs exceeding new tower development are presumed to be unreasonable.

**(d) Prohibitions**

The following are prohibited or restricted within the city, as noted:

(1) Interference with city and public safety communication systems and/or area television or radio broadcast, prohibited;

(2) Freestanding towers within residential areas, prohibited;

(3) Lattice towers, prohibited;

(4) Guy wires, restricted: No guy wire or other support wires shall be used in connection with such antenna, antenna array or its support structure except when used to anchor the antenna, antenna array or support structure to an existing building or ground to which such antenna, antenna array or support structure is attached.

**Section 1.04: Permitting**

The Texas Public Information Act protects certain information as proprietary from disclosure. Information submitted by the telecommunications providers that is considered proprietary with any application shall be clearly identified as such prior to its submittal to the City. To the extent permitted by law, the City will protect information that is proprietary and is submitted as proprietary.

**(a) Permit Granting Authority**

The City Council shall approve or disapprove development plans after recommendation from the Commission. The Director of Planning or his/her assignee shall approve WCF site development permits and WCFs co-locating on an existing WCF structure or utility poles in conjunction with a commercial building permit application meeting the requirements of this ordinance and the building code. An encroachment permit is necessary for all utility pole mounted WCFs located within the public right-of-way. The council may approve such encroachment permit requests.

**(b) Development Plan**

An approved development plan is required prior to the processing of site development and building permits for any WCF. The Director of Planning may waive the processing of a development plan if it is satisfactorily demonstrated that a network of WCFs, or more than one WCF, will not be required or if co-location is proposed. The development plan illustrates a carrier's expected network of WCFs within and adjacent to the city. It shall forecast five years in advance the approximate locations of future facilities and the area of service, but is not required to detail the specific type of facility (e.g., pole, roof, building attached). Each company desiring placement of a WCF within the city shall submit a development plan prior to the submittal of any site development or building permit applications for a WCF. The development plan shall be submitted for approval by the Commission and Council prior to the processing of any site development permit. Future amendments to each company's development plan shall be submitted for approval by the Commission and Council prior to approval of additional facility locations.

(1) Development plan filing requirements: The city, prior to processing a development plan application, must determine a development plan application to be complete. The city shall determine an application complete when the application contains the information described below. The following shall be included with an application for development plan approval:

(i) Application: The application form shall include at a minimum:

a) Name, address and telephone number of the applicant, any co-applicants as well as any agents for the applicant and co-applicants. The applicant or co-applicants shall be a licensed carrier unless licensing is not required;

b) Name, address and telephone number of the licensed carrier and copy of current license with any updates, operational dates and the spectrum proposed;

c) Original signatures for the applicant and all co-applicants applying for development plan approval. If the applicant or co-applicant will be represented by an agent, the original signature authorizing the agent to represent the applicant and/or co-applicant;

d) Application fee as established by the City in Appendix A, City Code of Ordinances, Article 4, Section 4.1000, subsection (13), as amended.

(ii) A map encompassing the city and surrounding area within one mile drawn to scale of no less than one inch equals five hundred (500) feet, specifying the following.

a) Approximate location of proposed WCFs;
b) Service area of each WCF;
c) Street names of major streets and streets adjacent to identified WCF locations;
d) All existing WCFs, operated by the applicant and other carriers;
e) Separation distance between proposed and existing WCFs measured in feet;
f) Information demonstrating compliance with the standards of this ordinance;
g) Existing watercourses and natural features that restrict the placement of WCFs or the associated service areas; and,
h) North arrow, scale and legend.

(2) Public Hearing and Notice: Prior to making its report to the council, the commission shall hold at least one public hearing. The council shall consider the request and the commission's report by public hearing at their next regular meeting following the commission's hearing. Notice of both hearings on proposed WCF Development Plan shall be accomplished by one publication not less than fifteen (15) days prior to the first public hearing in the official newspaper of the City.

**(c) Pre-application Meetings**

Prior to leasing or purchasing facilities, the carrier is encouraged to meet with the Director of Planning or his/her designee to determine if the location will require other approvals, e.g. rezoning or license, and to review the merits of potential locations.

**(d) WCF Site Development Plan Permit**

(3) WCF Site Development Permit filing requirements: A site development permit is required prior to the installation or modification of any new or existing WCF. The city, prior to processing a site development permit application, must determine a site development permit application to be complete. [See 1.06(b) as to modification] The city shall determine an application complete when the application includes a commercial building permit application and the following additional information:

(i) A written description of how the proposed WCF fits within the development plan.
(ii) Elevation drawings or before and after photographs/drawings simulating and specifying the location and height of the antennas, support structures, equipment enclosure(s) and other accessory uses, fences and signs.
(iii) A map indicating the service area of the facility.
(iv) A map indicating locations and service areas of other WCF sites operated by the applicant and sites of other providers' facilities in the city and within one mile of the city's corporate limits.
(v) Photo simulations of the proposed WCF from effected residential properties and public right-of-way at varying distances;
(vi) Written documentation demonstrating a good faith effort in locating facilities in accordance with Section 1.03, (c).
(vii) A description of the support structure or building upon which the WCF is proposed to be located, and the technical reasons for the design and configuration of the WCF.
(viii) Signed and notarized statement by the applicant indicating:

a) The proposed tower shall accommodate co-location of additional antennas and the applicant shall enter into leases with other providers on a reasonable and non-discriminatory basis on such tower;
b) Certification that the antenna usage shall not interfere with other adjacent or neighboring transmission or reception functions;

c) The applicant agrees to remove the WCF and equipment within ninety (90) days after the site's use is discontinued; and
d) The tower shall comply with all EIA (Electronic Industries Association) standards and applicable federal and state laws and regulations, including FAA regulations, and the city ordinances.

(ix) A lease agreement with the landholder, or deed, that:
a) Allows the landholder to enter into leases with other providers; and
b) A lease specifies that if the provider fails to remove the WCF and equipment with ninety (90) days of its discontinued use, the responsibility for removal belongs to the landholder.

(x) The applicant shall demonstrate FCC licensing;

(xi) A complete right-of-way encroachment permit application in compliance with Ordinance 99-047-00, as amended from time to time, if the WCF is to be located within a public right-of-way.

(xii) A landscape plan may be waived when the WCF is to be attached to a building and the equipment is located within or upon the building.

(xiii) A site plan indicating:
a) The location of the proposed WCF with setbacks;
b) Setbacks of the existing or proposed building/structure if the WCF is to be attached to said building/structure;
c) Required parking spaces;
d) Property lines;
e) Adjacent streets with names;
f) Any water/drainage features;
g) Topography no less than 5-foot intervals;
h) Property owner information of property immediately adjacent subject property;
i) Drawn to a scale of not less than one-inch equal to 40 feet (40 scale) with scale indicated;
j) North arrow;
k) Location map; and,
l) Name and addresses of the owner of record, licensed carrier; and the licensed architect/engineer/surveyor that prepared the site plan.

(xiv) True paint samples.

(4) Public Hearing and Notice: The commission shall hold at least one public hearing. Notice of hearing on proposed WCF Site Development Plan shall be accomplished by one publication not less than fifteen (15) days prior to the public hearing in the official newspaper of the City.

**(e) Building Permit**

A building permit is required prior to construction of a WCF in conformance with the approved WCF Site Development Plan Permit.

**<u>Section 1.05: Wireless Communication Facility Site Standards</u>**

**(a) License Agreement Required**

A license agreement shall be required to be provided by the provider in a form acceptable to the City including the responsibilities, of the landowner, provider(s), any other lessors and lessees, all other parties, and the City applicable to any structures, operations, termination of operation, removal or replacement costs associated with the facilities, to ensure the continued safety and appearance of the structures, equipment and amenities as specified in this Article.

**(b) Applicable Federal and State Standards**

All WCFs shall be erected and operated in compliance with current Federal Communication Commission (FCC) and Federal Aviation Administration (FAA) rules and regulations and other applicable federal, state, and local standards.

**(c) Structural Standards**

WCFs must conform to the most current revision of EIA 222 standards. The Director of Planning or his/her designee shall have the authority to inspect the facilities at any time to insure the structure is safe and not a danger to the public.

**(d) Height**

WCFs shall not exceed eight-five (85) feet in height above the existing or natural grade, with the exceptions as described below:

(1) Roof attached WCFs shall not exceed five feet above the highest portion of the roof membrane. The antenna and support system for whip antennas shall not exceed ten (10) feet above the highest portion of that roof, including parapet walls.

(2) Façade attached WCFs shall not exceed five feet above the façade to which it is attached.

(3) If the height of the structure is in excess of the maximum height allowed within the zone and was legally established, then the combined height of the building and antenna shall not exceed the maximum height allowed when the structure was constructed unless the Commission finds the WCF will be suitably screened or camouflaged.

(4) Street pole attached WCFs may only extend six (6) feet above the top of the existing street pole. A maximum extension of fifteen (15) feet from the top of the street pole may be permitted pursuant to standards provided in Subsection 1.05, (b and j), if clearly demonstrated that such is necessary to avoid disturbance or disruption of service provided by any other carrier or utility.

**(e) Setbacks**

All WCFs shall comply with the building setback provisions of the zoning district in which the WCF is located. In addition, the following setbacks shall be observed:

(1) Street Pole Attached. No setback when constructed within the public right-of-way and under the provision of subsection J of this section;

(2) Façade Attached. The maximum projection shall be eighteen (18) inches. The location of a WCF on the wall of a legal non-conforming structure is permitted. However, the WCF shall not be located on an exterior wall in a manner that will increase the degree of nonconformity. Additional standards for antennas attached to the façade of structures are listed in this Section;

(3) Roof attached WCFs shall be set back from the edge of the building the height of the antenna and support system as measured from the roof membrane;

(4) Freestanding Tower. Setbacks shall be measured from the base of the tower to the property line of the parcel on which it is located. Towers shall be set back from all property lines one hundred twenty-five (125) percent of the tower height as measured from the ground level;

(5) Equipment Enclosure. Underground vaults or above ground structures shall comply with the setback requirements of the underlying zoning district;

(6) No freestanding WCFs or equipment enclosures shall be located between the face of a structure and a public or private street, bikeway, park or residential development, except for approved façade-attached WCFs located on existing or new permitted structures in accordance with this ordinance.

**(f) Evaluation Standards**

The following design criteria shall be addressed by each applicant seeking site development permit approval for a WCF:

(1) Architectural Compatibility:

(i) All facilities shall be designed to minimize the visual impact to the greatest extent feasible, considering technological requirements, by means of placement screening and camouflage, to be compatible with existing architectural elements and building materials and other site characteristics. The applicant shall use the smallest and least visible antennas possible to accomplish the owner/operator's coverage objectives.

(ii) Colors and materials for facilities shall be chosen to minimize visibility. Facilities shall be painted or textured using colors to match or blend with the primary background.

(iii) WCFs located on buildings, walls or roofs, shall blend with the existing building's architecture by painting or shielding with material that is consistent with the design features and materials of the building.

(iv) Equipment enclosures on WCFs shall be designed consistent with this Section or placed in underground vaults

(2) Screening:

Landscaping, as described in this ordinance shall be required to screen as much of the support structure and the equipment enclosure as reasonably possible. The following standards shall apply to all WCFs. However, if the antenna is mounted flush with the building or on the roof, and other equipment is located inside the existing building, landscaping shall not be required. The following standards shall apply to all WCFs.

(i) Support structures and equipment enclosures shall be installed so as to maintain and blend with the existing landscaping on-site, including trees, foliage and shrubs, whether or not utilized for screening.

(ii) Additional landscaping and screening shall be installed to visually screen the support structures and above ground equipment enclosures. Landscaping and screening shall consist of a combination of trees, foliage and shrubs of dense spacing in one of the following designs:

a) A screening wall or fence and a five foot wide landscape planter located in front of the wall or fence;

b) A ten (10) foot wide landscape planter; or

c) Any combination of existing vegetation, topography, decorative walls/fences or other features instead of landscaping, if they achieve the same degree of screening as the required landscaping described in Section 6(f)(2ii) a. and b. above and are approved by planning staff.

(iii) Upon completion, the owner(s)/operator(s) of the facility shall be responsible for the continued maintenance and replacement of all required landscaping and screening materials.

(iv) Fencing. Security fencing, if installed, shall be by a wrought iron or steel chain link fence with evergreen hedge, or a masonry wall, each not less than 6 feet (1.8 meters) in height, consistent with the requirements of Article VI, Section 17, Privacy Fences.

(3) Color/Materials: WCFs located on buildings, walls or roofs, or structures shall be painted or constructed of materials to match the color of the structure directly behind them to reduce the visibility of the WCF.To the extent any WCFs extend above the height of the vegetation immediately surrounding it, they shall be painted in a non-reflective light gray, light blue or other hue, which blends with the skyline and horizon.

**(g) Facility Lighting and Signage**

(1) Facility lighting shall be designed so as to meet but not exceed minimum requirements for security, safety or FAA regulations. Lighting of antennas or support structures shall be prohibited unless required by the FAA. In all instances the lighting shall be designed so as to avoid glare and minimize illumination on adjacent properties. Lighting shall also comply with all of the city's lighting regulations.

(2) Signs shall be limited to those needed to identify the telephone number(s) to contact in an emergency, public safety warnings, certifications or other required seals. These signs shall also comply with the requirements of the city's sign regulations including appropriate permits.

**(h) Parking**

In addition to other off-street parking spaces required by other uses on the project site:

(1) If the WCF is fully automated, one off-street parking space shall be provided for the maintenance workers, excluding utility pole mounted WCFs.

(2) Non-automated WCFs shall provide documentation regarding the provision of adequate off-street parking. Parking will be sufficient to accommodate the maximum number of employees at any one time, plus one.

**(i) Access**

In addition to ingress and egress requirements of the current Building Code adopted by the City, access to and from WCFs and equipment shall be regulated as follows:

(1) No WCF or equipment shall be located in a required parking, maneuvering or vehicle/pedestrian circulation area such that it interferes with, or in any way impairs, the intent of functionality of the original design.

(2) The WCF shall be secured from access by the general public, but access for emergency services must be ensured. Access roads shall comply with fire code standards for emergency vehicular access.

**(j) WCF Specific Standards**

In addition to other standards identified in this Section, street pole and façade-attached WCFs shall also meet the following conditions and criteria.

(1) <u>Façade Attached WCFs</u>. Equipment enclosures shall be located within the structure in which the WCF is placed or located underground if site conditions permit. Otherwise, equipment enclosures shall comply with the design standards listed in Subsection iv below.

(2) <u>Utility Pole/Tower Attached WCFs</u>.

(i) Attachment. Only one WCF shall be permitted on any one street pole. More than one WCF may be attached to an Electric Transmission Tower (ETT). The antenna shall be equal to or less than six (6) feet in height, including the support system, if any. Surface area of an antenna shall not exceed five hundred eighty (580) square inches. The antenna shall be either fully concealed within the street pole or camouflaged to appear to be an integrated part of the street pole. Antennas on ETTs or an antenna not flush mounted on the side of the street pole, shall be centered on the top of the street pole to which it is attached and camouflaged or disguised.

(ii) Utility Separation. In the event that a utility located upon a street pole or an ETT requires vertical separation between its utility facilities and the antenna so attached, the antenna may be raised by a support system to accommodate the separation requirement to an elevation not exceeding an additional fifteen (15) feet above the top of the tower or the required separation, whichever is less. Any such support shall not be greater in diameter than the existing street pole

and shall be designed to blend into the colors and textures of the existing street pole.

(iii) Pole Replacement. Existing street poles may be replaced with a new street pole of the same height, dimension and appearance as the existing street pole except that a fifteen foot taller pole may be used as in instances described in j(ii) above. An antenna located upon the new street pole shall conform with the development regulations specified above in subsections j(i) and (ii).

(iv) Equipment Enclosures.

a) Below Ground. An underground equipment enclosure may be connected to an above ground equipment enclosure provided that no greater than six (6) cubic feet is above ground.

b) Above Ground. Above ground equipment enclosures shall not be greater than six (6) cubic feet in volume. No single dimension shall exceed three (3) feet. The equipment enclosure shall be constructed so as to minimize its visual impact. Evergreen landscape planting shall be installed and maintained to completely obscure the visibility of the equipment enclosure from the developed street and adjacent properties. Sight distance clearance shall be maintained for the equipment enclosure and associated landscape pursuant to the requirements of this Section and city ordinances.

(v) Horizontal Separation. For WCFs located within private or public right-of-ways, there shall be a minimum horizontal separation of three hundred (300) feet between the WCFs of a single licensed carrier and a minimum horizontal separation of one hundred (100) feet between the WCFs of any other licensed carrier.

The commission and council may approve an encroachment permit, after staff review of the WCF permit application. In the event the utilities located on a street pole are relocated underground, the WCF shall be relocated to another location pursuant to the requirements of this ordinance.

**(k) Safety**

(1) Federal Requirements. All WCFs shall meet or exceed current standards and regulations of the FAA, the FCC, and any other agency of the federal government with the authority to regulate towers and antennas. If such standards and regulations are changed, then the owners of the WCFs governed by this ordinance shall bring such WCFs into compliance with the revised standards and regulations within three (3) months of the effective date of the revised standards and regulations, unless a more stringent compliance schedule is maintained by the controlling federal agency. Failure to bring WCFs into compliance with such revised standards and regulations shall constitute grounds for the removal of the WCF at the owner's expense.

(2) Antenna Support Structure Safety. The applicant shall demonstrate that the proposed antenna and support structure are safe and the surrounding areas shall not be negatively affected by support structure failure, falling ice or other debris or interference. All support structures shall be fitted with anti-climbing devices, as approved by the manufacturers.

(3) Structural Certification. Prior to the installation of any building/roof mounted telecommunications antenna, antenna array or support structure the City's Director of Planning or his/her designee shall be provided with a structural engineer's certification that the structure will support and not be adversely affected by the proposed antenna and associated equipment.

**Section 1.06: Facility Operation**

**(a) Maintenance**

(1) Each permittee shall maintain its WCF in a good and safe condition, preserving the original appearance and concealment, disguise or screening elements incorporated into the design at the time of approval and in a manner which complies with all applicable federal, state and local requirements. Such maintenance shall include, but not be limited to, such items as painting, repair of equipment and maintenance landscaping. If the permittee fails to maintain the facility, the City may undertake the maintenance at the expense of the permittee or terminate the permit, at its sole option.

(2) To ensure the structural integrity of towers, the owner of a tower shall ensure that it is maintained in compliance with standards contained in applicable city building codes and the applicable standards for towers that are published by the EIA, as amended from time to time. If, upon inspection, the city concludes that the tower fails to comply with such codes or standards and constitutes a danger to person or property, then upon notice being provided to the owner of the tower, the owner shall have thirty (30) days to bring such tower into compliance with such standards. Failure to bring such tower into compliance within said thirty (30) days constitutes grounds for the removal of the WCF at the owner's expense.

**(b) Modification**

(1) New Permit. Any proposed change or addition to any WCF shall require the issuance of a new site development permit, pursuant to the requirements of this ordinance. This provision shall not apply to routine maintenance of a WCF, or to the replacement of any portion of the WCF with identical equipment on a WCF in conformance with this ordinance.

(2) Facility Upgrade. At the time of modification or upgrade of facilities, existing equipment shall be replaced with equipment of equal or greater technical capacity and reduced in size if reasonably possible so as to reduce visual impact.

(3) Existing Uses. All WCFs existing on the date of passage of this ordinance shall be allowed to continue their operation as they presently exist, subject to Section 1.05, 1.06 and 1.08. Routine maintenance shall be permitted. However, construction involving the replacement of support structure apparatus, antennas or any exterior alteration shall comply with all the requirements of this ordinance. Emergency Service WCFs may obtain a waiver from the commission and council in order to preserve the public health and safety. Waivers will be considered based on the applicable law, the cost of required modifications, and the public safety and welfare. The waiver shall be noticed pursuant to the public hearing requirements identified in subsection 5(b)(2) including a report from the commission on said waiver request.

**(c) Abandonment or Discontinuance of Use**

(1) Construction or activation of a WCF shall commence within ninety (90) days of approval of the site development permit and completed within two years or the permit shall be null and void. An additional ninety (90) day extension may be granted by the City Manager, or his/her designee, due to weather conditions or other extenuating circumstances beyond the control of the applicant. Requests and approvals of extensions shall be made in writing.

(2) At such time that a licensed carrier plans to abandon or discontinue operation of a WCF, such carrier shall notify the city by certified U.S. mail of the proposed date of abandonment or discontinuation of operations. Such notice shall be given no less than thirty (30) days prior to abandonment or discontinuation of operations. In the event that a licensed carrier fails to give such notice, the WCF shall be considered abandoned upon such discontinuation of operations.

(3) Upon abandonment or discontinuation of use, the carrier should physically remove the WCF within ninety (90) days from the date of abandonment or discontinuation of use. "Physically remove" shall include, but not be limited to:
   (i) Removal of antennas, support structures, equipment enclosures and security barriers from the subject property;
   (ii) Proper disposal of the waste materials from the site in accordance with local and state solid waste disposal regulations;
   (iii) Restoring the location of the WCF to its natural condition, except that any landscaping and grading shall remain in the after-condition. Minor modification for integration with other landscaping or site design will be permitted and approved by staff.
(4) In the event that more than one provider is using the WCF, the WCF shall not be considered abandoned until all such users cease using the structure as provided in this ordinance.
(5) Abandoned WCFs may be reutilized by a provider after a site development permit is obtained illustrating compliance with this ordinance.

**Section 1.07: Exemptions**

**(a) Exempt Communication Facilities**

The requirements imposed by this Article shall not apply to antennas designed to receive video programming signals from direct broadcast satellite (DBS) services, multi-channel multipoint distribution providers (MMDS), or television broadcast stations (TVBS) provided that all of the following conditions are met:

(1) The antenna measures thirty-nine (39) inches (one meter) or less in diameter;
(2) The antenna, if attached to a building, shall comply with subsection 1.05(j); and the antenna is attached to a freestanding tower measuring less than twelve (12) feet in height; and,

Lightning rods, private mobile radio systems, amateur radio antennas less than 50 feet (15 meters) in height and whip antennas less than 4 inches (10 cm) in diameter and less than 10 feet (3 meters) in height are not subject to the requirements of this Article IV.

**Section 1.08: Recovery and Revocation**

**(a) Recovery of City Costs**

The wireless communication providers use various methodologies and analysis tools, including geological based computer software, to determine the specific technical parameters of personal wireless services and low power mobile radio facilities, such as expected coverage area, antenna configuration, topographic constraints that affect signal paths, etc. In certain instances, there may be need for expert review by a third party of the technical data submitted by the applicant. If requested, the Council may require such technical review to be paid for by the applicant. The selection of the third party expert shall be at the city's discretion. Based on the results of the third party review, the city may require changes to the application for the WCF that comply with the recommendations of the expert. The expert review of the technical submission shall address the following:

(1) The accuracy and completeness of submissions;
(2) The applicability of analysis techniques and methodologies;
(3) The validity of conclusions reached; and
(4) Any specific technical issues designated by the city.

**(b) Revocation or Termination of Permit**

A permit issued pursuant to this ordinance may be revoked for the following reasons:

(1) Construction, and/or maintenance operation of a WCF at an unauthorized location;
(2) Construction or operation of a WCF in violation of any of the terms and conditions of this ordinance or the conditions attached to the permit;

(3) Misrepresentation or lack of candor by or on behalf of an applicant, permittee or wireless communication provider in any application or written or oral statement upon which the city substantially relies in making the decision to grant review or amend any permit pursuant to this ordinance;
(4) Abandonment of the WCF as set forth in this ordinance; or
(5) Failure to promptly cure a violation of the terms or conditions of the permit.
(6) Failure to commence and complete the permitted work as provided in subsection 1.06(c)(1).

**(c) Notice to Cure**

(1) Notice**.** In the event the city believes that grounds exist for revocation of a permit, the permittee shall be given written notice, by certified mail, of the apparent violation or non-compliance, providing a short concise statement of the nature and general facts of the violation or non-compliance, and providing the permittee a reasonable period of time not exceeding thirty (30) calendar days to furnish evidence:
   (i) That corrective action has remedied the violation or non-compliance;
   (ii) That rebuts the alleged violation or non-compliance; and/or
   (iii) That would be in the public interest to impose some penalty or sanction less than revocation.
(2) Hearing. In the event that a permittee fails to provide evidence reasonably satisfactory to the city as provided in Subsection c1 of this Section, the city shall refer the apparent violation or non-compliance to the council.
   (i) The council shall provide the permittee notice and reasonable opportunity to be heard concerning the matter and two (2) public hearings shall be conducted, one before the commission for the purpose of receiving the Commission's recommendation, and a second before the council.
   (ii) Within ten (10) calendar days of the completion of the second public hearing, the council shall issue a written decision revoking the site development permit for the WCF or imposing such lesser sanctions as may be deemed appropriate under the circumstances.
   (iii) In making their recommendation and decision, respectively, the Commission and Council shall apply the following factors;
      a) Whether the misconduct was egregious;
      b) Whether substantial harm resulted or is likely to result without corrective action;
      c) Whether the violation was intentional;
      d) Whether there is a history of prior violations of the same or other requirements;
      e) Whether there is a history of overall compliance; and
      f) Whether the violation was voluntarily disclosed, admitted or cured.

**<u>Section 1.09: Appeal</u>**

Any entity that desires to erect or utilize wireless communication facilities and to present evidence that such entity would be limited by the current ordinances or regulations of the City dealing with zoning and land use may apply for plan or permit approval under this section and repeal the ordinance requirement. The council shall, upon a showing that strict application of the regulations would prohibit or have the effect of prohibiting personal wireless service, as defined by federal law, modify the subject regulations, consistent with the spirit and intent of this Section, to the extent necessary to prevent the prohibition.

**Section 1.10: Conflict of Regulations**

This ordinance shall not be construed, applied, interpreted nor enforced in a manner that conflicts with federal or state regulations, limitations or other applicable requirements. If any term or provision of this ordinance conflicts with state or federal law, this ordinance shall be construed and interpreted consistent with such law, and the state or federal law shall prevail. In the event of a conflict between this ordinance and any other ordinance, the most restrictive standard applies.

## SECTION 2: SPECIAL USE PERMIT

**(a) Uses Qualified**

The City Council may, by ordinance adopted by a majority vote, grant a Special Use Permit for the following special uses in any district in which the use is otherwise prohibited by this ordinance, except as herein provided. The Council may impose appropriate conditions and safeguards, including a specified period of time for the permit, to protect the Comprehensive Plan and to conserve and protect property and property values within the neighborhood and City.

(1) Airport, landing field, or landing strip for aircraft
(2) Amusement park, but not within three hundred (300) feet of any residential district
(3) Circus or carnival grounds, but not within three hundred (300) feet of any residential district
(4) Commercial, recreational or amusement development for temporary or seasonal periods
(5) Private operated community building or recreation field
(6) Radio or television broadcasting tower or station
(7) Drive-in theater on a site of not less than ten (10) acres
(8) Cemeteries
(9) Kiosks or other temporary or seasonal open air vending
(10) Accessory buildings that exceed sizes permitted by this ordinance
(11) Residential uses on the first floor of non-residential districts
(12) Tents or other temporary structures not permitted by this ordinance
(13) Temporary residential use of a travel trailer or recreational vehicle meeting the following standards:
    (ii) The lot, tract or parcel shall be at least 6,000 square feet in area.
    (iii) The use of the travel trailer or recreational vehicle shall be limited to residential use by an individual constructing their own home in an SFR district for not more than a period of one year; or an ill, convalescent or otherwise disabled friend or relative needing care from the occupant of the primary residence, or a friend or relative providing necessary care for an ill, convalescent or otherwise disabled occupant of the primary residence. The need for care shall be documented by a letter from a physician.
    (iv) No more than two (2) people may occupy the travel trailer or recreational vehicle.
    (v) The temporary unit may only be placed on a legal parcel with an existing primary residence except where the permanent residence is under construction as described in (ii) above.
    (vi) The temporary unit shall have an approved connection to a sanitary sewer system or septic system. The unit shall also have an approved connection to a public water system or well.
    (vii) The temporary unit shall meet zoning setback requirements and shall be located no closer to a street than the front wall of the permanent residence.
    (viii) The temporary unit shall be currently licensed as required by the State of Texas, have a valid state inspection and remain in a mobile condition.

(ix) The temporary unit shall not be considered a separate residential unit for the purpose of calculating impact fees.

(x) The temporary unit shall not be rented or leased.

(xi) If approved, an administrative permit for residential use of a travel trailer or recreational vehicle shall be obtained. Such permit shall expire one year from the date of issuance. Permits may be renewed annually in the discretion of the City Council. Permit and renewal applications shall be accompanied by a written statement signed by the applicant under penalty of perjury that the use will conform to the standards set forth in this subsection. Renewal applications shall be submitted prior to permit expiration and shall include an updated letter from a physician.

(xii) Within sixty (60) days of cessation of the temporary residential use, all occupancy of the unit shall cease, the unit shall be disconnected from all utilities and the unit shall be removed from the premises.

(14) Family Homes and Group Homes allowing any resident who has been convicted of rape, sexual abuse or assault of a child with full disclosure made to the Planning & Zoning Commission and the City Council, and Group Home Type 3, with consideration given to all the facts and circumstances applicable to the site and the facility for which the permit is requested, including, but not limited to, the size of the lot, traffic flow and congestion, neighboring or nearby land uses, and the ability to monitor the location and activities of the residents.

(15) Small wind energy systems.

**(b) Process**

Before authorization of any of the above Special Uses, the request shall be referred to the Commission for study and report concerning the effect of the proposed use on the Comprehensive Plan and on the character and development of the neighborhood. Notice shall be given and public hearings held in the same manner as for all other zoning and rezoning applications.

## SECTION 3: NON-CONFORMING USES

**(a) General Policy**

Non-conformities in the use and development of land and buildings are to be avoided, or eliminated where now existing, whenever and wherever possible, except:

(1) When necessary to preserve property rights established prior to the date these regulations become effective as to the property in question; and

(2) When necessary to promote the general welfare and to protect the character of the surrounding property.

**(b) Nonconforming Structures**

Where a lawful structure exists on the effective date of the adoption or amendment of this Zoning Ordinance that could not be built under the terms of this Zoning Ordinance or amendment thereto by reason of restrictions on permitted use, area, setback, lot coverage, height, years, its locations on the lot, or other requirements concerning the structure, such structure may be continued as long as it remains otherwise lawful, subject to the following provisions:

(1) No such nonconforming structure shall be enlarged or altered in a way which increases its structural nonconformity, but any structure or portion thereof may be altered to decrease its structural non-conformity. However, maintenance and additions to existing structures are permitted in conformance with the existing standards of the structure including standards that relate to masonry, setback, architectural, landscaping or other zoning standards, as long as an addition does

not exceed 50% percent of the existing gross floor area or 900 square feet, whichever is greater, but never more than 100% of the existing structure. However, metal siding and manufactured homes are not permitted to be added to a structure unless permitted under current zoning regulations.

(2) Should such nonconforming structure or nonconforming portions of a structure be damaged by any means to an extent of more than one hundred percent (100%) of its replacement cost at the time of destruction, it shall not be reconstructed except in conformity with this ordinance. Reconstruction of a structure damaged to an extent of less than one hundred percent (100%) of replacement value may be accomplished based on the zoning standards of the original structure.

(3) Should such structure be moved for any reason for any distance whatsoever, it shall thereafter conform to the regulations of the district in which it is located after it is moved.

**(c) Nonconforming Uses**

A nonconforming use may be continued as long as it remains otherwise lawful, subject to the following provisions:

(1) No existing structure devoted to a nonconforming use shall be enlarged or extended, unless such use is a single-family use in which case it may be enlarged or extended by not more than forty percent (40%) of its current floor area.

(2) The use of the structure shall only be changed to a use permitted in the district in which it is located.

(3) Except for single-family, a nonconforming use that has been discontinued may be resumed only if there has been no other use of the premises or structure since the nonconforming use was discontinued. A single-family use that is non-conforming may be resumed even if there has been another use of the structure since the nonconforming use was discontinued.

(4) Any nonconforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use at the time of adoption or amendment of this ordinance, but no such use shall be extended to any land outside such building.

(5) Removal or destruction of a structure containing a nonconforming use shall terminate any legal status of the nonconforming use unless such use is residential.

(6) Any structure not designed for human occupancy such as a storage building, shed or similar structure, may not be utilized for human occupancy, whether that occupancy is as a residence, business, work area, or other human occupancy, irregardless of whether such use has occurred previously except where such structure is not a residence or open to the public and is being utilized for an activity that would normally occur outdoors.

**(d) Repairs and Maintenance**

On any nonconforming structure, or nonconforming portion of a structure, repairs and maintenance shall be performed to maintain the structure in compliance with the electrical, plumbing and building codes; provided that such repairs and maintenance shall be subject to the following: If seventy-five percent (75%) or more of the nonconforming structure becomes physically unsafe or unlawful due to lack of repairs or maintenance, and is declared by a duly authorized official to be unsafe or unlawful by reason of physical condition, it shall not thereafter be restored, repaired or rebuilt except in conformity with the regulations of the district in which it is located.

## SECTION 4: CONDEMNATION VARIANCE

Any property, or part thereof, that is taken in a condemnation proceeding, or purchased or acquired by or dedicated to a public entity, either by voluntary transfer or by condemnation or threat thereof, which creates non-compliance with set back or other zoning regulations for any then existing building, structure or other site improvements thereon, or any approved plan constituting vested rights, shall act as, be and constitute a variance from such regulations to the extent the taking, transfer dedication or vesting creates non-compliance with such regulations.

## SECTION 5: ACCESSORY BUILDING / STRUCTURE / USE; SPORTS & OTHER EQUIPMENT REGULATIONS

**(a)** In residential districts, an accessory building / structure is incidental to and customarily associated with a specific principal use or principal building on the same site, attached to or detached from the main building, and not used for commercial purposes and not rented.

**(b)** In non-residential districts, an accessory building / structure is a subordinate building, the use of which is secondary to and supportive of the main building.

**(c)** An enclosed garage structure is considered as part of the primary building / structure even if it is detached.

**(d)** Enclosed accessory buildings shall be prohibited in front of and to the side of the main building. Otherwise, accessory buildings / structures shall have the same setbacks as primary buildings except as follows:

(1) Unenclosed canopies (including carports) in non-residential districts that cover a paved surface suitable for vehicular parking shall be in accordance with the setback rules for parking areas,

(2) Unenclosed canopies (including carports) in residential districts that cover a paved surface suitable for vehicular parking may be located to the side or rear of the main building.

(3) The rear setback line for an accessory building / structure in a single-family or two-family district may be reduced to five (5) feet except as required in paragraph k below.

(4) Accessory buildings / structures shall be located at least three feet from any other building or structure on the property.

**(c)** No structure may be in any public utility easement.

**(d)** Accessory buildings / structures shall not be permitted without a main building or primary use being in existence.

**(e)** No accessory building / structure shall exceed one story or fifteen (15) feet in height except in an SFR or non-residential district where an accessory building shall not exceed twenty eight (28) feet in height.

**(f)** All accessory buildings / structures not considered a permanent structure will be considered temporary structures including but not limited to tents, and must comply with the following requirements:

(1) Tents or other temporary structures must be securely attached to the surface on which they are located and inspected prior to occupancy excluding personal tents in residential backyards. Temporary structures shall not utilize required parking areas.

(2) Except for a special event or with a Special Use Permit, tents or other temporary structures shall only be utilized for a period not to exceed thirty (30) consecutive days and not more than two (2) times in any twelve (12) month period. A building permit is required.

(3) Tents or other temporary structures are required to have tie downs as approved by the Building Official. The building official will determine the type of tie down depending upon the structure. Some of the tie downs that can be used are wet setting steel straps or cabling in concrete across runners, wet setting a pressure treated 2x4 18 to 24 inches deep in concrete and securely attached at each corner, or tie down kits similar to what is used for manufactured/mobile homes.

**(g)** Except for agricultural accessory buildings / structures, accessory buildings / structures shall be screened from adjacent properties in accordance with the screening requirements of the landscape regulations (Article IV, Sec. 1).

**(h)** No accessory building / structure shall be placed so as to negatively impact drainage on any adjacent lot by diversion or impoundment of stormwater flows.

**(i)** In an SFR zoning district, barns and/or stables shall be limited to a height of not more than twenty eight feet to the top of the roof. Such barns and/or stables shall not be located within 25' from a property line and 100' from any existing residence on adjacent property.

**(j)** No building permit is required for an accessory building / structure less than or equal to 120 square feet in size.

**(k)** Except for agricultural accessory buildings / structures, roof standards for accessory buildings / structures greater than 120 square feet in size are as follows:

(1) Except for metal carports and engineered metal buildings, the minimum roof slope shall be the same as the primary structure

(2) The color and materials of the roof of the accessory building / structure must closely resemble the color and materials of the roof of the main building.

**(l)** Exterior wall standards (except for agricultural accessory buildings / structures)

(1) Accessory buildings / structures less than 120 square feet in area may utilize flat, painted metal siding with raised ribs or seams or other equivalent or better siding, provided that not more than one accessory structure utilizing such metal siding is permitted per lot. Corrugated metal siding shall not be permitted. Additional accessory structures less than 120 square feet in area shall utilize exterior grade wood, fiber - cement planking or other equivalent or better siding. Any masonry used on accessory buildings shall closely resemble the masonry used on the main building.

(2) Accessory buildings / structures 120 - 300 square feet in area shall comply with the exterior wall standards of the main structure or utilize exterior grade wood, fiber - cement planking or other equivalent or better siding, provided that not more than one accessory structure utilizing such siding is permitted per lot. Additional accessory structures 120 square feet or larger in area shall comply with the exterior wall standards of the main structure. Any masonry used on accessory buildings shall closely resemble the masonry used on the main building.

(3) Accessory buildings / structures over 300 square feet in area shall comply with the exterior wall standards of the main structure. The masonry used on the accessory building shall closely resemble the masonry used on the main building.

**(m)** Sports / Recreational Facilities:

Swimming pools, children's play structures, swing sets, basketball courts, sports courts, tennis courts and similar permanent or semi-permanent sports / recreational facilities shall be located to the rear of the primary residence. Basketball goals, including goals on wheels, shall not be located on any street.

**(n)** Swimming pool pumps, filters and related equipment and other similar items shall be located or screened so as to be concealed from view of adjacent streets and lots.

**(o)** Nothing in these regulations shall be construed so as to limit the use of any property for a garden, including a vegetable garden.

**(p)** Solar Energy Systems: Both building mounted and free standing Solar Energy Systems shall be permitted as an accessory use in all zoning districts in the City if meeting the standards of this section.

(1) Height: Free-standing solar energy systems shall not exceed fifteen (15) feet in height. When attached to a building, solar energy systems shall not extend more than four (4) feet above the roof surface of the building on which they are installed. Solar energy systems are also subject to the maximum height limits of the zoning district in which they are located

(2) Setback: Solar energy systems shall meet all applicable building setback provisions of Art. VI, Section 6 of this code In addition, for residential districts, no such system or portion thereof may extend closer to a roadway than the nearest wall of the structure which it serves unless the lot is a double frontage lot and such system is located in the rear yard.

(3) Interconnected System: It shall be permissible to direct any residual energy generated by solar energy systems to the power grid upon approval of the power company.

(4) All solar energy systems shall be designed and located in order to prevent reflective glare toward any inhabited structure on adjacent properties as well as adjacent street rights-of-way.

(5) Permits: A solar energy system requires permitting by the Building Permits Division. To provide an incentive for solar energy systems, there shall be no permitting fee for such systems except what is required to reimburse the City for any direct costs the City may incur in the permitting process. Direct costs may include, but are not limited to, outside agency or consultant review fees and materials or equipment purchased for inspection or testing of solar energy systems. Such direct costs shall not include salaries and normal support costs for City personnel and equipment otherwise required for City operations. Review of the permit application shall be fast-tracked.

(i) Permit applications for solar energy systems shall be accompanied by a line drawing of the electrical components in sufficient detail to allow for a determination that the manner of installation conforms to the applicable National Electrical Code. A solar energy system shall comply with all applicable state and local electrical and building codes.

(6) Private Restrictions: It shall be unlawful for neighborhood or other private covenants and restrictions adopted after the effective date of this ordinance to restrict solar energy systems beyond what is contained in city, state and federal restrictions except in ways that will not impact the feasibility of the system. For the purposes of this section, any requirement beyond city, state and federal restrictions that would deny the installation of a solar energy system, render the installation of a solar energy system impractical or increase the cost of such system by more than fifteen percent (15%) is considered to impact the feasibility of the system.

(7) Solar panels shall not be located within three (3) horizontal feet of any peak, eve or valley of the roof in order to retain access pathways unless such panels are completely integrated with the roofing materials.

(8) Variances to this sub-section may be considered by the Board of Adjustment after a public hearing is held in conformance with the notification rules established for the consideration of a subdivision concept plan.

**(q)** Small Wind Energy Systems: Small wind energy systems shall be permitted upon approval of a special use permit as accessory uses in all zoning districts. Issuance of a special use permit for a small wind energy system shall be in consideration of the special circumstances of the proposal and in consideration of the following recommended standards:

(1) System Setback and Height: The minimum setback for small wind energy systems shall be not less than one hundred twenty five percent (125%) of wind energy system total height from lots lines, overhead utilities, and from a public or private street unless appropriate easements or agreements are secured from applicable adjacent property owners. However, even with appropriate easements or agreements, the setback for a small wind energy system shall be not less than the requirements for a principal structure. Setbacks shall be measured from the centerpoint of the tower base. In addition, for residential districts, a small wind energy system shall not be located in the front yard. The maximum small wind energy system total height limit is ninety (90) feet.

(2) FAA Regulations: Small wind energy systems shall comply with applicable FAA regulations, including any necessary approvals for installations close to airports.

(3) Interconnected System: It shall be permissible to direct any residual energy generated by small wind energy systems to the power grid upon approval of the power company.

(4) Clearance of blades: No portion of the blades of a small wind energy system shall be closer than twenty feet to the ground. No blades shall extend over parking areas, public right of ways, utility easements, access easements, driveways, or sidewalks. Blades and tail vane shall be separated by a minimum of fifteen (15) feet from above ground utility lines in all directions.

(5) Diameter of Wind Turbine Rotor Blades: In residential districts, the maximum diameter of the wind turbine rotor blades (swept area of blades) shall be fifteen (15) feet. In non-residential districts, the maximum diameter of the wind turbine blades (swept area of blades) shall be thirty (30) feet.

(6) Automatic Over-speed Controls: All small wind energy systems shall be equipped with automatic over-speed controls to limit the blade rotation speed to within the design limits of the small wind energy system.

(7) Lightning arresters: All small wind energy systems shall have lightning arresters installed and properly grounded.

(8) Signs: Commercial markings, messages, signs and banners shall be prohibited on small wind energy systems except for warning signage or, with a sign of not more than two square feet, a logo or name of the manufacturer or installer.

(9) Tower Design: All wind turbine systems shall be designed and installed with a monopole design. Towers shall be designed and certified by the manufacturer to comply with Underwriters Laboratories standards for safety and other applicable codes. Wind Turbines shall be certified or approved by the U.S. Dept of Energy and the American Wind Energy Association (awea.org).

(10) Permits: In addition to a special use permit, a small wind energy system requires permitting from the Building Permits Division. To provide an incentive for small wind energy systems, there shall be no permitting fees of any type for such systems except what is required to reimburse the City for any direct costs the City may incur in the permitting process. Direct costs may include, but are not limited to, outside agency or consultant review fees and materials or equipment purchased for inspection or testing of small wind energy systems. Such direct costs shall not include salaries and normal support costs for City personnel and equipment otherwise required for City operations. Review of the permit application shall be fast-tracked.

(i) Permit applications for small wind energy systems shall be accompanied by a line drawing of the electrical components in sufficient detail to allow for a

determination that the manner of installation conforms to the applicable National Electrical Code. A small wind energy system shall comply with all applicable state and local electrical and building codes.

(ii) Building permit applications for small wind energy systems shall be accompanied by a drawing of the small wind energy system structure, including the tower, type of tower, base, footings and all other components of the system. An engineering analysis of the tower showing compliance with the International Building Code and certified by a licensed professional engineer as well as the Small Wind Certification Council (CWCC) shall also be submitted. This analysis may be provided by the system manufacturer. A licensed professional engineer shall also certify the design of the foundation.

(11) Insurance: The property owner shall provide proof of property and public liability insurance (e.g. certificate of insurance) before the building permit is issued. No separate insurance policy is required. The amount of insurance coverage shall be commensurate with the risk associated with the system to be permitted. The minimum amount of insurance coverage is typically as follows:

(i) Single Family, Two-Family Residential and Multi-Family: One million dollars ($1,000,000) per occurrence.

(ii) Commercial and Industrial: Two million dollars ($2,000,000) per occurrence with a five million dollar ($5,000,000) umbrella.

(12) City's Pre-Inspection of Tower Foundation/Footings: Before the foundation concrete is poured, the Building Inspector shall examine, measure and pre-approve the width, circumference and depth of the hole that will support the footings and concrete foundation of the monopole to comply with the manufacturer's engineering specification for installing the small wind energy system.

(13) Electrical Wiring: All electrical wiring from the tower to the building it serves shall be buried for protection. Wires necessary to connect the generator to the tower wiring are exempt from this requirement.

(14) Small Decorative Wind Turbines: Small wind turbines less than one meter in diameter that use direct current solely for decorative or yard lighting are exempt from this section.

(15) Restricting Access or Fencing: Access control to the small wind energy system shall be provided by design by removing climbing steps within twelve (12) feet of the ground elevation, by sheathing, or other measure as approved by the Building Official. A six (6) foot fence with a locking portal may be required by the Building Official around any tower that, by design, could present a potential climbing hazard. All disconnect switches and junction boxes at the bottom of the tower shall be secured to prevent unauthorized access. They shall also be labeled with HIGH VOLTAGE signage.

(16) Noise and Vibrations: The noise level of a small wind energy system shall not exceed fifty five (55) dBA for any period of time at the site property line. The noise level may be exceeded during short term events such as utility outages and/or severe wind storms. In addition, the noise level limits of Chapter 8 of the City of Leander Code of Ordinances shall apply except as otherwise specified in this section. In addition, audible noise due to small wind energy facility operations shall not exceed fifty (50) dBA for any period of time, when measured at any residence, school, hospital, church or public library existing on the date of approval of the small wind energy facility. Vibrations or other similar effects shall not be produced which are humanly perceptible beyond the limits of the property on which the system is located.

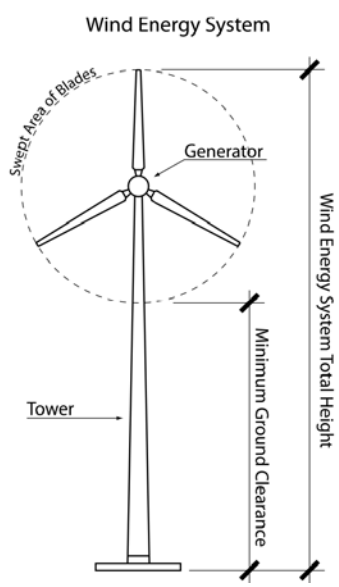
(17) Appearance, Color and Finish: The wind generator and tower shall be maintained and finished with a neutral, non-reflective paint color that blends into the surroundings (such as is typically supplied by the manufacturer).

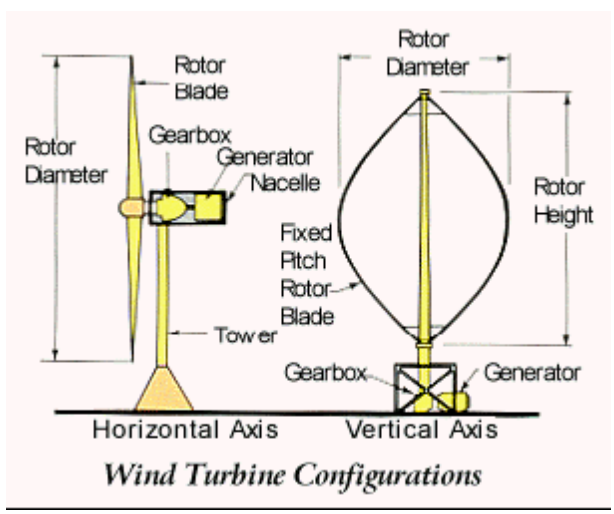
(18) Electro-Magnetic Interference: The system shall be operated so that no disruptive electro-magnetic interference is caused to off-site telecommunications, surveillance or other similar systems or equipment. If it has been demonstrated that the system is causing such interference, the system owner shall promptly eliminate such interference or cease operation of the system.

(19) Lighting: Permanent artificial lighting shall not be permitted on small wind energy systems unless required by the FAA.

(20) Abandonment: A small wind energy system that is out or service for a continuous nine (9) month period will be deemed to have been abandoned. The Building Official may issue a Notice of Abandonment to the owner of a small wind energy system that is deemed to have been abandoned. The owner shall have the right to respond to the Notice of Abandonment within 30 days from Notice receipt date. The Building Official shall withdraw the Notice of Abandonment and notify the owner that the Notice has been withdrawn if the owner provides information that demonstrates the small wind energy system has not been abandoned. If the small wind energy system is determined to be abandoned, the owner of the system shall remove it at the Owner's sole expense within sixty (60) days of receipt of Notice of Abandonment. Failure to comply with a removal order is a criminal offense that can be prosecuted in municipal court.

(21) Shadow flicker: An applicant shall conduct a shadow flicker analysis with an application for a small energy system. This analysis shall include flicker impact to any public roadway or existing structures not served by such system within a distance of ten rotor diameters of the system over the course of a calendar year, and provide measures to eliminate or mitigate any potential flicker impact. Shadow flicker of less than twenty five (25) hours in a year shall not be considered significant enough for mitigation.




**(t)** Rainwater Harvesting Systems: Rainwater harvesting systems shall be permitted as accessory uses and accessory structures in all zoning districts in the City if meeting the standards of this section.

(1) Accessory Structures: Rainwater harvesting barrels/tanks/cisterns shall be considered as accessory structures, except that they shall not be required to meet the exterior wall standards of accessory structures, and they shall not be counted toward the square footage allotment of accessory structures.

(2) Setbacks: Above ground portions of rainwater harvesting systems shall not be required to meet the setback standards of accessory structures, however, they shall adhere to the building /structure setbacks in Article VI, Section 6 of this code and may take advantage of setback exceptions offered for roof overhangs, fireplaces, bay windows and similar projections as well as porches, patios, balconies and other similar projections if such systems otherwise meet the standards of this section.

(3) Screening: A rainwater harvesting system shall either be screened from view by at least sixty percent (60%) from any street or public right-of-ways, or shall be integrated into the design of the structure as a compatible architectural element of the structure. To be a compatible architectural element, a rainwater harvest system shall utilize consistent or compatible exterior materials and design elements of the primary structure in the opinion of the Planning Director.

(4) Permits: A rainwater harvesting system shall be subject to the permitting rules of the Building Permits Division. To provide an incentive for rainwater harvesting systems, there shall be no permitting fee for such systems except what is required to reimburse the City for any direct costs the City may incur in the permitting process. Direct costs may include, but are not limited to, outside agency or consultant review fees and materials or equipment purchased for inspection or testing of rainwater harvesting systems. Such direct costs shall not include salaries and normal support costs for City personnel and equipment otherwise required for City operations. Review of the permit application shall be fast-tracked. Rainwater systems of less than sixty (60) gallons shall not require a permit and shall not be subject to the preceding requirements of this section.

(5) Private Restrictions: It shall be unlawful for neighborhood covenants and private restrictions adopted after the effective date of this ordinance to restrict rainwater harvesting systems beyond what is contained in city, state and federal restrictions except in ways that will not impact the feasibility of the system. For the purposes of this section, any requirement beyond city, state and federal restrictions that would deny the installation of a rainwater harvesting system, render the installation of a rainwater harvesting system impractical, or increase the cost of such system by more than fifteen percent (15%), is considered to impact the feasibility of the system.

(6) Variances: Variances to this sub-section may be considered by the Board of Adjustment.

## SECTION 6: ACCESSORY DWELLINGS

**(a)** Minimum Standards: An accessory dwelling must meet the following standards:

(1) For residential districts, the accessory dwelling must be constructed as architecturally and physically integrated with the primary structure or to the rear of the main dwelling, separate from the main dwelling.

(2) The accessory dwelling shall be constructed only with the issuance of a Building Permit and shall be constructed out of the same or better material(s) as the main structure.

(3) The accessory dwelling shall not be sold separately.

(4) Setback requirements shall be the same as for the primary structure (or garage if connected with the garage).

(5) Accessory dwellings are not permitted without the primary structure.

(6) Accessory dwellings shall contain a minimum of 400 square feet of living area and a maximum of 900 square feet of living area or 40% of the gross living area of the primary dwelling, whichever is greater.

(7) Either the principal or accessory dwelling unit shall be owner occupied.

**(b)** Maximum height of an accessory dwelling unit shall be two (2) stories or thirty (30) feet.

**(c)** No more than one accessory dwelling unit per lot is allowed in a residential or industrial district.

**(d)** Parking for an accessory dwelling unit shall not be less than one (1) parking space per accessory dwelling unit and shall not be required to exceed four off-street parking spaces per single-family lot.

**(e)** The LUE requirement (whether a whole LUE or any fraction thereof) for an accessory dwelling unit shall be counted toward the maximum number of LUE's available to be issued in the City, and in the subdivision within which the lot is platted.

**(f)** In addition to compliance with all applicable city codes and regulations including, but not limited to, those dealing with building, plumbing, electrical, fire, safety, health and sanitation, property maintenance and rental housing licensing, the construction, occupancy and use of an accessory dwelling unit shall be controlled by the following restrictions:

(1) An accessory dwelling unit can be constructed concurrently with, but not before, a principal residence or primary building.

(2) A separate water and sewer tap shall be obtained for each accessory dwelling unit. The cost of each such separate tap for accessory units shall be the same cost as a water or sewer tap for the primary single-family dwelling units. Impact fees for both water and wastewater shall be paid and LUE's issued for each such accessory unit as required by ordinance. Not less than ½ of a water LUE and ½ of a wastewater LUE shall be required for each accessory unit; and the number, or fraction thereof, of an LUE required shall be as provided in the Fee Schedule. LUE's shall be counted and credited as they are allocated, whether in whole numbers or in fractions thereof.

## SECTION 7: TEMPORARY BUILDINGS AND STRUCTURES

**(a) Purpose**

Temporary buildings and structures, as set forth below, are declared to have characteristics which require certain controls in order to ensure compatibility with other uses in the district within which they are proposed for location.

**(b) Temporary Building Standards**

(1) No temporary building or structure shall be erected in any required setback area.

(2) Temporary buildings providing classrooms for schools, religious institutions and other similar facilities may be permitted only where such buildings are part of an approved site plan for future development of the site.

(3) Temporary buildings, where permitted, are subject to site plan approval. The Director of Planning may require buffering or screening.

(4) Temporary buildings shall not be placed between a principal building and a street, or in any street yard of the principal building. Temporary buildings shall not interfere with on-site circulation.

(5) Temporary buildings are permitted only on property which has a permanent building and shall be considered as an accessory structure.

(6) If approved, temporary buildings shall be issued a temporary certificate of occupancy for a period not to exceed two years. Extensions may be issued by the Building Official if the applicant can demonstrate that progress is being made on the planning, design and/or construction of permanent facilities or for the removal of the temporary building(s).

**(c) Use of Model Home as Temporary Sales Office**

The following regulations shall apply to the use of model homes as temporary sales offices:

(1) The use of a model home as a temporary sales office may be located within residential districts as part of an on-going residential development, provided that the office is directly and exclusively related to sales of dwelling units within the respective residential subdivision or development.

(2) The Building Official shall ensure that each use of a model home as a temporary sales office is issued only a temporary certificate of occupancy. The temporary certificate of occupancy shall expire in two years, except as described below or renewal upon it being established that the conditions of approval still exist.

(3) If a model home is used as a temporary sales office, the sales office shall be removed no later than when certificates of occupancy have been issued to 90 percent of the residential units proposed for the development.

(4) If any garage space has been used as office space, it shall be converted back to a garage for automobile parking prior to the issuance of a certificate of occupancy for use as a home.

(5) Temporary sales offices shall only be located in model homes.

**(d) Contractors' Offices and Equipment Sheds**

Contractors' offices and equipment sheds containing no sleeping or cooking accommodations are permitted in any district when accessory to an ongoing construction project. Such use shall be removed prior to the issuance of a certificate of occupancy for the associated construction project.

## SECTION 8: HOME OCCUPATIONS

A home occupation is an occupation that is incidental and secondary to the primary use of the premises as a residence and that is conducted in a residential dwelling unit by a member of the occupant's family. A home occupation is permitted subject to compliance with this section and with the condition that such use does not include any activity that is detrimental or injurious to adjoining property. A home occupation must meet all of the following conditions:

**(a)** A home occupation shall be conducted entirely within a completely enclosed structure.

**(b)** External evidence of the occupation shall not be detectable at any lot line. The interior/exterior of the dwelling shall not be structurally altered to comply with nonresidential construction codes, nor shall additional structures be built on the property to accommodate the home occupation.

**(c)** A home occupation shall have no outside storage either on a temporary or overnight basis. Not more than one vehicle of not greater than three-quarter-ton rated capacity, which indicates, by signage or other means, that it is used in a business, shall be parked on residentially zoned property or in a public street or alley adjacent to residentially zoned property. No vehicle used in connection with a home occupation which requires a commercial driver's license to operate shall be parked on the lot or on any street adjacent to the lot.

**(d)** A home occupation shall have no exterior advertisement, sign or display, on or off the premises.

**(e)** A home occupation shall have no modification or activity which would indicate from the exterior of the structure that the premises are being used for anything other than a dwelling unit.

**(f)** A home occupation shall not employ more than one person other than members of the immediate family (whether such family member is an occupant of the house or not) or lawful occupants residing on the premises.

**(g)** The occupation shall not change the residential character of the lot and dwelling, nor alter the exterior appearance of the principal building from that of a dwelling for human habitation, nor require the installation of machinery or equipment other than that customary to domestic, hobby, craft, artisan, standard office, or ordinary household activities.

**(h)** A home occupation shall have no exhibits or displays of goods, wares or merchandise unless the property is zoned for such use.

**(i)** No home occupation shall be allowed which is offensive by reason of odor, noise, dust, smoke, hours of operation, debris, noxious fumes, vibration, excessive lighting or manner of operation.

**(j)** A home occupation shall not create a fire hazard; health hazard; air, land or water pollution hazard; explosion hazard or accumulation of pests, rodents, flies or vermin.

**(k)** The occupation shall be conducted as an accessory use that is clearly incidental and secondary to the residential use of the premises, shall not use an area exceeding 25 percent of the gross floor area of the dwelling, nor cause a substantial increase in any utility usage.

**(l)** Nothing herein shall be construed to allow animal breeding or hospitals, pet grooming, commercial kennels, commercial stables, veterinary offices, clinics, hospitals, barber shops, beauty parlors, contractor's yards, dancing schools, junk yards, lodging houses, "bed and breakfast" lodges, massage parlors/therapy clinics, restaurants, rental outlets, or vehicle repair shops as home occupations.

**(m)** The home occupation shall not generate customer related vehicular traffic in excess of three vehicles per twenty-four hour day.

## SECTION 9: FAMILY HOMES AND GROUP HOMES

**(a)** Not more than two supervisory personnel may reside in a Family Home or in a Group Home, Class 1 at one time.

**(b)** Not more than three supervisory personnel may reside in a Group Home, Class 2 at one time.

**(c)** Not more than three supervisory personnel may reside in a Group Home, Class 3 at one time.

**(d)** Family Homes and Group Homes shall comply with the Building and Fire Codes of the City at all times, and shall be inspected by the Fire Department from time to time.

**(e)** Each Family Home and each Group Home must be licensed by the State of Texas, and must remain in compliance with the applicable Standards for Personal Care Facilities set by the Texas Department of Human Services.

**(f)** A person that is using alcohol or a controlled substance not prescribed by a licensed physician shall not be permitted to reside in a Family Home or Group Home.

**(g)** A Family Home or a Group Home shall not permit or allow any person to reside in the Family Home or Group Home if that person has been convicted of rape or sexual abuse or assault of a child. The City Council may waive this requirement and limitation if full disclosure is made to the Planning & Zoning Commission and the City Council and a Special Use Permit is approved for the facility.

**(h)** Except for Family Homes and Group Homes that provide residential service only to disabled persons sixty years of age or older, a Family Home or a Group Home may not be located

within 500 feet of any other Family Home or Group Home, unless the City Council waives this requirement.

**(i)** Family Homes and Group Homes that are located within any Single-Family Zoning District shall comply with Article IV, Section 8, Subsections (b), (d) and (e) of the Zoning Ordinance.

**(j)** A Group Home - Class 3 may not be located within 1,000 feet of a park, public or private school, or day care facility.

**(k)** A Group Home - Class 3 may not be located within 400 feet of any property that is deed restricted, permanently zoned or occupied for any single-family, two-family or multi-family use.

**(l)** All distances for separation of uses in this section shall be measured from the front door of the Group Home/Family Home to the nearest point of a property line of the protected use, or to the front door of another Group Home/Family Home. The distance shall be measured as the most direct straight line distance between these points.

## SECTION 10: EXCEPTIONS

**(a)** Where a legal lot or other legal tract less than the required width, depth or area established in this ordinance, and in existence on the effective date of this ordinance, these lot size requirements shall not prohibit the erection of one primary structure for occupancy for a use permitted within the district in which the lot or tract is located.

**(b)** Where a preliminary plat or concept plan, filed or approved prior to the effective date of this ordinance and compliant with the minimum requirements in effect when filed or approved, shows lots less than the required width, depth or area established in this ordinance and does not expire prior to submission of a final plat, the final plat may be approved with the lot sizes as approved on the preliminary plat or concept plan.

**(c)** Special consideration for the width and depth of cul-de-sac lots will be given as long as they meet the minimum area requirement of their respective district.

# ARTICLE V – SITE COMPONENTS

A site component (Type 1, 2, 3, 4 or 5) is required to be adopted with each use component in accordance with the combining options described in Article II, Sec. 2, b. Some site uses described in these standards are allowable only with a use component that also permits such uses.

## SECTION 1: TYPE 1

**(a) Statement of Intent**

(1) The Type 1 site component is intended to be utilized typically for non-residential or multi-family developments that have frontage on a local residential street or residential collector street and are bounded by single-family development on at least one side. This component is also intended to be utilized for single-family and two-family residential lots backing up to or siding to a major thoroughfare.

(2) This component ensures that development will not have site intensive uses or large buildings and will ensure that development is designed to a form and scale that is compatible with residential neighborhoods.

**(b) Site Uses and Features** (Some Site Uses Listed Also Require Appropriate Use Component)

(1) General (All Development):

(i) Accessory buildings / structures are permitted providing that their total gross floor area square footage is not greater than five percent (5%) of the gross floor area of the primary building / structure with the use utilizing such accessory building / structure(s), or one hundred twenty (120) square feet, whichever is greater (agricultural and recreational buildings / structures are exempt from this limit). Garages are not considered to be accessory buildings/structures.

(ii) Commercial outdoor animal boarding is not permitted.

(iii) Outdoor entertainment venues as a primary use involving the following are not permitted:

a. Substantial outdoor facilities;

b. Unshielded stadium lighting;

c. Noise generation; or

d. Outdoor amplified sound systems or similar conditions such as golf practice ranges open at night, sports stadiums not associated with an educational facility or public park, amusement parks, rodeo arenas, and similar facilities

e. Minor outdoor facilities such as tennis and basketball courts, track facilities, recreational equipment, play fields, and other similar facilities are permitted.

(iv) Accessory dwellings are permitted only where combined with non-residential, SFR and SFE components. Accessory dwellings shall contain a minimum of 400 square feet of living area and a maximum of 900 square feet of living area or 40% of the gross living area of the primary dwelling, whichever is greater. However, for lots greater than three acres in size, there is no limit to the size of the accessory dwelling.

(2) Non-Residential and Multi-Family Development:

(i) A minimum of 150% of the standard landscape requirements for area and planting materials shall be provided.

(ii) Detention and water quality ponds shall utilize earthen berms and be designed with a curvi-linear, contoured shape. Any structural stabilization shall be limited to the use of native stone (except for outlet structures) and shall be limited to not more than thirty percent (30%) of the perimeter of the pond. Such ponds shall be seamlessly integrated with the landscaping.

(3) Commercial and Industrial Development:

(i) Drive-through service lanes and drive-in service are not permitted.

(ii) Outdoor display is not permitted.

(iii) Outdoor storage and container storage are not permitted except for special vehicle storage as permitted by this ordinance.

(iv) Outdoor fuel sales are not permitted.

(v) All site development such as signage and lighting shall be to a pedestrian scale. No light standards outside of public ROW shall exceed sixteen (16) feet in height. No signage not mounted on a building shall exceed six feet in height.

(vi) Buildings shall be constructed to a residential scale. No first floor gross building area shall exceed 10,000 square gross feet. No building shall contain more than 20,000 gross square feet of floor area. No building shall be constructed to a height of greater than thirty-five (35) feet.

(vii) Parking areas shall be no wider than two parking module widths.

(viii) A maximum of one parking module is permitted between the building(s) closest to the street(s) and the street frontage.

(ix) All restaurant uses shall provide outdoor seating.

(x) Development built to a Type 1 site standard is eligible for a five percent (5%) parking requirement reduction in addition to any other parking reduction such as that permitted for shared parking or building square footage above the first story.

(xi) Overhead commercial service doors are not permitted.

(4) Multi-Family Development

(i) No parking modules, drive aisles, driveways, garages or similar facilities are permitted between the building(s) closest to the street(s) and the street frontage.

(ii) At least eighty-five percent (85%) of the units are required to have at least one enclosed garage parking space and such garages are required to be leased, rented or sold with the applicable units.

(iii) Buildings shall be constructed to a residential scale. No first floor gross building area shall exceed 7,000 gross square feet. No building shall contain more than 14,000 gross square feet of floor area. No building shall be constructed to a height of greater than thirty-five (35) feet.

(iv) The front of all buildings shall face a public street or an exclusive front yard area for that building (not shared with another building) no less than twenty feet in depth and garage doors shall not be located on the front of the building.

(v) Front door access is shared so that a maximum of two front doors are provided with each building.

(vi) Each residential structure is designed to appear to be one large single-family structure (mansion).

(vii) Parking areas shall be no wider than two parking modules wide.

(5) Residential Development in the SFT and SFL districts

(i) Alley access to garages shall be provided for all lots in blocks where lots average less than fifty feet wide.

(ii) Where alleys are provided, it is encouraged that visually permeable fencing (e.g. picket or tubular metal fencing) is provided adjacent to such alleys and that the height of such fencing is not greater than four feet.

## SECTION 2: TYPE 2

**(a) Statement of Intent**

(1) The Type 2 site component may be utilized with non-residential developments that are adjacent to a residential district or other more restrictive district to help reduce potential negative impacts to the more restrictive district and to provide for an orderly transition of development intensity.

(2) The Type 2 site component is intended to be utilized for residential development not meeting the intent of a Type 1 site component and not requiring the additional accessory structure or accessory dwelling privileges of the Type 3 site component.

(3) This component is intended to be utilized with the majority of LO and LC use components except those that meet the intent of the Type 1 or Type 3 site component or with any use requiring drive-through service lanes.

(4) This component is generally not intended to be utilized with HC and HI use components except where such component is adjacent to, and not adequately buffered from, residential districts or other more restricted districts, and except as requested by the land owner.

(5) Compliance with Type 1 standards shall also be deemed as compliance with this component.

**(b) Site Uses and Features** (Some Site Uses Listed Also Require Appropriate Use Component)

(1) General (All Development):

(i) Accessory buildings / structures are permitted providing that their total gross floor area square footage is not greater than ten percent (10%) of the gross floor area of the primary building / structure with the use utilizing such accessory building / structure(s), or one hundred twenty (120) square feet, whichever is greater (agricultural and recreational buildings / structures are exempt from this limit).

(ii) Commercial outdoor animal boarding is not permitted.

(iii) Outdoor entertainment venues as a primary use involving the following are not permitted:

a. Substantial outdoor facilities;

b. Unshielded stadium lighting;

c. Noise generation; or

d. Outdoor amplified sound systems or similar conditions such as golf practice ranges open at night, sports stadiums not associated with an educational facility or public park, amusement parks, rodeo arenas, and similar facilities

e. Minor outdoor facilities such as tennis and basketball courts, track facilities, recreational equipment, play fields, and other similar facilities are permitted.

(iv) Accessory dwellings are permitted only where combined with non-residential, SFR, SFE and SFS components. Accessory dwellings shall contain a minimum of 400 square feet of living area and a maximum of 900 square feet of living area or 40% of the gross living area of the primary dwelling, whichever is greater. However, for lots greater than three acres in size, there is no limit to the size of the accessory dwelling.

(2) Commercial and Industrial Development:

(i) Drive-through service lanes and drive-in service are permitted. No service speaker shall be located within seventy-five (75) feet of a residential district unless such district is utilized for a non-residential use. Service speakers include speakers used to conduct business with people outdoors or in partially enclosed structures including, but not limited to, drive-through payment windows, drive-

through restaurant ordering boards, service station pump islands and car washes.

(ii) Outdoor display is not permitted.

(iii) Outdoor storage and container storage are not permitted except for special vehicle storage as permitted by this ordinance.

(iv) Outdoor fuel sales are not permitted.

(v) Individual users shall not exceed 40,000 gross square feet of floor area in a single building. A single building may not exceed 60,000 square feet of floor area.

(vi) Overhead commercial service doors are not permitted.

(3) Multi-Family Development:

(i) At least thirty-five percent (35%) of the units are required to have at least one enclosed garage parking space and such garages are required to be leased, rented or sold with the applicable units.

(ii) Parking areas shall be no wider than two parking modules wide.

## SECTION 3: TYPE 3

**(a) Statement of Intent**

(1) A Type 3 site component is intended to be utilized with LO and LC use components where adjacent to less restricted districts to provide for a land use transition.

(2) This component is intended to be utilized with residential components where accessory dwellings or additional accessory structures are appropriate and are not provided for in the Type 1 or 2 site components.

(3) This component is intended to be combined with LO, LC, GC, HC and HI components where it is appropriate to utilize the outdoor site area for outdoor fuel sales, limited outdoor display and storage or accessory buildings.

(4) Compliance with Type 1 or 2 standards shall also be deemed as compliance with this component.

**(b) Site Uses and Features** (Some Site Uses Listed Also Require Appropriate Use Component)

(1) General (All Development):

(i) Accessory buildings / structures are permitted as long as their total square footage is not greater than thirty percent (30%) of the gross floor area of the primary building / structure utilizing such (agricultural and recreational buildings / structures are exempt from this limit).

(ii) Outdoor entertainment venues as a primary use involving the following are not permitted:

a. Substantial outdoor facilities;

b. Unshielded stadium lighting;

c. Noise generation; or

d. Outdoor amplified sound systems or similar conditions such as golf practice ranges open at night, sports stadiums not associated with an educational facility or public park, amusement parks, rodeo arenas, and similar facilities

e. Minor outdoor facilities such as tennis and basketball courts, track facilities, recreational equipment, play fields, and other similar facilities are permitted.

(iii) Accessory dwellings are permitted except where combined with TF and MF use components. Accessory dwellings shall contain a minimum of 400 square feet of living area and a maximum of 900 square feet of living area or 40% of the gross living area of the primary dwelling, whichever is greater. However, for lots greater than three acres in size, there is no limit to the size of the accessory dwelling.

(2) Commercial and Industrial Development:

(i) Drive-through service lanes and drive-in service are permitted as per Type 2 conditions.

(ii) Outdoor display of merchandise is permitted when such display is of merchandise from a permanent business located in a permanent legal structure on site and such display is limited to not more than thirty percent (30%) of the gross floor area of the building which houses the business displaying such merchandise. Outdoor display of landscape plants, trees, shrubs, garden materials, etc. is not limited. Display is not permitted within required setbacks. Except for items that would normally be utilized and stored outside, outdoor display shall occur only during the business hours of the applicable business establishment.

(iii) Outdoor storage and container storage are permitted as an accessory use as follows:

a. Such storage does not exceed twenty percent (20%) of the gross floor area of the primary building that houses the business storing such materials,
b. Such storage or container is located no closer to a street frontage than the primary building that houses the business storing such materials,
c. Such storage or container is screened from view from adjacent properties and any street in accordance with the Screening Requirements of Art. VI, Sec. 1.
d. Such storage or container is not permitted within required setbacks.

(iv) The combination of outdoor display, outdoor storage and accessory buildings / structures shall not exceed forty percent (40%) of the gross floor area of the primary building / structure utilizing such. Outdoor storage or outdoor display that is covered or enclosed by an accessory building / structure shall be counted toward each individual limit for both outdoor storage / display and accessory buildings, but shall only be counted once toward the combined limit.

(v) Outdoor commercial fueling and washing of vehicles meeting the following requirements is permitted:
a. Washing of vehicles (including vacuum facilities) is not located within one hundred fifty (150') feet of a residential district unless such district is utilized for non-residential purposes. The location is measured from the closest portion of the structure associated with the washing of vehicles to the residential district; and
b. Commercial fueling is not located within two hundred (200') feet of a residential district unless such district is utilized for non-residential purpose. The location is measured from the closest portion of the structure associated with the outdoor commercial fueling to the residential district; and
c. No more than two outdoor commercial fueling and washing of vehicles facilities shall be located within six hundred (600') feet of any intersection separately or in combination with a convenience store or other use.
d. Vehicle washing and fueling facility locations are reserved only by obtaining an approved building permit for such facility and keeping such permit active (see Article IX, Sec. 8 and 9).
e. Gasoline pumps shall be located no closer to the street than the primary structure.

(vi) Overhead commercial service doors are permitted.

## SECTION 4: TYPE 4

**(a) Statement of Intent**

(1) The Type 4 site component is intended to be utilized in combination with GC, HC or HI components where appropriate for moderately intense outdoor site requirements and a need to utilize the outdoor site area for significant outdoor display, storage and accessory buildings and similar permitted uses.

(2) This site component is intended only for industrial or heavy commercial uses and may be utilized only with GC, HC or HI use components.

(3) This site component is not intended for retail or office development not requiring the available limits of outdoor storage and accessory buildings or adjacent to residential neighborhoods where not adequately buffered from residential uses.

(4) Compliance with Type 1, 2 or 3 standards shall also be deemed as compliance with this component.

**(b) Site Uses and Features** (Some Site Uses Listed Also Require Appropriate Use Component)

(1) Drive-through service lanes and drive-in service are permitted as per Type 2 conditions.

(2) Outdoor display of merchandise is permitted when such display is of merchandise from a permanent business located in a permanent legal structure on the site. Display is not permitted within required setbacks. Except for items that would normally be utilized and stored outside, outdoor display shall occur only during the business hours of the applicable business establishment.

(3) Outdoor storage and container storage are permitted as accessory uses with the following conditions:

(i) Such storage does not exceed sixty percent (60%) of the gross floor area of the primary building that houses the business storing such materials,

(ii) Such storage or container is located no closer to a street frontage than the primary building that houses the business storing such materials,

(iii) Such storage or container is screened from view from adjacent properties and any street in accordance with the Screening Requirements of Art. VI, Sec. 1.

(iv) Such storage or container is not permitted within required setbacks.

(4) Accessory buildings / structures are permitted as long as their total square footage is not greater than sixty percent (60%) of the gross floor area of the primary building / structure that houses the business utilizing such (agricultural and recreational buildings / structures are exempt from this limit).

(5) The combination of outdoor storage and accessory buildings / structures shall not exceed eighty percent (80%) of the gross floor area of the primary building / structure utilizing such. Outdoor storage that is covered by an accessory building / structure shall be counted toward each individual limit for both outdoor storage and accessory buildings, but shall only be counted once toward the combined limit.

(6) Outdoor commercial fueling and washing of vehicles is permitted as per Type 3 conditions.

(7) Outdoor animal boarding is permitted if combined with a GC or HC use component (required to be at least two hundred feet from any residential district unless such district is utilized for non-residential uses).

(8) Outdoor entertainment venues involving substantial outdoor facilities, unshielded stadium lighting, noise generation, outdoor amplified sound systems or similar conditions such as golf practice ranges open at night, sports stadiums, amusement parks, rodeo arenas, and similar facilities are permitted as well as minor outdoor facilities such as tennis and basketball courts, track facilities, recreational equipment, play fields, and other similar facilities.

(9) Overhead commercial service doors are permitted.

(10) Accessory dwellings are permitted. Accessory dwellings shall contain a minimum of 400 square feet of living area and a maximum of 900 square feet of living area or 40% of the gross living area of the primary dwelling, whichever is greater. However, for lots greater than three acres in size, there is no limit to the size of the accessory dwelling.

## SECTION 5: TYPE 5

### (a) Statement of Intent

(1) The Type 5 site component is intended to be utilized with developments that have intense outdoor site requirements and a need to utilize the outdoor site area for maximum outdoor display, storage and / or accessory buildings.

(2) This component is intended only for industrial or the heaviest commercial uses and may be combined only with GC, HC or HI use components.

(3) This site component is not intended for retail or office development not requiring the available limits of outdoor storage and accessory buildings or adjacent to residential neighborhoods where not adequately buffered from residential uses.

(4) This site component is discouraged along major thoroughfares and is intended to be utilized within industrial park developments.

(5) Compliance with Type 1, 2, 3 or 4 site component standards shall also be deemed as compliance with Type 5 standards.

### (b) Site Standards

(1) Drive-through service lanes and drive-in service are permitted as per Type 2 conditions.

(2) Outdoor display of merchandise is permitted when such display is of merchandise from a permanent business located in a permanent legal structure on the site. Display is not permitted within required setbacks. Except for items that would normally be utilized and stored outside, outdoor display shall occur only during the business hours of the applicable business establishment.

(3) Outdoor storage and container storage are permitted with the condition that such storage or container is screened from view from adjacent properties and any street in accordance with the Screening Requirements of Art. VI, Sec. 1. Such storage or container is not permitted within required setbacks.

(4) Outdoor commercial fueling and washing of vehicles is permitted as per Type 3 conditions.

(5) Outdoor materials processing is permitted if combined with an HI use component.

(6) Accessory buildings / structures are permitted.

(7) Outdoor animal boarding is permitted if combined with a GC or HC use component (required to be at least two hundred feet from any residential district unless such district is utilized for non-residential uses).

(8) Outdoor entertainment venues involving substantial outdoor facilities, unshielded stadium lighting, noise generation, outdoor amplified sound systems or similar conditions such as golf practice ranges open at night, sports stadiums, amusement parks, rodeo arenas, and similar facilities and minor outdoor facilities such as tennis and basketball courts, track facilities, recreational equipment, play fields, and other similar facilities are permitted.

(9) Overhead commercial service doors are permitted.

(10) Accessory dwellings are permitted. Accessory dwellings shall contain a minimum of 400 square feet of living area and a maximum of 900 square feet of living area or 40% of the gross living area of the primary dwelling, whichever is greater. However, for lots greater than three acres in size, there is no limit to the size of the accessory dwelling.

# ARTICLE VI – SITE STANDARDS

## SECTION 1: LANDSCAPING, TREE PRESERVATION AND PROTECTION, AND SCREENING REQUIREMENTS

**(a) Purpose.**

(1) To establish requirements for the preservation and protection of native trees and provisions for landscaping, buffering, and screening to provide for the orderly, safe, attractive and healthful development of land and promoting the health, safety and general welfare of the community, it is deemed necessary to establish requirements for the installation and maintenance of landscaping elements and other means of site improvements in developed properties.

(2) To enhance the community's ecological, environmental and aesthetic qualities; to encourage the preservation of trees for the enjoyment of future generations; to provide environmental elements by adding value to property, and reduction of energy costs through passive solar design utilizing trees; and to promote and protect the health, safety and welfare of the public by creating an urban environment that is aesthetically pleasing and that promotes economic development through an enhanced quality of life.

(3) Paved surfaces, automobiles, buildings and other improvements produce increases in air temperatures, a problem especially noticeable in this southern region, whereas plants have the opposite effect through transpiration and the creation of shade. Likewise, impervious surfaces created by development generate greater water runoff causing problems from contamination, erosion and flooding. Preserving and improving the natural environment and maintaining a working ecological balance are of increasing concern. The fact that the use of landscape elements can contribute to the processes of air purification, oxygen regeneration, water absorption, water purification, and noise, glare and heat abatement as well as the preservation of the community's aesthetic qualities indicates that the use of landscape elements is of benefit to the health, welfare and general well being of the community and, therefore, it is proper that the use of such elements be required.

(4) The City experiences frequent droughts; therefore, it is the purpose of this Section to encourage the use of drought resistant vegetation.

**(b) Landscape Requirements.**

(1) Installation: All landscape materials shall be installed and maintained according to generally accepted landscape practices for the region. Low water demanding landscapes, are encouraged and should include plants recommended by the Lower Colorado River Authority's *Texas Hill Country Landscape Option Specifications*, a copy of which is available in the City Planning Department.

(2) Maintenance: The owner of landscaped property shall be responsible for the maintenance of all landscape areas. Said areas shall be maintained so as to present a healthy, neat and orderly appearance at all times and shall be kept free of refuse and debris. All planted areas shall be provided with a readily available water supply and watered as necessary to ensure continuous healthy growth and development. Landscape irrigation systems shall not be mandatory with low water demanding landscapes, which are encouraged. Maintenance shall include the removal of dead plant material and its replacement if that material was used to meet the requirements of this section.

(3) Shrubs, vines and ground cover planted pursuant to this section shall be healthy nursery stock.

(4) Turfgrass.

(i) All turfgrass installed shall have summer dormancy capabilities and shall be one of the varieties set forth in the preferred plant list maintained by the

Planning Department or the Grow Green Guide. Buffalo grass, zoysia grass or non-seeding varieties of Bermuda grass are recommended for sunny sections of the landscape.

(ii) Turfgrass shall be limited to two thirds (2/3) of the lot after subtracting the impervious cover for single-family and two-family lots. Alternative options to turfgrass can include native and adaptive landscape plants as specified in the Grow Green Guide, mulch, crushed granite, or similar material. No more than fifty (50%) percent of the lot may consist of non-plant material.

(iii) The maximum landscape that may be planted in turfgrass for the types of development listed in Article VI, Section 1 (b)(9)(i) through (iv) below shall be limited to fifty (50%) percent of the required landscape area.

(5) Synthetic or artificial lawns or plants shall not be used in lieu of plant requirements.

(6) The use of architectural planters may be permitted in fulfillment of landscape requirements.

(7) Any approved decorative aggregate or pervious brick pavers shall qualify for up to ten percent (10%) of the required landscaping if contained in planting areas, but no credit shall be given for concrete or other impervious surfaces.

(8) Other than single-family and two-family development, setback areas shall be landscaped per the standards of this section.

(9) A minimum percentage of the total lot area of property on which development occurs shall be devoted to landscape development in accordance with the following schedule. Such percentages may include setback areas. However, all non-single-family and non-two-family setback areas are required to be landscaped in accordance with Article VI, Section 1 (b)(11) even if they exceed the following percentages:

(i) Multifamily Dwellings, 20%

(ii) Office and Professional Uses, 15%

(iii) Commercial Uses, 15%

(iv) Industrial or manufacturing, 10%

(v) Single-family-Dwellings and Two-Family dwellings, see Item (4) below

(vi) Schools, churches, community centers and parks, 15%.

(10) The following may not be counted toward the above landscape area requirements:

(i) Detention and water quality ponds unless such ponds are designed as follows:

a. The ponds shall utilize earthen berms.

b. Any structural stabilization shall be limited to the use of native stone (except for outlet structures) and shall be limited to not more than thirty percent (30%) of the perimeter of the pond.

c. Such ponds shall be seamlessly integrated with the landscaping.

d. Such ponds shall be not greater than eighteen inches deep.

e. Such ponds shall not comprise more than 25% of the required landscaped area.

(ii) Utility, mechanical and electrical facilities.

(iii) Sidewalks or other paved surfaces except for any decorative aggregate or pervious brick pavers if contained in planting areas and comprising less than ten percent (10%) of the required landscape area.

(iv) Landscaped areas less than four feet in width. In calculating the width of landscaped areas, such areas shall not be divided by any form of pavement (e.g. sidewalks, detention or water quality ponds, paving, etc.)

(11) The following is for other than single-family or two-family development: Trees and shrubs identified on the preferred plant list and included in the Grow Green Guide, shall be utilized within the required landscaping as described below. At least seventy five percent (75%) of the planted trees are required to be significant trees such as oak, elm, pecan, walnut, hickory, cherry, cypress, redbud and any rare

species. Existing significant trees and shrubs that are retained in healthy condition may count toward fulfillment of these requirements. In calculating the credit from existing significant trees and shrubs that are retained, shrubs shall be credited on a one for one basis if such shrub is equivalent or greater in size to a comparable five gallon container grown shrub. Trees shall be credited on a caliper inch basis (for every one caliper inch of a tree that is saved, credit shall be given for one caliper inch of a tree required to be planted), with saved significant trees over 18" caliper counting on a one for two basis (for every one caliper inch of a significant tree over 18" caliper that is saved, credit shall be given for two caliper inches of a tree required to be planted).

(i) For every six hundred (600) square feet of landscape area and setback area required by this ordinance, two (2) shade trees (two inch caliper or larger) and four (4) shrubs (five gallon container size or larger) shall be planted. Two ten gallon ornamental trees may be substituted for every one required shade tree as long as at least half of the required number of shade trees is installed.

(ii) To allow for larger landscaped activity areas at school facilities, for every 600 sq. ft. of landscaping required by this section, 1 tree and 3 shrubs (five gallon container size or larger) shall be planted.

(iii) To reduce the thermal impact of unshaded parking lots, additional trees shall be planted as necessary so that the center point of each parking space is no more than 50 feet away from the trunk of a tree.

(12) Minimum landscape requirements for detached single-family and two-family residential structures (except for townhouses on lots less than thirty-five feet wide in the SFT district) shall be two (2) two-inch significant trees such as oak, elm, pecan, walnut, hickory, cherry, cypress, redbud and any rare species measured eighteen inches above finished grade immediately after planting, three (3) one-gallon shrubs, three (3) five-gallon shrubs and turf grass or an alternative material as defined in this section from the front property line to the front two (2) corners of the structure and a minimum coverage area extending 3' from the slab/foundation to protect water runoff from the roof drip line. If lawn grass is not used in this area, then rain gutter systems shall be in place. One three and a half inch caliper tree may be substituted for two (2) two-inch trees if the tree is planted in the front yard. Existing trees and shrubs that are retained in healthy condition may count toward fulfillment of these requirements. Minimum landscape requirements for townhouses constructed in the SFT district on lots less than thirty-five feet wide are the same as above except that only one hardwood tree is required to be planted per lot

(13) Invasive Species: Multi-Family and non-residential projects are required to remove all invasive species for the portion of the project indentified within the limits of construction. Single-family and two-family developments that remove all invasive species as listed in the Grow Green Guide, are eligible for a twenty-five (25%) percent credit towards the tree mitigation requirements.

(14) The landscaping shall be placed upon that portion of a tract or lot that is being developed. Fifty percent (50%) of the required landscaped area and required plantings contained in the landscape requirements listed in this section shall be installed between the front property lines and the building being constructed. Undeveloped portions of a tract or lot shall not be considered landscaped, except as specifically approved by the City. Landscaping placed within public right-of-ways shall not fulfill the minimum landscape requirements.

(15) No landscaping over three feet in height shall be planted within forty (40) feet of the intersection of any street pavement (see Figure N). Any planted or existing vegetation within this area shall be kept pruned so that foliage shall not grow or exist within three and eight feet above the elevation of the curb closest to the vegetation.

(16) The Director of Planning may grant exceptions to these provisions to require a lesser amount of landscaping if the intent of this ordinance is met, and the reduction of the landscape area results in the preservation of natural features having comparable value.

(17) In cases of death or removal of a tree planted pursuant to the terms of this section, a replacement tree of equal size and type shall be required to be planted. A smaller tree that will have a mature crown similar to the tree removed may be substituted if the planting area or pervious cover provided for the larger tree in this section is retained.

(18) The location, calculations, size and description of all landscaping and screening materials proposed to satisfy the requirements of this section shall be shown on a Landscape Plan, and included with the construction plans.

(19) Landscape plans are required with all new multi-family and non-residential permits showing:

- (i) New and existing trees, shrubs, groundcover, turf areas and native areas.
- (ii) Proposed plantings by botanical name, common name, spacing, quantity, container size.
- (iii) Property lines, streets and street names
- (iv) Driveway(s), sidewalk(s) and other hardscape features
- (v) Existing and/or proposed buildings.
- (vi) Point of irrigation connection (POC) and water meter for the irrigation system.

(20) Soil Depth (New residential and non-residential)

All new landscapes (non-residential and residential) are required to have a minimum of six inches (6") of soil depth in areas planted with turfgrass. This six-inch (6") minimum soil depth will consist of 75 percent soil blended with 25 percent compost. The soil/compost blend shall be incorporated into the top two inches of the native soil. The six-inch (6") depth requirement does not apply to the area between the drip line and trunk of existing trees, shrub beds or wildscape areas. Areas with existing native vegetation that remain undisturbed shall be exempt from the soil depth provision of this section; provided that native soil and vegetation in such area is fenced during construction and protected from disturbance and compaction during the construction process.

(21) Mulch (all non-residential properties). All exposed soil surfaces of non-turf areas within the developed landscape area must be mulched with a minimum two-inch layer of organic material. Examples of organic material include pine bark, shredded cedar, composted leaves, and shredded landscape clippings. Native/wildscape areas are exempt.

(22) WaterWise Landscape Principles. These principles shall be an integral component of the landscape design and plan. Homebuilders shall be required to offer a WaterWise landscape option in any series of landscape options offered to home buyers. The seven basic principles of WaterWise landscaping include:

- (i) Proper planning and design
- (ii) Proper soil preparation (compost-improved topsoil)
- (iii) Practical turfgrass selection of drought resistant-species
- (iv) Appropriate plant selection. The plants listed as invasive plants to avoid in the Grow Green Guide, shall not be offered as part of a WaterWise landscape option.
- (v) Efficient irrigation systems
- (vi) Use of mulches
- (vii) Appropriate maintenance

(23) Irrigation Requirements (New residential and non-residential installations):

- (i) All irrigation systems, both residential and non-residential, shall be installed in accordance with state law, Title 2 Texas Water Code, Chapter 34 and Title

30 Texas Administrative Code, Chapter 344, as amended, as regulated and enforced by the Texas Commission on Environmental Quality (TCEQ). Irrigation contractors who install the irrigation system must be a TCEQ Licensed Irrigator.

(ii) A permit shall be required for the installation of all automatic irrigation systems.

(iii) All automatic irrigation systems are required to have a rain sensor connected to an irrigation controller in order to stop the irrigation cycle during and after a rainfall event. Rain sensors are to be installed in a location where rainfall is unobstructed, such as a rooftop or fence line. Rain sensors are to be adjusted at the one-fourth-inch setting.

(iv) All new residential and non-residential irrigation systems are required to have pressure regulators if static pressure at the site exceeds the sprinkler manufacturer's recommended operating range. Extensive misting due to high pressure wastes water.

(v) Irrigation systems are to have a controller with multiple cycle, rain sensor capability and irrigation water budget feature.

(vi) Sprinkler systems shall be designed as to minimize overspray onto the hardscape.

(vii) Sprinkler heads shall be installed at least eight (8) inches from the curb.

(viii) For strips of land less than six (6) feet in width, spray irrigation shall be prohibited and low-flow irrigation systems (such as drip, bubblers or micro-irrigation) are required. For strips of land between six (6) feet and fifteen (15) feet in width, only low-flow irrigation (such as drip, bubblers or micro-irrigation), or spray irrigation using low-angle spray nozzles designed for the specific width to be irrigated shall be permitted. For strips of land more than fifteen (15) feet in width, only low precipitation rotors with low angle nozzles may be used to irrigate turf areas. Planting beds may be irrigated with low-flow or spray irrigation. All spray heads must be designed to prevent low head drainage.

(ix) The incorporation of treated effluent, rainwater, or water from rain/storm water systems in an irrigation system is encouraged.

(24) A property owner's association may not include or enforce a provision in a dedicatory instrument that prohibits or restricts a property owner from:

(i) Implementing measures promoting solid waste composting of vegetation, including grass clippings, leaves or brush, or leaving grass clippings uncollected on grass;

(ii) Installing rain barrels or a rainwater harvesting system; or

(iii) Implementing efficient irrigation systems, including underground drip or other drip irrigation systems.

(25) A property owner's association may not include or enforce a provision that requires:

(i) A defined irrigation schedule specified by the association unless a defined irrigation schedule is mandated by the association's water supplier in order to curtail outdoor water use;

(ii) Maintenance of the landscape to a specified level that requires the property owner to irrigate his or her landscape;

(iii) Installation or maintenance of any specific variety or limited choice of varieties of turf grass; or

(iv) The homeowner to install a minimum percentage of turf in the landscape.

(26) Alternative Landscape Plan.

(i) An application for an alternative landscape plan may be submitted for consideration by the Director of Planning when site conditions make strict

compliance with the landscape requirements undesirable or impractical. Examples of such site conditions include, but are not limited to, the following:

a. Existing buildings, utilities or other improvements
b. Unusual shape of lot, tract or building site
c. Topography, soil, geologic, vegetation or other natural feature
d. Safety (e.g. vehicle sight distance, impediments to vehicle maneuvering, visibility of traffic or safety related signage)

(ii) The alternative landscape plan shall, as a whole, meet or exceed the standards of this ordinance. When a provision is reduced, the plan shall increase other provisions to off-set any non-compliance. For instance, if landscaping plantings are reduced in one area, plantings in other areas that will have a similar beneficial impact shall be increased by an equal or greater amount. If the area of landscaping is decreased, the number of plantings shall be increased.

(iii) The Director of Planning shall consider approval or disapproval of an alternative landscape plan. If the decision is to disapprove, the Director shall state reasons. An applicant may appeal the decision of the Director to the Commission. The applicant may appeal a decision of the Commission to the City Council. Such appeal shall be processed as a variance.

**(c) Tree Preservation and Protection.**

(1) Unless otherwise allowed by this Ordinance, no property shall be clear-cut or selectively cleared, nor shall a Significant Tree or Heritage Tree be removed from a property for which subdivision construction plans, a site development permit, or a building permit is required by the code of ordinances, without first securing the necessary approval from the City.

(2) Exceptions.

(i) Dead or Diseased Trees

a. If the Planning Director determines after a site inspection that a Significant Tree or Heritage Tree is dead, dying, or fatally diseased prior to starting a project, the mitigation requirements shall not be required.
b. A letter from an arborist shall be required to confirm the condition of the tree if the condition is not obvious.

(ii) Dangerous Trees

a. If the Planning Director determines that a Significant Tree or Heritage Tree is causing a danger or is in a hazardous condition due to natural disaster, such as a tornado, fire, storm, flood, or other act of God that endangers public health, welfare, or safety, the mitigation requirements shall not be required for the removal of the tree.

(iii) Sight Triangles

a. If the Planning Director determines that a Significant Tree or Heritage Tree is interfering with the safe visibility at a sight triangle of an existing public street, the tree may be removed and the mitigation requirements shall not be required.

(3) Heritage Tree Preservation Requirements

(i) Heritage Trees shall be preserved on site unless otherwise approved for removal as outlined in this Ordinance.

(ii) Heritage Trees shall be graphically shown on Tree Preservation Plans associated with plats and site development permit plans and shall contain a note stating that the Heritage Trees cannot be removed without a permit.

(iii) Preserved Heritage Trees may be credited towards the Landscape requirements of this Ordinance.

(4) Significant Tree Preservation Requirements

(i) Up to fifty (50%) percent of Significant Trees between eight (8) and eighteen

(18) caliper inches may be removed during construction without mitigation.

(ii) Significant Trees shall be graphically shown on Tree Preservation Plans associated with plats and site development permit plans.

(iii) Preserved Significant Trees may be credited towards the Landscape requirements of this ordinance.

(iv) Significant Trees greater than eight (8) inches in caliper shall be preserved to the greatest extent reasonably possible. Significant Trees removed during construction shall be supplanted with Replacement Trees if required by the tree mitigation requirements of this section. No Significant Tree shall be removed until a tree preservation plan has been approved by the Director of Planning in accordance with this Chapter. Significant Trees may be removed only in accordance with the approved tree preservation plan, and trees must be protected during construction activities on the property in accordance with the approved tree preservation plan. This provision only applies to projects before the certificate of occupancy has been issued for single-family and two-family developments. For single-family and two-family projects, this provision only applies prior to the initial certificate of occupancy for each lot.

(5) Removal of Heritage or Significant Trees

(i) Heritage Tree Removal Permit

a. Heritage Trees may be removed only with the approval of a Heritage Tree Permit and after the required mitigation has been provided.

b. The Planning & Zoning Commission shall review all applications for Heritage Tree removal permits and make a recommendation for approval or denial to the City Council which shall have final authority to issue the permit.

c. Approval of removal permits shall be based on the following:

1) Tree size/number of trunks;
2) Tree health and viability;
3) Tree location;
4) Other Significant and Heritage Trees to be preserved on site; and
5) Whether all reasonable efforts have been made to design the project in a way to preserve Significant and Heritage Trees on site.

(ii) Significant Tree Removal Permit

a. The Director of Planning may issue a tree removal permit for the removal of Significant Trees to the owner of a property that is zoned or otherwise authorized and actively used for agricultural purposes if it is demonstrated that the tree removal is for a legitimate agricultural purpose. The tree mitigation requirements of this ordinance shall not apply to such permits. If the property is rezoned or otherwise converted to a non-agricultural use within three years of the issuance of the tree removal permit the owner of the property shall be required to meet the tree mitigation requirements of this ordinance.

b. Removal of Significant Trees greater than eighteen (18) caliper inches requires the approval of the Planning & Zoning Commission or the approval of an alternative tree preservation plan as described in this ordinance for projects other than single-family or two-family.

(iii) Mitigation for removal of a Heritage or Significant Tree

a. The removal of Heritage and Significant Trees shall require mitigation using the calculations and procedures defined below. Mitigation may be achieved through credit of existing trees on site, replacement trees planted on-site, or payment-in-lieu of replacement trees if approved by the Planning Director only when on-site replacement is not possible or practical.

1) Mitigation shall be required at a 1:1 caliper inch basis for significant trees between eight (8) and eighteen (18) caliper inches.
2) Mitigation shall be required at a 2:1 caliper inch basis for significant trees greater than eighteen (18) caliper inches and less than twenty-six (26) caliper inches.
3) Mitigation shall be required at a 3:1 caliper inch basis for Heritage Trees and a mitigation fee in the amount of $300.00 per caliper inch removed.
4) If payment in lieu of replacement trees is approved by the Planning Director, the fee shall be equal to one hundred fifty dollars ($150) per caliper inch of replacement tree.

b. Replacement Trees.
1) Replacement Trees shall be a minimum of two (2) inches in caliper measured four (4) feet above finished grade immediately after planting. A list of recommended replacement trees shall be maintained by the Department of Planning and shall include those trees listed in the Grow Green Guide.
2) If the developer chooses to substitute trees not included on the recommended list, those trees shall have an average mature crown greater than fifteen (15) feet in diameter to meet the requirements of this section. Trees having an average mature crown less than fifteen (15) feet in diameter may be substituted by grouping trees so as to create at maturity the equivalent of a fifteen foot (15) diameter crown if the drip line area is maintained.
3) A minimum pervious area three (3) feet in radius, and not less than fifty percent (50%) of the calculated drip line area is required around the trunks of all existing and proposed trees. The radius of a drip line area is calculated as the trunk caliper times twelve. (Example: An eight inch caliper tree has a drip line of eight feet in radius.)
4) Existing hardwood trees less than the size required for replacement and greater than or equal to two inches in caliper, and existing hardwood trees between 8” and 18” to an extent greater than 50% of the total caliper inches that are retained during construction in healthy condition may be counted toward replacement requirements as well as toward planting requirements.

(6) An alternative tree preservation plan may be approved by the Director of Planning for properties where existing tree cover is especially dense and the following are found:
(i) Removal of a significant number of trees is unavoidable,
(ii) The applicant has planned the development so as to save the highest quality and greatest number of trees that could be reasonably expected,
(iii) All areas of the site that can be reasonably utilized for tree replacement have been utilized, and
(iv) The proposed total landscaping exceeds the requirements of the ordinance.

(7) Tree Diversification: No more than fifty (50%) percent of the same species may be planted to meet the tree planting requirements.

(8) A non-disturbance zone shall be maintained on single-family and two-family lots during the subdivision construction and building permit phases of development. A disturbance area no more than five (5’) feet from the foundation necessary for construction and grade transitions shall be permitted. This disturbance area shall be no more than ten (10’) feet from the foundation for properties zoned with the SFR (Single-Family Rural) use component. The trees located on the remainder of

the lot shall not be removed unless a unique situation is approved by the Director of Planning.

(9) Tree Preservation Plan Requirements

(i) An applicant for a single-family or two-family preliminary plat or final plat, or a site development permit shall provide a tree survey prepared within five years preceding the application date. This tree survey shall include the street and lot layout, or site plan superimposed at a scale of 1"=100' (or as appropriate) identifying significant trees located on the property that meet the requirements indicated in this section. Applicants for a single-family or two-family preliminary or final plat are only required to submit a tree survey for the portion of the property that the applicant is proposing to disturb with the subdivision construction. The applicant shall provide a tree preservation plan that identifies the surveyed trees and the mitigation of the protected trees that are proposed for removal. The applicant shall be required to demonstrate that lot lines, street layouts and site improvements have been designed and located and that lot width, depth and size flexibility as permitted by the applicable zoning district has been utilized to the maximum extent necessary to retain the maximum number of significant trees reasonably practicable. Applicants for a single-family or two-family preliminary or final plat may plant replacement trees within lots owned by the Homeowners Association including but not limited to landscape lots, park lots, or amenity center lots.

(ii) The Director of Planning shall determine if adequate performance is achieved based on the standards of this section. Approval of the tree preservation plan by the Director of Planning is required prior to preparation and submission of a subdivision or site development permit application. The applicant may appeal any decision of the Director to the Commission. A decision of the Commission may be appealed to the City Council. Any preserved or replacement trees may be counted toward the landscape requirements of this section. See the Construction Plan requirements for details.

(iii) All trees to be preserved as shown in an approved preservation plan shall be clearly marked prior to the commencement of construction activities.

(iv) Critical Root Zone

a. No construction or disturbance shall occur within an area that constitutes more than fifty (50%) of the total critical root zone and one half the radial distance of the critical root zone for each tree being preserved including Significant Trees, Heritage Trees, and any other trees for which preservation is to be credited. The remaining critical root zone shall consist of at least one hundred (100) square feet.

b. This defined area shall be flagged and encircled with protective fencing during construction. The Planning Director may approve construction closer to the trunk than one half (½) the radial distance, depending on the size, spacing, or species of the tree, the type of disturbance proposed, and uniqueness of the situation.

c. Cut or fill that is greater than four (4) inches in depth and the severing of major roots shall be considered disturbance for the purposes of this Ordinance.

d. Within the protected critical root zone, only flatwork, decking, or similar construction, may be approved and shall not affect the branching of the tree.

e. If proposed or actual protection of the critical root zone of a tree does not meet the requirements of this Section, then the tree shall be considered removed and shall require mitigation in accordance with this Ordinance.

**(d) Screening Requirements.**

(1) In addition to the landscaping requirements of this section, all development other than single-family or two-family shall comply with the following screening requirements:

(i) The following shall be screened from the view of at least sixty percent (60%) of adjacent single-family or two-family residences and any street or public right-of-way: off-street parking areas, loading spaces and docks, trash and storage containers, outside storage areas, satellite dishes larger than eighteen (18) inches in diameter, antennas, mechanical equipment, and metal siding.

(ii) Above ground utility facilities up to six (6) feet above grade for multi-family and non-residential development are required to be screened from view except for poles, fire hydrants and existing lines.

(iii) Detention Facilities including detention ponds and/or water quality ponds shall be screened from view.

(iv) Screening by vegetation that could be removed from adjacent undeveloped or partially developed properties when such property is developed is not considered as screening from view.

(v) Outside storage areas shall be screened by the use of a privacy fence or wall at least the height of the items to be screened and in conformance with the requirements of this ordinance.

(vi) A minimum five-foot (5') landscaped area located on the exterior of the fence shall be provided and landscaped in accordance with paragraph (2) (i) above unless the fence is on a rear boundary line or adjoining a permanent structure on the site.

(vii) Fuel pumps are required to be screened from view of any street or public right-of-way to at least the height of the fuel pump.

(viii) Lift stations are required to be screened from view of adjacent single-family or two-family residences, or any street or public right-of-way by the use of a wall. The wall is required to be constructed of one or more of the following materials: brick, stone, cast stone, stucco (limited to thirty-five (35%) of the exterior surface area of walls), factory tinted (not painted) split face concrete masonry unit, textured pre-cast concrete (e.g. Woodcrete) or other similar material approved by the Director of Planning.

(2) Approved screening techniques include privacy fences, evergreen vegetative screens, landscape berms, existing vegetation or any combination thereof unless otherwise noted in this section.

(3) Privacy Fences (See section 14 and 16 of this Article)

(4) Evergreen Vegetative Screens. Evergreen plant materials shall be shrubs, at least thirty (30) inches in height and at a minimum spacing of 48 inches at the time of installation, in combination with shade trees not more than fifty feet apart.

(5) Landscape Berms, in combination with trees, shall fulfill the screening requirements of this section if the berms are at least three (3) feet in height and have maximum side slopes of four (4) feet of horizontal run for every one (1) foot in vertical rise.

(6) Existing on-site vegetation, demonstrating significant visual screening capabilities and as approved by the Director of Planning, shall fulfill the requirements of this section.

**(e) Alternative Landscape Plan.**

(1) An application for an alternative landscape plan may be submitted for consideration by the Director of Planning when site conditions make strict compliance with the landscape requirements undesirable or impractical. Examples of such site conditions include, but are not limited to, the following:

(iv) Existing buildings, utilities or other improvements

(v) Unusual shape of lot, tract or building site

(vi) Topography, soil, geologic, vegetation or other natural feature

(vii) Safety (e.g. vehicle sight distance, impediments to vehicle maneuvering, visibility of traffic or safety related signage)

(2) The alternative landscape plan shall, as a whole, meet or exceed the standards of this ordinance. When a provision is reduced, the plan shall increase other provisions to offset any non-compliance. For instance, if landscaping plantings are reduced in one area, plantings in other areas that will have a similar beneficial impact shall be increased by an equal or greater amount. If the area of landscaping is decreased, the number of plantings shall be increased.

(3) The Director of Planning shall consider approval or disapproval of an alternative landscape plan. If the decision is to disapprove, the Director shall state reasons. An applicant may appeal the decision of the Director to the Commission. The applicant may appeal a decision of the Commission to the City Council. Such appeal shall be processed as a variance.

## SECTION 2: TRANSPORTATION CRITERIA MANUAL

The City of Austin Transportation Criteria Manual is hereby adopted to provide design criteria for site development. The criteria shall be implemented with reliance on sound engineering and planning judgment and nothing in this manual shall override such sound judgment as determined by the City Engineer and Director of Planning. (For roadway adequacy standards and requirements to prepare a Traffic Impact Analysis, refer to Ordinance No. 02-033-00.)

## SECTION 3: OFF-STREET PARKING REQUIREMENTS

**(a)** The following off-street parking requirements are considered minimum requirements and may not adequately reflect the specific needs of a proposed business. A commercial building permit applicant shall analyze the parking needs of the specific users being proposed and provide the amount of parking required for such uses. When any building or structure is erected, or an existing building is enlarged by fifty (50) percent or more in floor area, off-street parking shall be provided in accordance with the following requirements (Note: Any building enlargement is required to add at least the amount of additional parking required by the enlargement):

| USE CATEGORY | SPECIFIC USE | SPACE REQUIREMENT |
|---|---|---|
| **RESIDENTIAL USES** | | |
| Household Living | Single Family | See Use District |
| | Multi-Family | 1 ½ for one bedroom plus ½ for each additional bedroom. |
| | Senior Multi-Family | 1 per dwelling plus additional 5% of total spaces for visitor use. |
| Group Living | Fraternity House, Sorority House, Dormitory, Rooming House, Boarding House | 1 per each two beds |
| | Nursing Home/Hospice/ Assisted Living | 1 per bedroom |
| | All other Group Homes | 1 per bedroom |
| | Family Home and Group Home-Class 1 | not less than four (4) off street parking spaces, or one parking space per bedroom, whichever is greater. |
| | Group Home-Class 2 & Group Home-Class 3 | not less than six (6) off street parking spaces, or one parking space per bedroom, whichever is greater |
| **CIVIC USES** | | |
| Educational & Daycare Facilities | Elementary Schools | greater of 1:4 seats in auditorium or 2:classroom |
| | Secondary Schools, colleges | greater of 1:4 seats in auditorium or 10:classroom |
| | Day Care Center | 1:400 sq. ft. |
| Medical & Institutional Facilities | Hospital, Sanitarium | 1:4 beds |
| | All other institutions | 1:250 sq. ft. |
| Parks & Open Areas | Golf Courses | 3:hole |
| | Neighborhood Amenity Center | 1:300 sq. ft. (including pools in square footage calculation) |
| Places of Worship | Religious Assembly | 1:200 square feet of sanctuary, classrooms, flexible seating areas |

| USE CATEGORY | SPECIFIC USE | SPACE REQUIREMENT |
|---|---|---|
| **COMMERCIAL USES** | | |
| Automotive Sales & Services | Motor Vehicle Salesrooms & Used Car Lots | greater of 1:800 sq. ft. of sales floor or lot area |
| | Vehicle Repair Garage | 1:400 sq. ft. |
| Overnight Accommodations | Hotel, Motel | 1 per room plus 1:200 sq. ft. of Comm. Floor Area |
| | Bed & Breakfast/Inn | 1 per guest room plus 2 additional spaces |
| Food & Beverage Establishments | Restaurant as a single use or comprising more than 20% of a mixed retail center | 1:100 sq. ft. |
| Entertainment & Recreation | Dance / Assembly / Exhibition Hall, Restaurant, Night Club, Lodge or Country Club | 1:100 sq. ft. |
| | Bowling Alleys | 5:lane |
| | Community Center, Library, Museum, Art Gallery | 1:300 sq. ft. |
| | Theater, Auditorium (except school), Sports Arena, Stadium, Gymnasium, Funeral Home | 1:4 seats |
| Commercial Office, Retail Sales, & Services | Medical / Dental Clinic/ Office, Personal Service, Mixed Use Retail Center less than 20,000 sq. ft. | 1:200 sq. ft. |
| | Mixed Use Retail greater than 20,000 sq. ft. | 1:225 sq. ft. |
| | Studio, Bank, Retail | 1:250 sq. ft. |
| | Business / Professional Office | 1:275 sq. ft. |
| | Furniture, Appliance or Hardware Store; Wholesale Sales Establishment, Machinery / Equipment Sales & Service; Clothing / Shoe Repair; Service Shop | 1:300 sq. ft. |

| USE CATEGORY | SPECIFIC USE | SPACE REQUIREMENT |
|---|---|---|
| **INDUSTRIAL USES** | | |
| Industrial, Manufacturing, Warehousing, Storage | Manufacturing, Industrial, Research, Testing, Warehouse, Storage Buildings and Yards, Lumber Yard, Printing Shop, Plumbing Shop | 1:600 plus spaces for business vehicles |
| | Mini-Warehouse Self Storage | parking required only for office |

In a development with mixed-use buildings designed and built in a walkable and pedestrian friendly configuration, the Director of Planning may consider the following shared parking factors in reviewing a proposal for a reduction in the minimum parking requirements (the shared parking factor is applied to the sum of the individual uses minimum parking requirements):

| SHARED PARKING FACTOR | | | | |
|---|---|---|---|---|
| | **Residential** | **Lodging** | **Office** | **Retail** |
| Residential | 100% | — | — | — |
| Lodging | 90% | 100% | — | — |
| Office | 70% | 60% | 100% | — |
| Retail | 80% | 75% | 80% | 100% |

For uses not listed, the Director of Planning may request additional parking demand analysis from the applicant to justify a reduction in the minimum parking requirements.
Where shared parking is provided, a shared parking and cross access agreement between the cooperating property owners shall be approved by the Director of Planning and recorded prior to issuance of a building permit. This agreement must be recorded in the real property records of the county in which the property sits and the agreement may not be modified or revoked without the approval of the Director of Planning. If any requirements for shared parking are violated, the affected property owners must provide a remedy satisfactory to the Director of Planning or provide the full amount of required parking for each individual use.

**(b)** Required Handicap Accessible Parking:

(i) Not less than one out of every eight handicap accessible spaces, and not less than one, are required to be van accessible spaces (with a 96 inch wide access aisle) and is required to be designated with a sign as van accessible.

(ii) Two handicap accessible parking spaces may share a common access aisle.

(iii) Handicap accessible parking spaces are to be located on the shortest possible accessible circulation route to an accessible entrance of the building.

(iv) Handicap accessible parking spaces shall be designated as reserved for physically handicapped people by a sign showing the symbol of accessibility. Such signs shall not be obscured by a vehicle parked in the space.

| TOTAL PARKING SPACES ON LOT | REQUIRED # OF HANDICAP ACCESSIBLE SPACES |
|---|---|
| 1 to 25 | 1 |
| 26 - 50 | 2 |
| 51 - 75 | 3 |
| 76 - 100 | 4 |
| 101 - 150 | 5 |
| 151 - 200 | 6 |
| 201 - 300 | 7 |
| 301 - 400 | 8 |
| 401 - 500 | 9 |
| 501 - 1,000 | 2% of total |
| 1,001 and over | 20 plus one for each 100 over 1,000 |

**(c)** To provide more flexibility for leasing or use of existing buildings, the Building Official may approve building permits for sites that provide parking for 85% or more of the required parking with the following conditions:

(1) The owner of the property is required to submit a letter to the Building Official with an analysis of parking requirements for the specific users proposed and include a statement that the parking provided is, in the owner's opinion, adequate for the intended uses.

(2) The parking facilities are paved with a hard surface such as asphalt or concrete or other material as approved by the Building Official and are in general conformance with the standards of the Transportation Criteria Manual.

**(d)** Bicycle parking slots shall be provided at retail centers at a rate of not less than one slot per thirty parking spaces.

**(e)** Refer to Transportation Criteria Manual for parking design criteria.

## SECTION 4: OFF-STREET PARKING GUIDELINES

The following guidelines shall be applied to off-street parking spaces required for each of the above uses:

**(a)** Floor area shall mean the gross floor area of the specific use;

**(b)** Fractional spaces shall be rounded to the next higher whole space;

**(c)** Buildings or structures containing mixed uses shall provide off-street parking space equal to the sum of the various uses computed separately. The shared parking factors in the Smart Code or shared parking guidelines from the Urban Land Institute or other reputable source may be utilized to support a collective (shared) parking proposal.

**(d)** The off-street parking requirements for a use not specifically listed herein shall be the same as required for a use of a similar nature as determined by the City Building Official.

**(e)** All required off-street parking spaces shall be located on the same lot as the building or use served unless the required off-street parking spaces are provided collectively or used jointly by two (2) or more establishments, then a written agreement which assures the retention of such spaces for this purpose shall be drawn and executed by the parties concerned, approved as to form by the City Attorney, and filed with the application for a Building Permit.

**(f)** Parking spaces, maneuvering aisles, driveways and driveway approaches shall be designed in accordance with the City of Austin's Transportation Criteria Manual, as currently

amended. Parking spaces dependent on public right-of-way or other private properties for maneuvering aisles will not be permitted unless approved by the Director of Planning.

**(g)** Compact parking spaces are not permitted to exceed ten percent (10%) of the total number of spaces provided. Compact parking spaces are required to be separated from standard parking spaces by a landscaped peninsula.

**(h)** Non-residential building square footage above the first floor is eligible for a five percent (5%) reduction in the parking requirement in addition to any other type of parking reduction.

**(i)** Development utilizing Type 1 development standards is eligible for a five percent (5%) reduction in the parking requirement in addition to any other type of parking reduction.

**(j)** Alternate parking standards may be approved by the Director of Planning for specific uses which are deemed to require less parking than the standards outlined in this ordinance based on the following criteria:

(1) The user provides a detailed breakdown of his/her parking requirements indicating employee counts, shift distribution and visitor or customer needs.

(2) The user provides a site plan showing how additional parking to meet these ordinance requirements would be provided if the use changed or parking needs increase, or what land uses would need to be prohibited in order to keep parking demands consistent with parking provided.

(3) The Director shall establish conditions necessary to assure the adequacy of future on-site parking when approving an alternate parking standard.

**(k)** Projects within three hundred (300) feet of a public transit stop are eligible for a five percent (5%) reduction in the parking requirement in addition to any other type of parking reduction.

**(l)** A minimum of six queue spaces shall be provided for commercial service lanes, or as determined appropriate by the Director of Planning

## SECTION 5: OFF-STREET LOADING SPACE REQUIREMENTS

**(a)** Commercial development shall provide one (1) loading space for each 10,000 square feet of floor area for the first 20,000 square feet of floor area, and industrial development shall provide one (1) loading space for each 20,000 square feet of floor area, unless, because of the proposed layout, the Director of Planning and the Fire Chief determine that adequate maneuvering space is provided without negatively impacting emergency or other vehicular access.

**(b)** The following guidelines shall be applied to off-street loading spaces:

(1) Floor area shall mean the gross floor area of the use.

(2) Fractional spaces shall be rounded to the next higher whole space.

(3) Whenever a building or use, existing on the effective date of this section, is enlarged by more than fifty (50) percent in floor area or area used, the entire building or use shall then and thereafter comply with the off-street loading requirements.

(4) The required off-street loading spaces shall be located on the same lot as the building or use served.

(5) Loading spaces shall be in accordance with the City of Austin's Transportation Criteria Manual.

## SECTION 6: SETBACKS

**(a)** Building / Structure and Site Improvements:

| BUILDING / STRUCTURE | | | | | | |
|---|---|---|---|---|---|---|
| | **Use Component** | **Architectural Component** | **Front** | **Side** | **Street Side** | **Rear** |
| **Standard Setback** | SFR | | 25' | 7' | 15' | 15' |
| | SFE, SFS, SFU, SFU/MH, TF | | 20' | 5' | 15' | 15' |
| | SFC, SFL | | 15' * | 5' or 0' & 10' | 15' | 15' |
| | SFT | | 10' * | 0 or 10' | 15' | 15' |
| | MF | Type A | 20' | 10' | 20' | 20' |
| | | Type B | 25' | 10' | 25' | 20' |
| | LO, LC, GC, HC, HI | Type A, B | 15' | 10' | 15' | 10' |
| | | Type C | 20' | 10' | 20' | 10' |
| | GC, HC, HI | Type D | 25' | 15' | 25' | 15' |
| **Special Setback Where Adjacent to SFR, SFE, SFS, SFU, SFC, SFL, SFU/MH, TF**** | MF, LO, LC, GC, HC, HI | Type A | (NA) | 20' | (N/A) | 20' |
| | | Type B | (NA) | 25' | (N/A) | 25' |
| | LO, LC, GC, HC, HI | Type C | (NA) | 30' | (N/A) | 30' |
| | GC, HC, HI | Type D | (NA) | 50' | (N/A) | 50' |
| **Garage Setback** | SFR, SFE, SFS, SFU, SFU/MH. SFC. SFL, SFT, TF | See Article VIII, Section 5 (i) | | | | |

| PARKING, AISLE, LOADING, CANOPIES, OUTDOOR DISPLAY | | | | | | |
|---|---|---|---|---|---|---|
| | **Use Component** | **Site Component** | **Front** | **Side** | **Street Side** | **Rear** |
| **Standard Setback** | MF | All | 20' | 5'**** | 20' | 5'**** |
| | LO, LC, GC, HC, HI | Type 1, 2 | 15' | 5'**** | 15' | 5'**** |
| | | Type 3 | 20' | 5'**** | 20' | 5'**** |
| | | Type 4, 5 | 25' | 5'**** | 25' | 5'**** |
| **Special Setback Where Adjacent to SF or TF**** | MF, LO, LC, GC, HC, HI | Type 1-3 | (N/A) | 15' | (N/A) | 15' |
| | | Type 4, 5 | (N/A) | 20' | (N/A) | 20' |

| OUTDOOR STORAGE | | | | | | |
|---|---|---|---|---|---|---|
| | **Use Component** | **Site Component** | **Front** | **Side** | **Street Side** | **Rear** |
| **Standard Setback** | LO, LC, GC, HC, HI | Type 3-4 | *** | 5'**** | *** | 0' |
| | | Type 5 | 25' | 0'**** | 25' | 0' |
| **Special Setback Where Adjacent to SF or TF**** | LO, LC, GC, HC, HI | Type 3-5 | (N/A) | 25' | (N/A) | 25' |

* In no case shall the garage be closer to the ROW than 18'

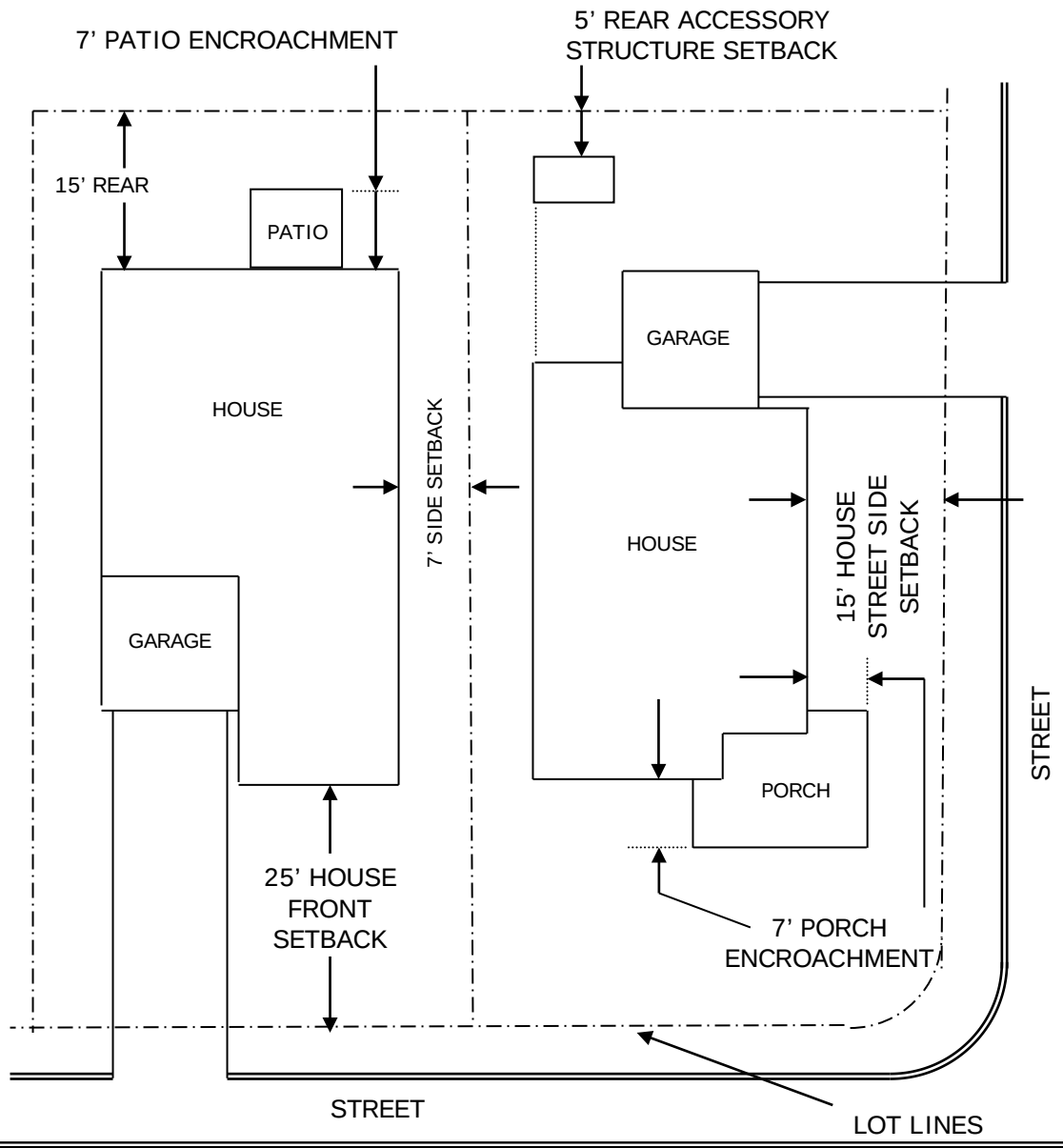
** Unless such district is utilized for a non-residential use

*** No closer than the street facing wall of the primary structure that utilizes such storage.

**** Setback does not apply for parking, drive aisles, storage etc. that are intended to cross lot line.

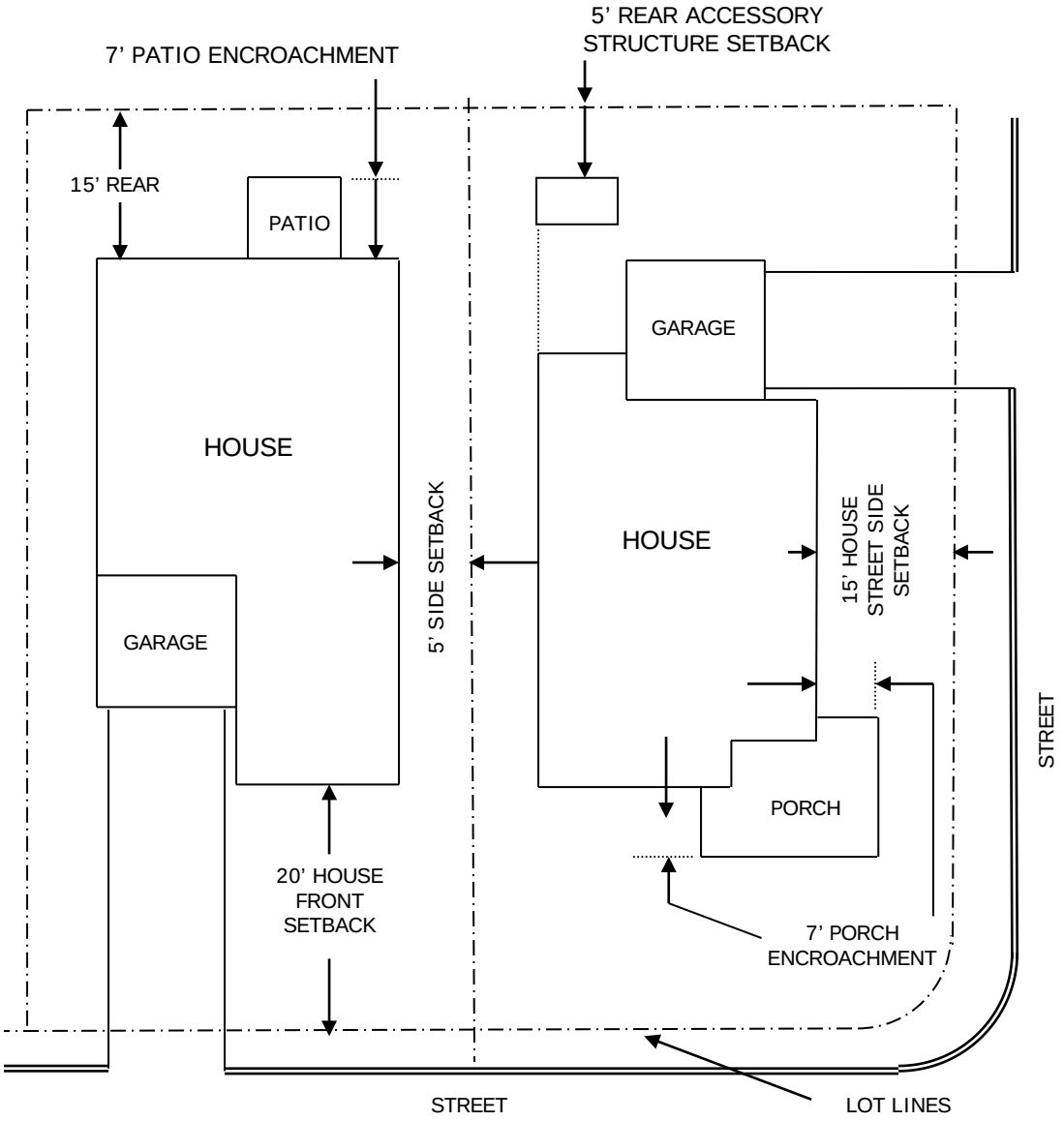
# FIGURE G

## SFR - BUILDING SETBACK



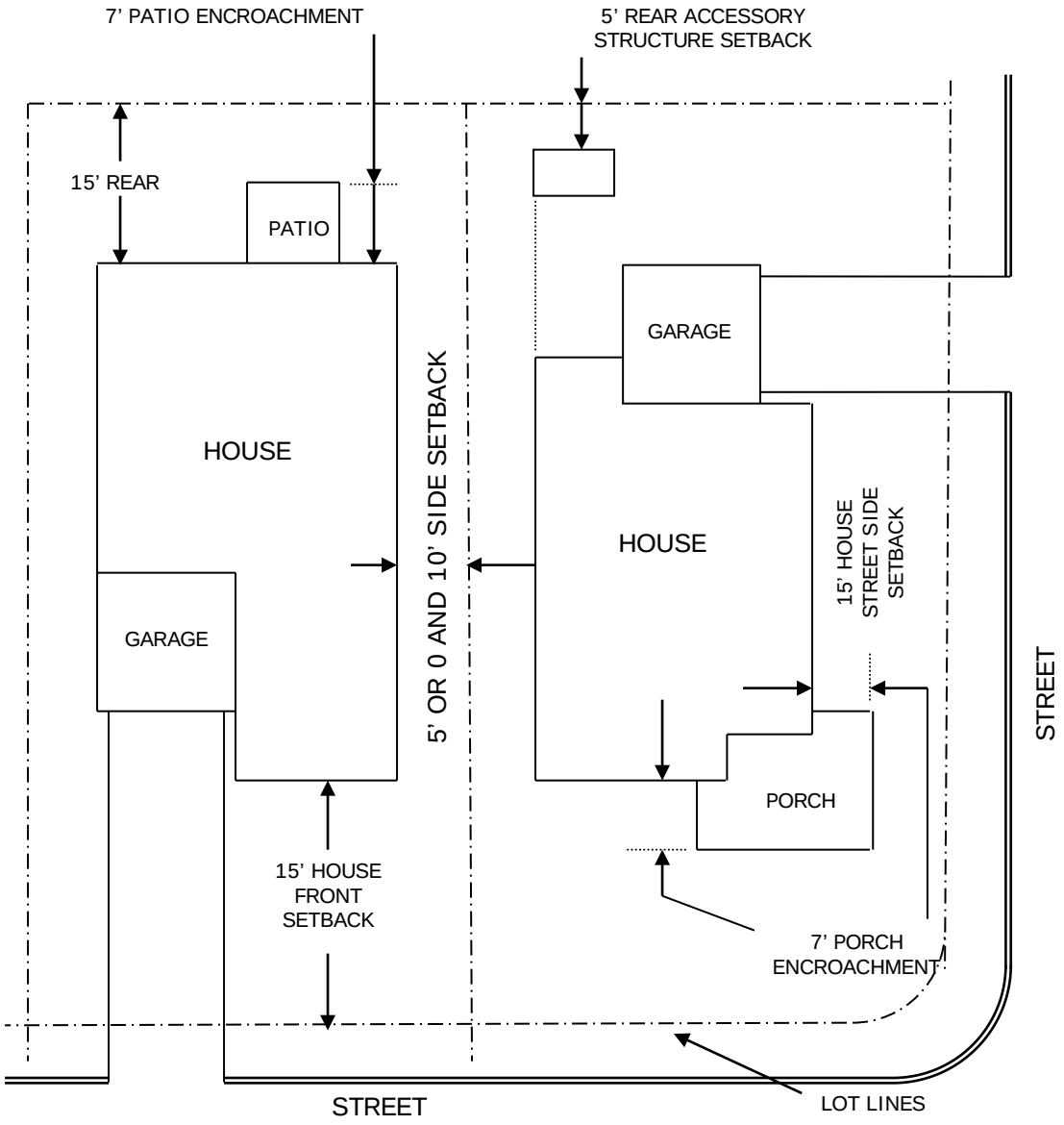
# FIGURE H

## SFE, SFS, SFU, SFU/MH & TF - BUILDING SETBACK



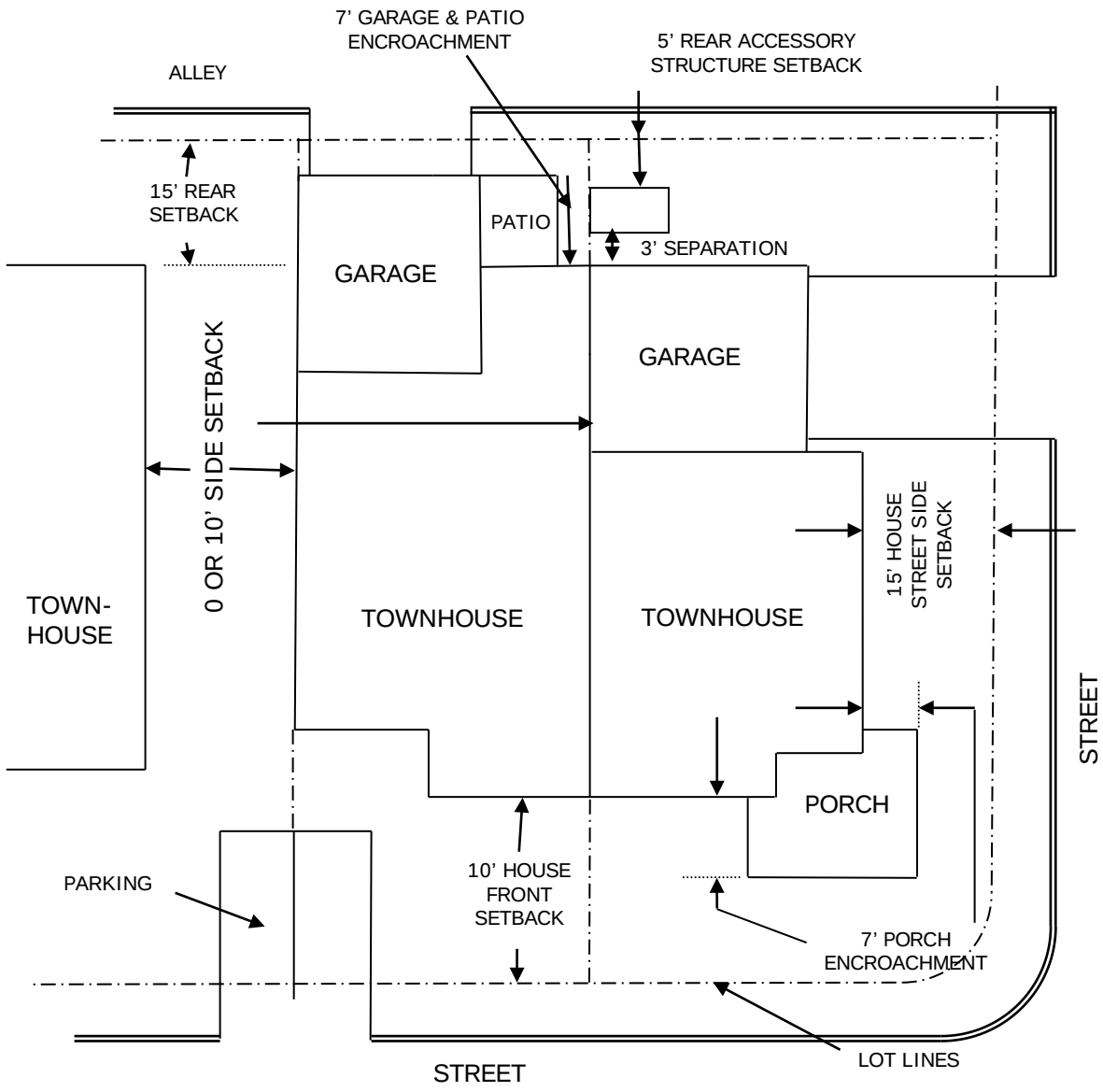
# FIGURE I

## SFC, SFL - BUILDING SETBACK



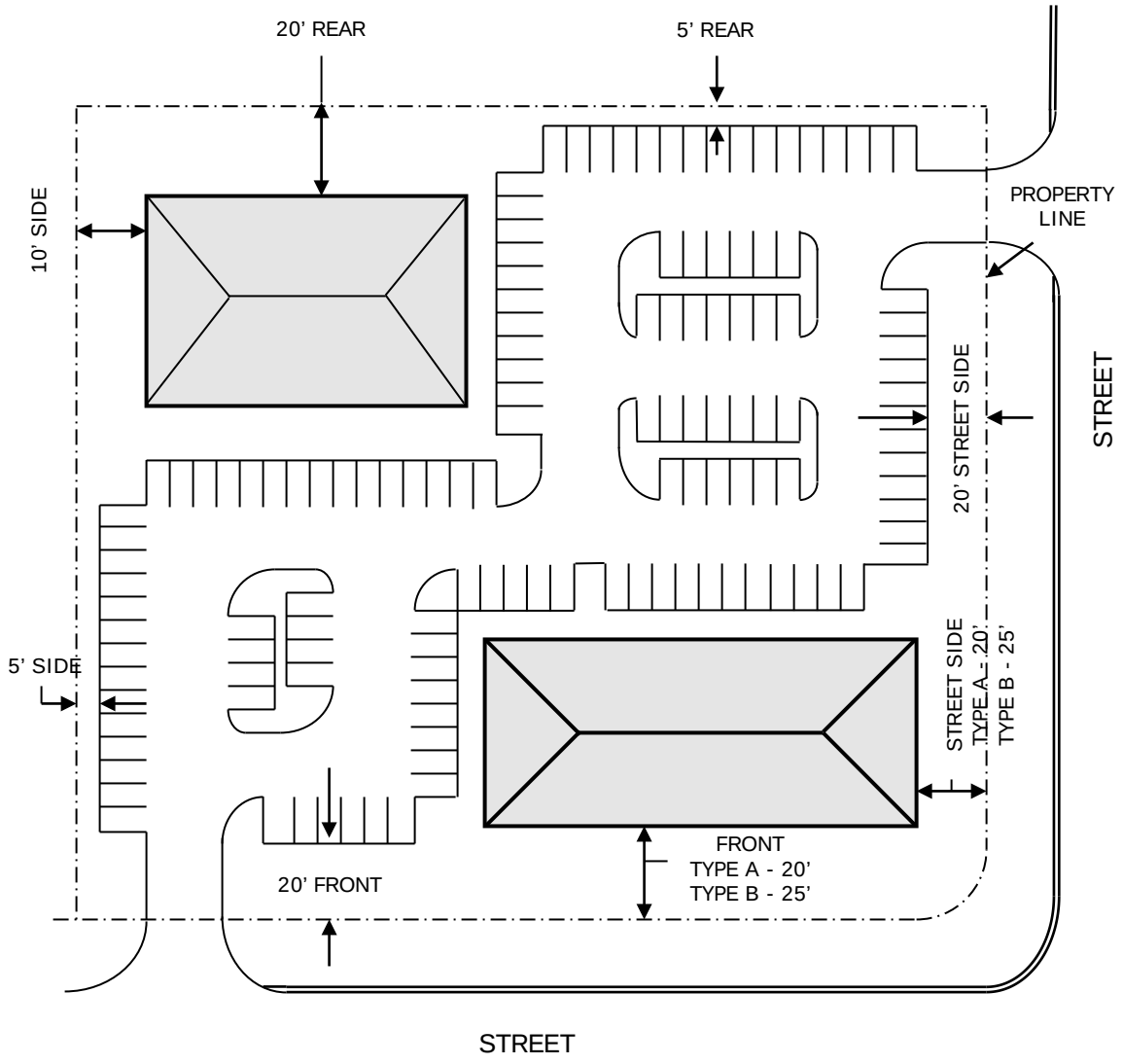
# FIGURE J

## SFT BUILDING - SETBACK



# FIGURE K

## MF - STANDARD SETBACKS



# FIGURE L

## LO, LC, GC, LI & HI - STANDARD SETBACKS

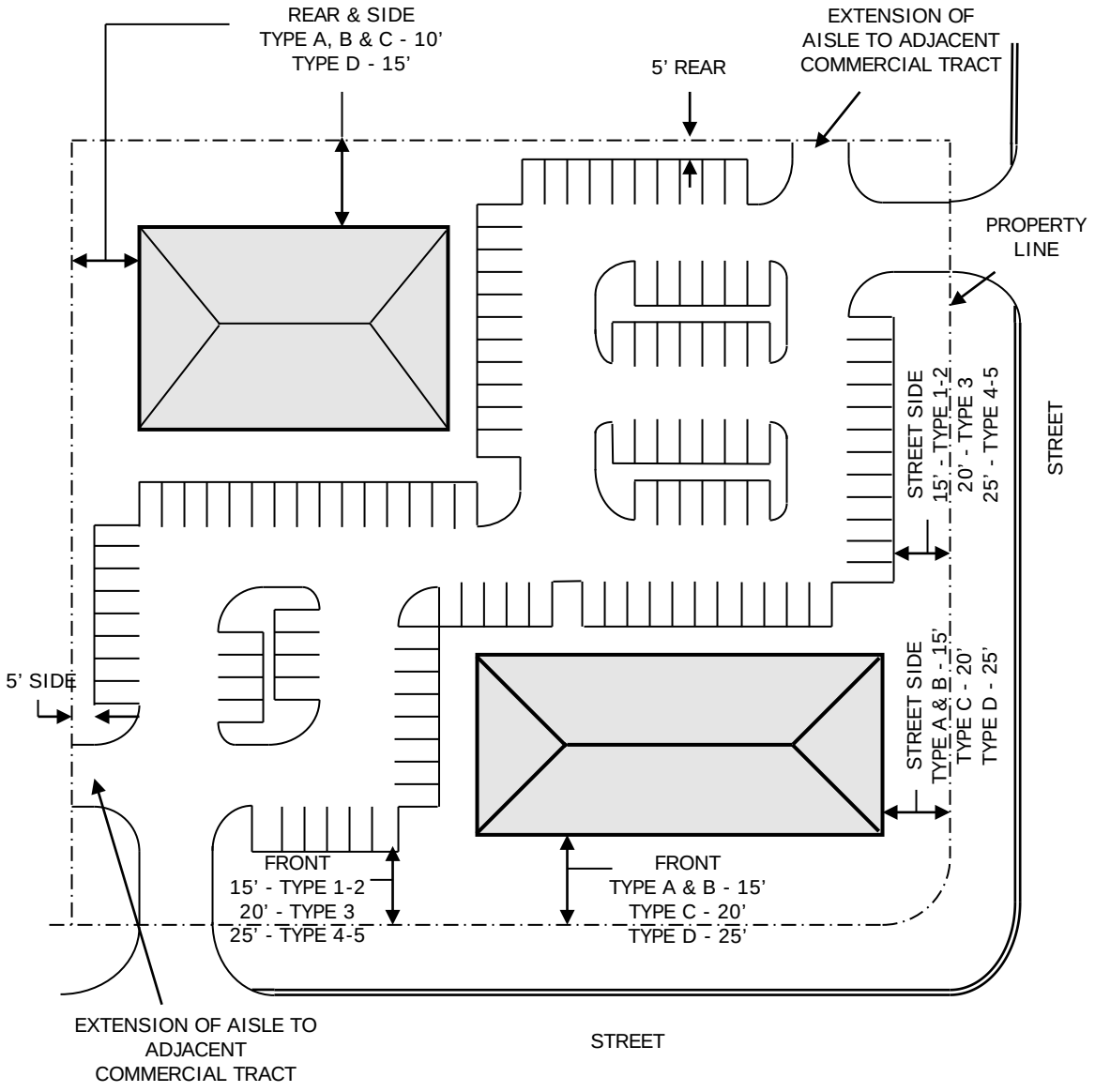
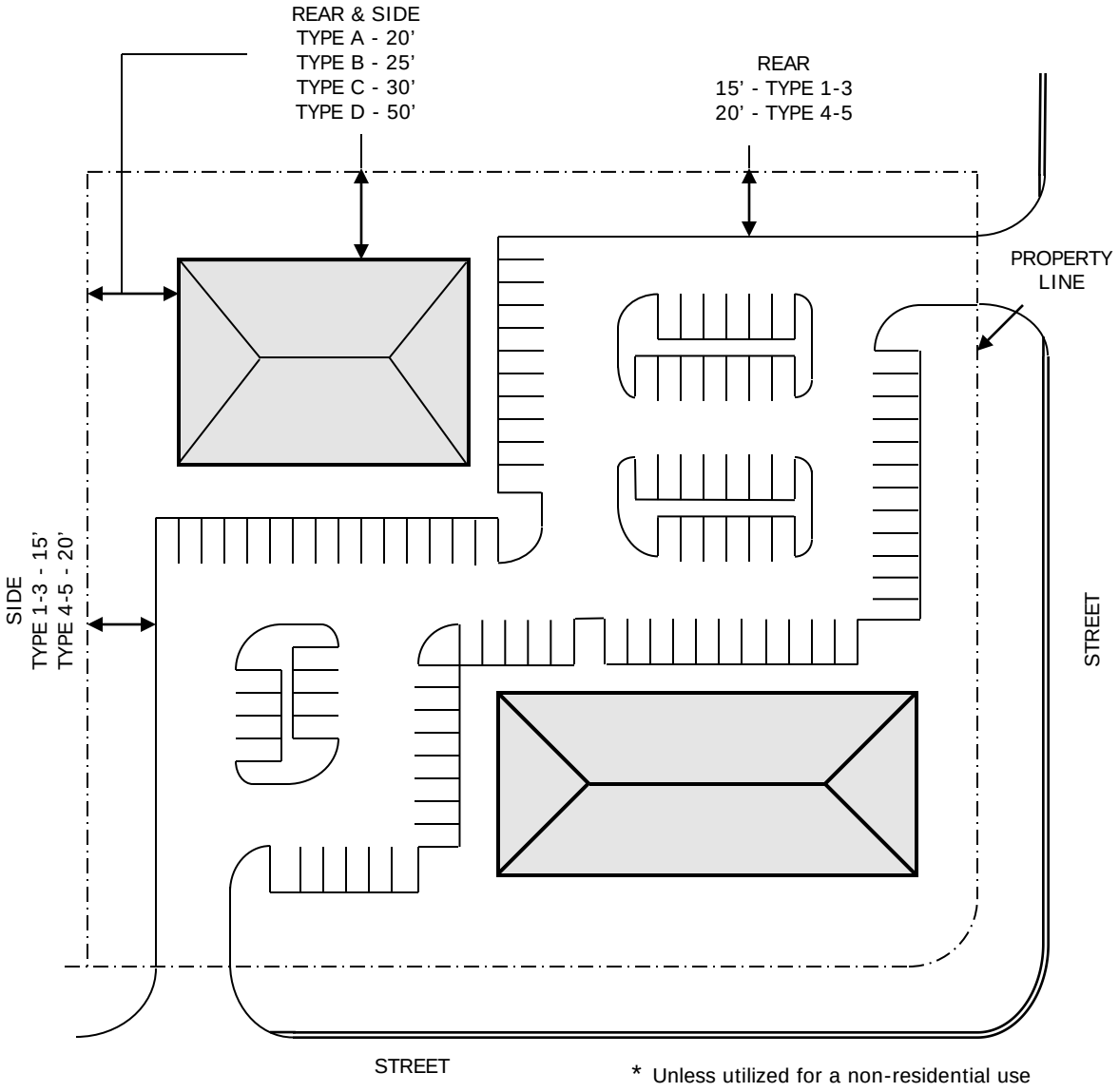


FIGURE M

**MF, LO, LC, GC, LI & HI - SPECIAL SETBACKS**

(WHERE ADJACENT TO SFE, SFS, SFU, SFC, SFL, SFT, SFU/MH, TF*)




* Unless utilized for a non-residential use

**(b)** All setback areas are required to be landscaped in accordance with the landscape and screening requirements even if the area of the setbacks exceeds the minimum landscaped area requirements.

**(c)** For separation between buildings, standards of the current Building Code and Fire Code shall be applied unless additional setback is required by this ordinance.

**(d)** Sight line visibility triangles shall be maintained at all street intersections so that no fence, wall, architectural screen, landscape plantings, earth mounding or parking space shall potentially cause an obstruction of visibility above three feet and below eight feet from the top of the curb closest to the corner. Such triangle shall extend forty (40) feet each direction from the intersection curb lines. If the intersection of curb lines is curved at the corner, the triangle will be determined as if the curved curb was absent and the curb lines were extended to their intersection. At the intersection of an alley, the clearance shall be maintained for a distance of thirty feet each direction from the intersection of edge of the alley with the curb line. (See Figure N – following page)

**(e)** Air conditioning units are not permitted forward of the front wall of the building.

**(f)** Exceptions:

(1) An applicant may obtain a reduced building or site improvements setback upon approval of the Director of Planning, when a variable setback that contains the same total area as the required setback would create a more esthetically pleasing development; when site conditions make strict compliance with the setback undesirable or impractical; or when the character of the development (or surrounding development) makes the standard setback undesirable or inconsistent. Examples of such site conditions include, but are not limited to, the following:

(i) Existing buildings, existing adjacent development built to other standards, utilities or other improvements

(ii) Unusual shape of lot, tract or building site

(iii) Topography, soil, geologic, vegetation (including existing trees or other vegetation) or other natural feature

(iv) Safety (e.g. vehicle sight distance, impediments to emergency or other vehicle maneuvering, visibility of traffic or safety related signage)

The request shall, as a whole, meet or exceed the standards of this ordinance. If a setback is reduced, landscape plantings shall be increased to off-set any undesirable impacts from the reduced setback. The Director of Planning shall consider approval or disapproval of a reduced setback with the following conditions:

(i) The minimum setback area shall not be reduced by more than 5%.

(ii) Additional landscaping required to off-set any undesirable impact shall be established to provide effective screening in the area of the reduced setback.

(iii) The setback shall not result in a negative impact to adjoining property.

(iv) A front or rear yard setback in a single-family or two-family district may be reduced by no more than five feet from the minimum standard requirement.

(v) A side yard setback may not be reduced to less than five feet without the Fire Chief's approval, and in no case shall principal buildings be located closer than ten feet to one another.

(2) Roof overhangs, fireplaces, bay windows and similar projections may extend into any building line a maximum of two feet on any side (see Figure O – following pages). Porches, patios, balconies and similar projections may extend into the front or rear setback a maximum distance of seven feet if there are no walls within such extension. Supporting columns, hand rails and roofs are permitted within such extension.

# FIGURE N

## SIGHT LINE VISIBILITY TRIANGLE

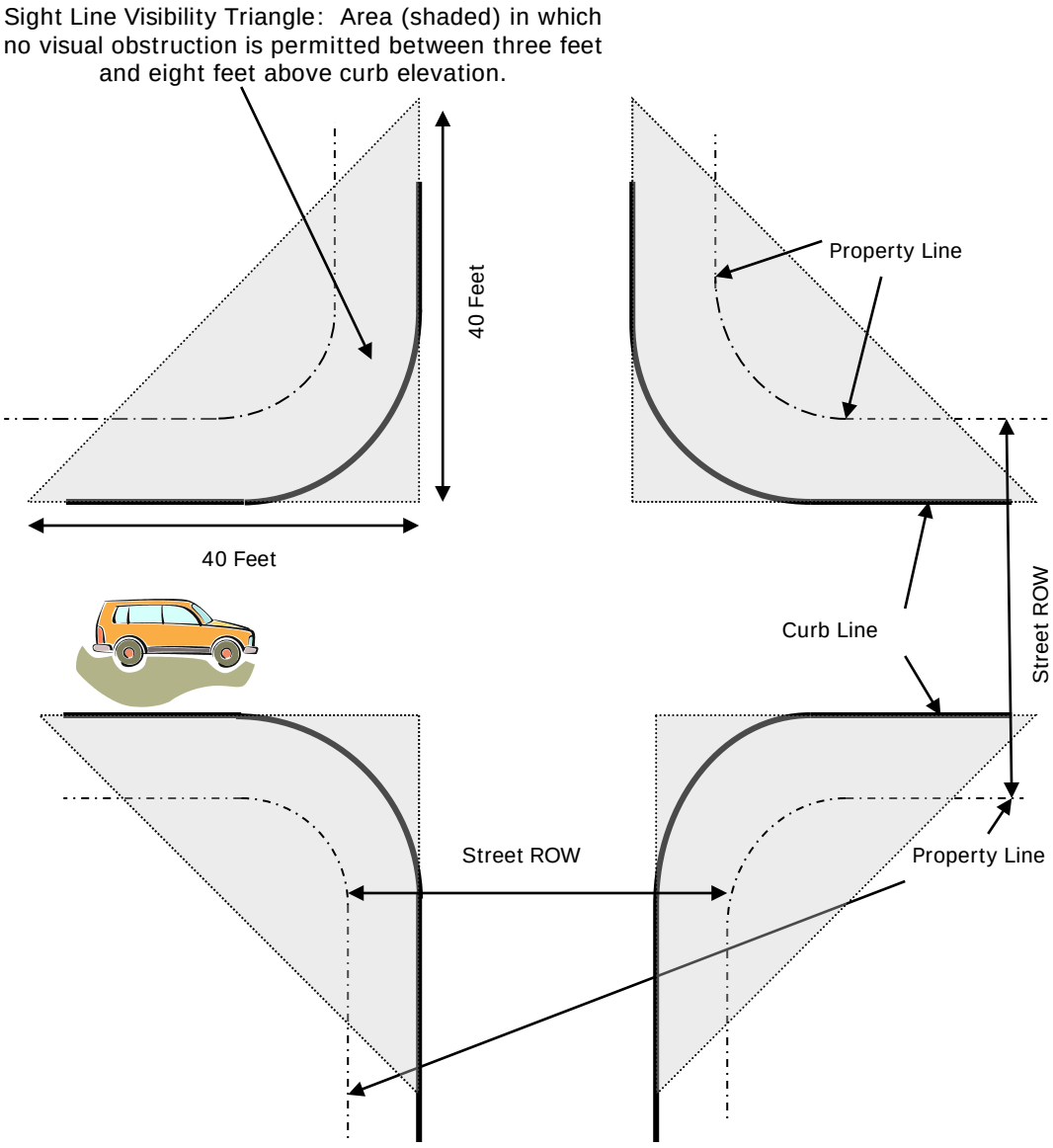
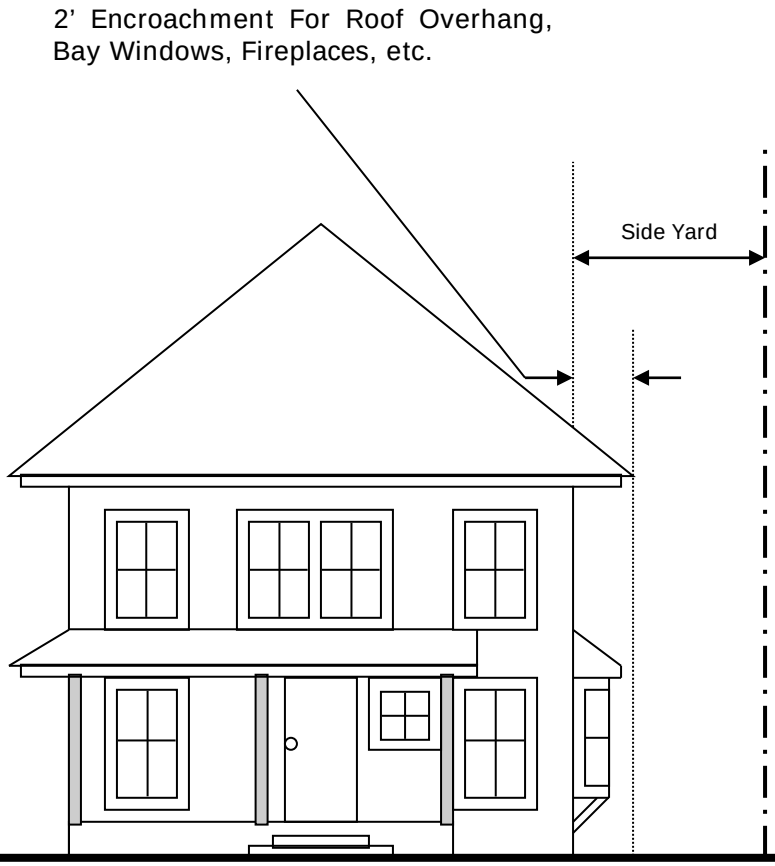


FIGURE O

SIDE YARD ENCROACHMENTS




(3) A detached or non-street facing garage may encroach into the rear or side setback a maximum distance of seven feet, but in no case closer than five feet from the rear or side lot line.

(4) Nothing in these standards shall restrict zero lot line construction for an SFC or SFL district as long as permission from the lot owner adjacent to the zero setback line concurs.

(5) Nothing in these standards shall restrict common wall construction in an SFT, MF, LO, LC, GC, HC or HI district with the condition that permits for common wall buildings are obtained and such buildings are constructed simultaneously.

(6) Where additional ROW is required to be dedicated and the ROW plus the front setback area equal more than 20% of the lot or tract area, the front setback may be reduced such that the additional ROW plus the front setback area does not exceed 20% of the total lot area.

(7) For non-single-family or two-family legal lots or legal tracts existing as of January 1, 2004 that are 0.75 acre or less in area or have an average lot depth of 170 feet or less are permitted to have a front building, parking, drive aisle, loading area and storage setback of fifteen feet.

(8) Outdoor gathering areas, outdoor seating areas for restaurants, and other such similar places, even if covered with an open air structure, may be located within the front and side street setback areas as long as they do not restrict access to a public sidewalk or restrict visibility at an intersection.

(9) The following uses are required to be set back at least four hundred (400) feet from a tollway, highway or major arterial roadway: Mini-warehouse or self storage facilities; boat, trailer, commercial vehicle and RV storage facilities; material salvage unless enclosed within a building; wrecker impoundment and sexually-oriented businesses.

(10) Enclosed accessory buildings shall be prohibited in front of and to the side of the main building. Otherwise, accessory buildings / structures shall have the same setbacks as primary buildings except as follows:

(i) Unenclosed canopies (including carports) in non-residential districts covering a paved surface and suitable for vehicular parking shall be in accordance with the setback rules for parking areas,

(ii) Unenclosed canopies (including carports) in residential districts covering a paved surface and suitable for vehicular parking shall be located to the side or to the rear of the main building and shall be subject to the same setback rules as a garage.

(iii) The rear setback line for an accessory building / structure in a single-family or two-family district may be reduced to five (5) feet except barns and stables in the SFR zoning district shall not be located within 25 feet of any property line.

(iv) Accessory buildings / structures shall be located at least three feet from any other non-accessory building or structure on the property.

(11) Site and structure improvements in accordance with a component more restrictive than the district in which the site is located may utilize the applicable setbacks for the more restrictive component.

(12) Permitted non-residential development in residential districts shall utilize the LO setback standards for parking and related facilities.

## SECTION 7: DRAINAGE AND DETENTION FACILITIES

**(a)** Purpose.

The purpose of this section is to provide for the design of drainage and detention facilities that contribute to visual aesthetics of projects and limit the amounts of visible concrete that do not meet the requirements listed below. For the purposes of this section, visible shall be defined as noticeable by a person of average height walking on a street, sidewalk, or trail, or able to be seen by a neighboring property that is two stories in height. In addition, stamped and tinted concrete shall be defined as concrete that is patterned and/or textured to resemble brick or stone. Tinting shall be defined as adding color to the concrete mix prior to pouring that is an earth tone.

**(b)** Non-Residential and Multi-Family Drainage and Detention Facilities:

(1) Non-residential and multi-family drainage facilities include all detention ponds, water quality ponds, pond outlet structures, berms, improved channels or other

improvements associated with the drainage improvements. Roadside swales, storm sewer outfalls unless visible from a ROW, inlets, and areas of concrete that are no more than one hundred (100) square feet in size are not included.

(2) Non-residential and multi-family drainage facilities are not allowed within ten feet (10') of street ROW except those which are necessary to convey drainage in the shortest possible route to or from street ROW.

(3) Non-residential and multi-family drainage facilities located within the front setback shall not exceed 25% of the area of the front setback.

(4) Any fencing around non-residential and multi-family detention ponds shall be constructed of wrought iron or decorative tubular metal or other similar product.

(5) Structural stabilization including vertical walls and riprap for non-residential and multi-family drainage facilities shall be limited to not more than thirty (30%) percent of the perimeter of the pond excluding outlet structures. The remainder of the perimeter shall be earthern embankment no steeper than 3:1 slope. All exposed concrete that is visible is required to be clad in stone including but not limited to ledgestone, fieldstone, cast stone, or other decorative materials such as stamped and tinted concrete that resembles stone or brick as approved by the Director of Planning. All other exposed concrete is required to be clad in stone as listed above or textured and tinted in earthern colors. In the event that the drainage facility is below grade, structural stabilization is permitted for the full perimeter and screening requirements listed in Article VI, Section 1 (d) of this Ordinance shall apply.

**(c)** Residential Drainage and Detention Facilities:

(1) Residential drainage facilities include all detention ponds, water quality ponds, pond outlet structures, berms, improved channels or other improvements associated with the drainage improvements. Roadside swales, storm sewer outfalls unless visible from a ROW, inlets, and areas of concrete that are no more than one hundred (100) square feet in size are not included.

(2) Residential drainage facilities shall utilize earthern berms and be designed with a curvi-linear shape. Any structural stabilization with slopes steeper than 3:1 shall be limited to the use of native stone (except for outlet structures which can be concrete) and shall be limited to not more than thirty (30%) percent of the perimeter of the pond. Such ponds shall be seamlessly integrated with the landscaping. All exposed concrete that is visible is required to be clad in stone including but not limited to ledgestone, fieldstone, cast stone, or other decorative materials such as stamped and tinted concrete that resembles stone or brick as approved by the Director of Planning. All other exposed concrete is required to be clad in stone as listed above or textured and tinted in earthern colors. In the event that the drainage facility is below grade, concrete is permitted instead of native stone and screening requirements Article VI, Sec. 1 (d) of this Ordinance shall apply.

(3) Any fencing around residential detention ponds shall be constructed of wrought iron or decorative tubular metal or other similar product.

## SECTION 8: SINGLE-FAMILY AND TWO-FAMILY LOTS ABUTTING OR ADJACENT TO TOLLWAY, HIGHWAY, ARTERIAL, OR COLLECTOR ROADWAY

For single-family and two-family lots contained within a subdivision receiving approval for a preliminary plat and final plat or a short form plat after the effective date of this ordinance and abutting or adjacent to a tollway, highway, arterial, or collector roadways as identified on the Leander Transportation Plan or based on roadway design, direct driveway access to any single-family or two-family lot from such roadway shall be prohibited. The following are also applicable:

**(a)** For lots abutting tollway, highway, or arterial roadways and facing (having frontage exclusively on) such roadway, the following shall be provided (see Figure P – following page):

(1) A front parallel common access road at least twenty-two (22) feet in width (face of curb to face of curb) located on a thirty (30) foot wide public ROW (or private lot maintained by an association or other private authority and dedicated as a public access easement) shall be provided adjacent to the specified roadway. Such street shall be designed in accordance with the Transportation Criteria Manual; however, no sidewalk is required on this street if there is a sidewalk on the specified roadway. The access drive is required to have access to a street other than the specified roadway and such intersection is required to be located at least one-hundred feet from the intersection of another street. Limited access points to the specified roadway may be approved by the Director of Planning provided such access points are no closer than three-hundred feet to the intersection of another street or common access drive. The Director of Planning and the Fire Chief may approve sole access to a specified roadway if other access is not reasonably feasible, necessary turn-arounds are provided and such plan creates the most desirable residential layout.

(2) The required front building setback shall be measured from the access road ROW or private lot / access drive and may be reduced by five feet from the standard front setback requirements. If the access road is privately maintained on a private lot, the single-family or two-family lot(s) shall front on the private lot / access drive and such frontage shall be considered as public road frontage for purposes of the subdivision ordinance.

(3) A landscape lot at least ten feet in width is required to be dedicated between the common access road and the specified roadway ROW and is required to be planted as follows: for every six hundred (600) square feet of landscape area, two (2) shade trees (two-inch caliper or larger) and four (4) shrubs (five gallon container size or larger) shall be planted and maintained. Two ornamental trees per shade tree may be substituted for up to fifty percent (50%) of the shade trees if desired. No fence is permitted within this landscape lot or parallel common access road unless it is a wrought iron, tubular metal or similar decorative fence and does not create a visibility obstruction. This landscape lot may be dedicated as public ROW if the applicant provides for ongoing maintenance of the landscaping and the common access road is dedicated as public ROW.

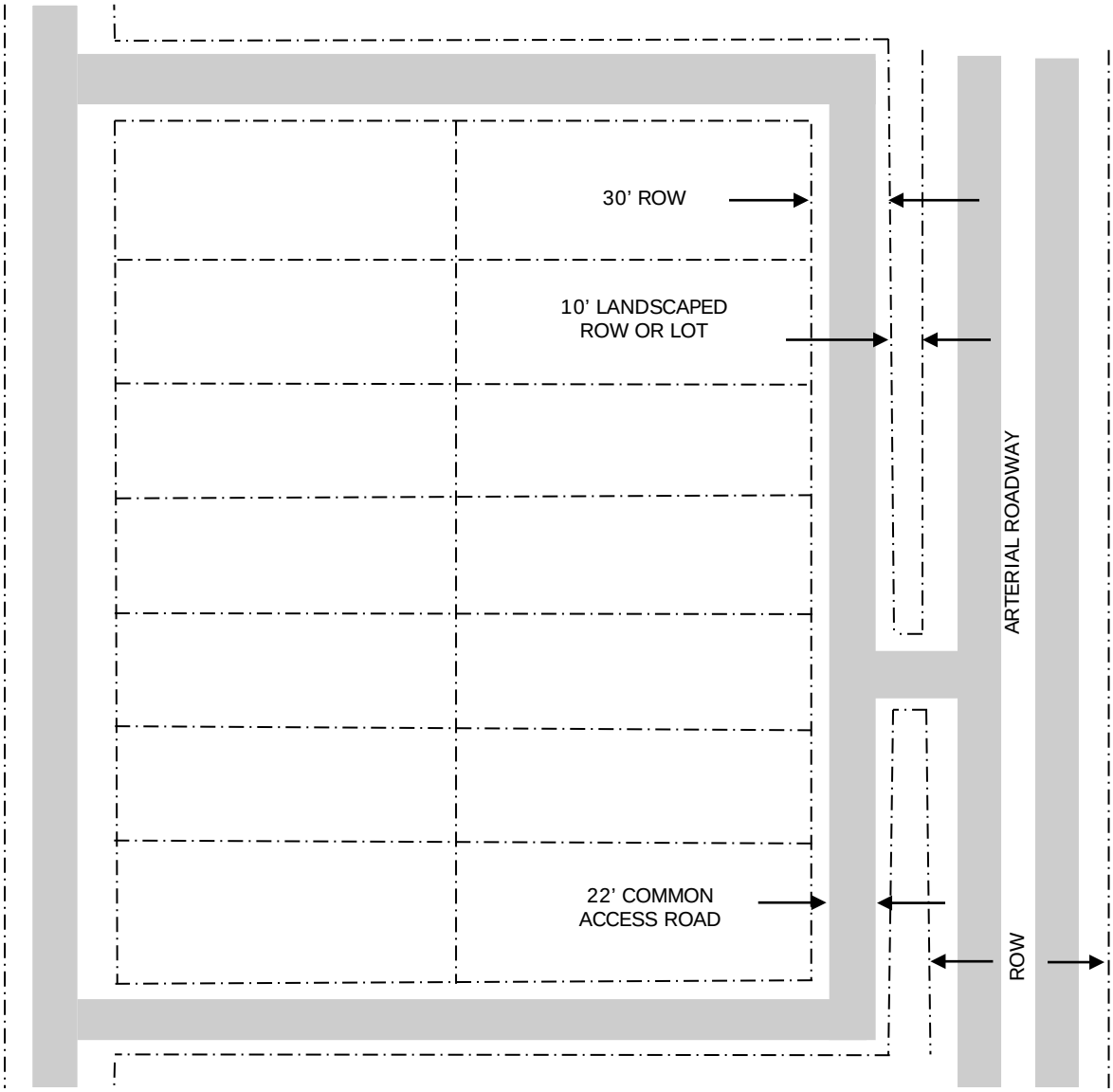
**(b)** For lots adjacent to tollway, highway, arterial, or collector roadways and backing up to such roadway (having frontage on another roadway of a lesser classification), the following shall be provided (see Figure Q – following pages):

(1) A landscape lot is required between the lot and the specified roadway. Such landscape lot is required to be at least ten (10) feet wide and is required to be planted as follows: for every six hundred (600) square feet of landscape area, two (2) shade trees (two-inch caliper or larger) and four (4) shrubs (five gallon container size or larger) shall be planted and maintained. Two ornamental trees per shade tree may be substituted for up to fifty percent of the shade trees if desired.

(2) A six-foot privacy fence is required to be constructed at the common lot line between the landscape lot and the single-family or two-family lots. The fence is required to be constructed of one or more of the following materials: brick, stone, cast stone, factory tinted (not painted) split-faced concrete masonry unit, or other similar material approved by the Director of Planning. In addition to the materials listed above, textured pre-cast concrete (e.g. WoodCrete) is also permitted when the privacy fence is adjacent to collectors. All columns are required to have concrete footings. The landscape lot is required to be maintained by a private association.

FIGURE P

SINGLE-FAMILY & TWO-FAMILY
LOTS FACING ARTERIAL ROADWAY

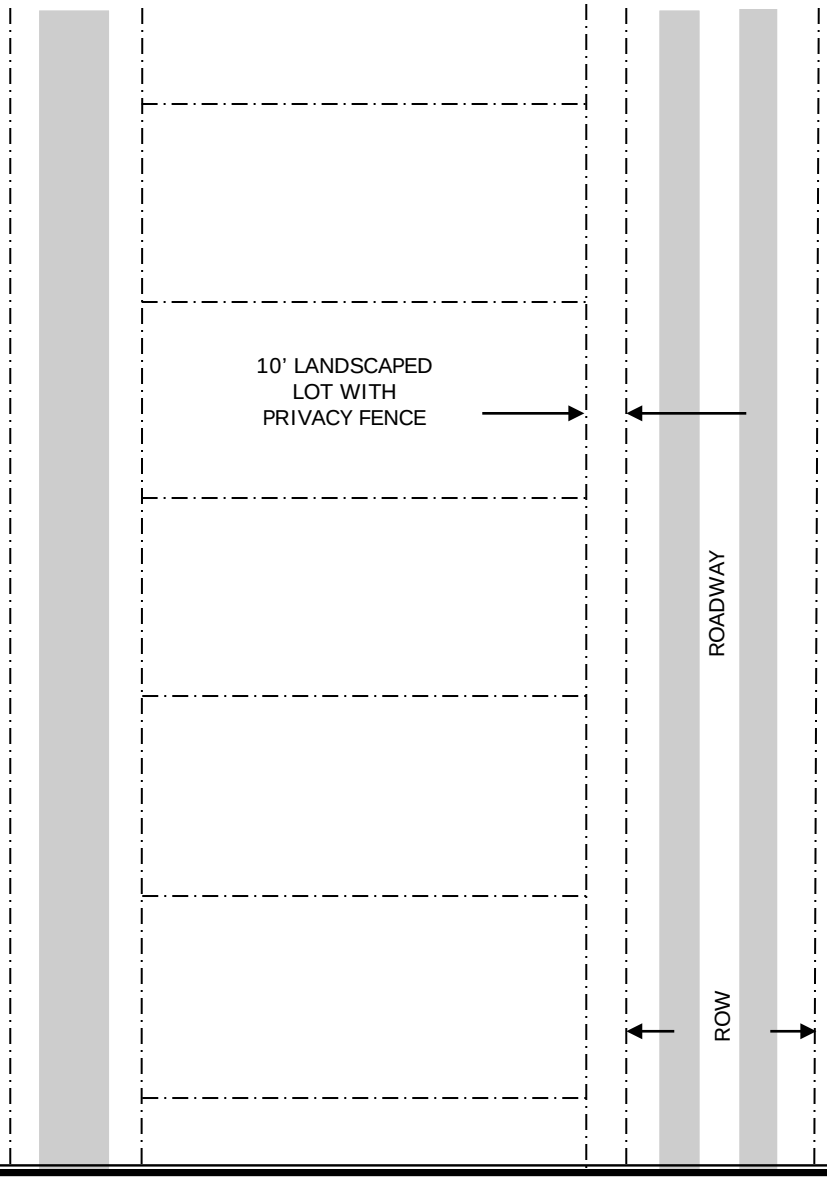



**(c)** For lots adjacent to tollway, highway, arterial, or collector roadways and having a side of the lot adjacent to such roadway (having frontage on another roadway of a lesser classification), the following shall be provided (see Figure Q – next page):

(1) A landscape lot is required between the lot and the specified roadway. Such landscape lot is required to be at least ten (10) feet wide and is required to be planted as follows: for every six hundred (600) square feet of landscape area, two (2) shade trees (two-inch caliper or larger) and four (4) shrubs (five gallon container size or larger) shall be planted and maintained. Two ornamental trees per shade tree may be substituted for up to fifty percent (50%) of the shade trees if desired.

FIGURE Q

SINGLE-FAMILY & TWO-FAMILY -LOTS BACKING UP TO ROADWAY




(2) A six-foot privacy fence is required to be constructed at the common lot line between the landscape lot and the single-family or two-family lots from the rear lot line to a point even with the rear wall of the house at a minimum, but no further than to a point even with the front wall of the house. Any fence closer to the front lot line than the front wall of the house shall not exceed three feet in height; however, such fence is not required. Such fence is required to be constructed of one or more of the following materials: brick, stone, cast stone, factory tinted (not painted) split-faced concrete masonry unit, or other similar material approved by the Director of Planning. In addition to the materials listed above, textured pre-cast concrete (e.g.

WoodCrete) is also permitted when the privacy fence is adjacent to collectors. All columns are required to have concrete footings. The landscape lot is required to be maintained by a private association.

## SECTION 9: SPECIAL VEHICLE STORAGE, LOADING

**(a)** A special vehicle is any trailer (including boats or any other item stored thereon) designed to be towed on public streets or any self propelled vehicle which exceeds 22 feet in length.

**(b)** Vehicle length shall be measured to include trailer connections and any overhang of the vehicle or trailer, including any items on the trailer.

**(c)** Storage is defined as any parking of the vehicle for 48 hours or longer.

**(d)** All special vehicles must meet the following requirements:

(1) No special vehicle shall be stored on any required off-street parking.
(2) No part of the vehicle shall extend over a public right-of-way or easement.
(3) No special vehicle or any other vehicle shall be used for housekeeping, living or sleeping quarters for more than a total of three weeks in any one calendar year unless permitted in a park designed for such purpose and approved as a PUD.
(4) If required, federal and state licensing and registration must be current.
(5) All special or stored vehicles must be maintained in an operable condition unless kept within an approved building.
(6) Stored vehicles must be secured with wheel stops.
(7) (Reserved)
(8) A maximum of one special vehicle may be stored in the front yard. In addition, a maximum of two special vehicles may be stored on a residential lot except for an SFR district.
(9) A special vehicle stored in the front yard must be perpendicular to the front property line.
(10) No boat, RV, trailer, special vehicle or commercial vehicle may be stored in any district other than an industrial district for more than a total of three weeks in any one calendar year unless the property, including any building(s) on the property, is owned or leased by the owner of the vehicle, or the owner or lessee of the property utilizes the vehicle in conjunction with their employment or business.
(11) (Reserved)
(12) The storage of a vehicle in excess of 22 feet in length requires a permit issued by the Permits Division certifying that the vehicle will be stored in compliance with this ordinance. To obtain a permit, the applicant must submit a plan of the lot illustrating how the vehicle will be stored. The permit shall specify the vehicle to be stored and the name of the owner of the lot. The permit is valid only for the vehicle and the owner specified. Permits may be revoked if the vehicle is not stored in accordance with this ordinance.

**(e)** Outdoor storage or overnight outdoor parking of tractor-trailers, semi-trucks, semi-trailers, or other vehicles having a gross vehicle weight rating of 17,000 pounds or more, or that are designed to transport 16 or more passengers, including the driver, or that are transporting hazardous materials and are required to be placarded under 49 C.F.R. Part 172, Subpart F, shall not be permitted in any residential district or on any public ROW. In addition, outdoor storage or overnight outdoor parking of such vehicles shall not be permitted in any commercial district unless the vehicle is utilized by a commercial enterprise located on the property.

**(f)** No part of any vehicle shall be allowed to extend into the right-of-way of an arterial street while being loaded or unloaded.

## SECTION 10: SIGNS

Signs shall be constructed in accordance with the City sign ordinance in effect at the time of sign permit application.

## SECTION 11: (RESERVED)

## SECTION 12: OUTDOOR LIGHTING

**(a)** The purpose of this section is to provide design standards for site and building lighting that are Dark Sky compliant and compatible with adjacent uses.

**(b)** Non-residential outdoor lighting will be in accordance with other provisions of this ordinance and City building codes. A detailed lighting plan and photometric plan shall be included with the Building Permit application and shall meet the following requirements:

(1) Outdoor Lighting

(i) Fixture.

a. All permanent exterior lighting shall be non-flashing and shielded such that the light source (cone of direct light) is not visible from the public ROW or adjacent residential uses at the property line (see Figure R – following page).

b. Wall pack lighting or other lighting that directs the light in a horizontal direction without an adequate shield is not permitted (since it directs the light glare directly outward) if there are streets or residential uses in the direction of the light.

(ii) Illumination Levels

a. All site lighting shall be designed and installed so that the level of illumination as measured in foot candles at a height of three (3') feet at the property line does not exceed two (2') foot candles.

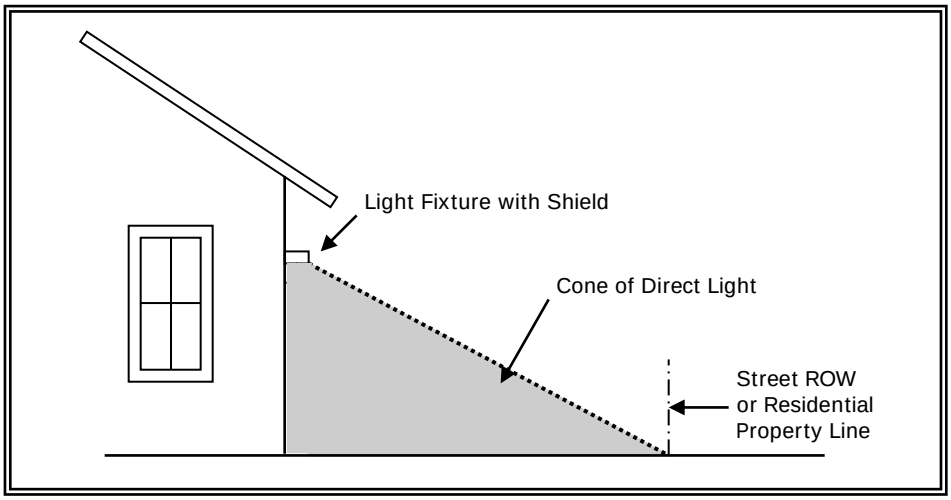
**(c)** Residential outdoor lighting on residential property will be installed in accordance with applicable City Code Standards. It will be located so as not to create a nuisance for adjoining property owners.

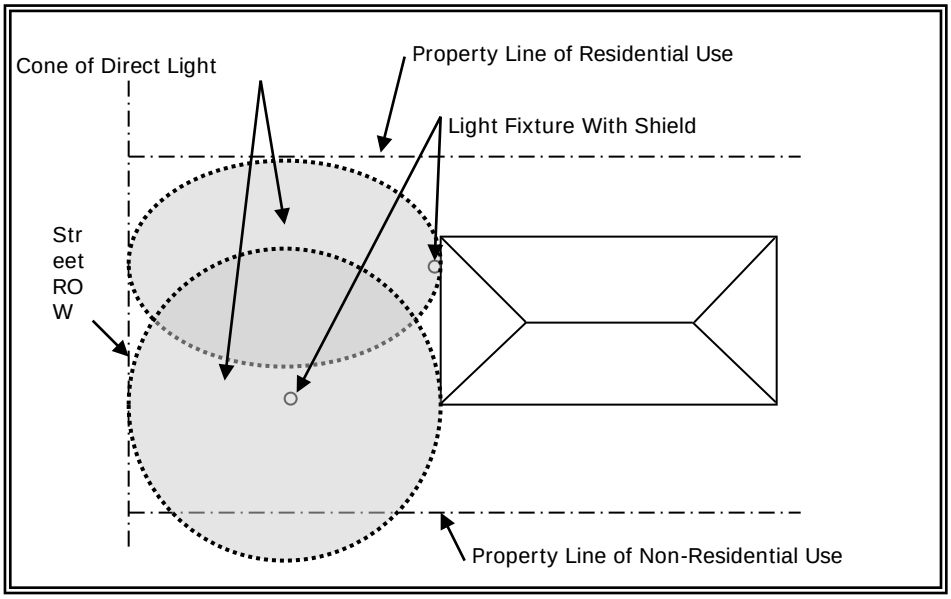
## SECTION 13: COMMERCIAL PARKING LOT CONNECTIONS

A non-residential or multi-family site contiguous with another non-residential or multi-family site shall provide parking aisle connections to the boundary of the site for connection to such contiguous non-residential or multi-family site unless such connection is determined to be inappropriate by the Department of Planning. The Department of Planning shall make its determination after considering all relevant factors, including, but not limited to, the following: when there exists topographic constraints, environmental constraints, existing development that has not provided for such connections, or adjacent uses that are incompatible for the purposes of mixing traffic.

FIGURE R

CONE OF DIRECT LIGHT




## SECTION 14: ADDITIONAL MULTI-FAMILY AND NON-RESIDENTIAL STANDARDS

**(a)** Non-residential and multi-family outdoor trash containers and loading areas shall be located no closer to an adjacent street than the nearest wall of the building on the site utilizing such facility. The Director of Planning may consider an alternate location if such location is not reasonably feasible or is considered to be contrary to the public interest. Garbage dumpsters are required to be screened by a wall constructed of one or more of the following materials: un-painted clay brick, ledge stone, fieldstone, cast stone, marble, granite, or tile, painted or tinted stucco, factory tinted (not painted) split faced concrete masonry unit, textured pre-cast concrete (e.g. WoodCrete), or similar material approved by the Director of Planning. The wall shall be of the same material as, or visually compatible with, the primary

structure and shall be at least as high as the dumpster it is enclosing. The open side to the dumpster or other trash receptacle shall be a solid wood or solid metal gate. A ninety (90) gallon or less roll out container may be stored outside if screened by any type of evergreen landscaping or privacy fence with a gate at least as tall as the container(s) and that will effectively screen the container(s) from view from all sides.

**(b)** A drive-through commercial service lane within fifty (50) of a residential district is prohibited from operating from 10 p.m. until 6 a.m. unless such residential district is utilized for a non-residential use or does not have a preliminary plat or final plat approved for residential use. All existing commercial service lanes in operation as of the effective date of this ordinance are exempt from this requirement. In addition, any commercial service lane located in front of a building is exempt from this requirement. For purposes of this ordinance, a drive-through commercial service lane shall be considered to be the portion of the lane including the pick-up or service window, the ordering station, at least six vehicle stacking spaces and all areas between such locations.

**(c)** Utilities: All utility lines and other lines required to provide services to property in the City (including but not limited to water, wastewater, gas, electric, cable, internet, and propane) are required to be underground. In unique or unusual circumstances, an applicant may request an exception to the requirements of this section by submitting a written request for an exception with the site development permit or building permit application, as appropriate. The City Engineer may grant an exception if an exception is required by applicable building codes or for public safety reasons. The City Engineer's decision may be appealed in writing to the Commission within ten days of the City Engineer's decision. The Commission's decision may be appealed to the City Council within ten days of the Commission's decision. The City Council's decision will be final.

**(d) Masonry Privacy Wall**

(1) A six-foot masonry privacy wall is required to be constructed by any non-residential use that abuts property utilized for a single-family or two-family residence on land zoned single-family or two-family, or land planned or platted for such with an approved concept plan, preliminary plat or final plat, unless an existing structure is proposed to be expanded by less than 50%, or 1,000 sq. ft., whichever is less.

(i) Such wall shall be constructed at the common property line between the uses, or if such location is not feasible because of floodplain, trees or other natural feature, at a location that will effectively screen the non-residential use from view from the single-family or two-family residence.

(ii) Such wall is required to be constructed of one or more of the following materials: textured pre-cast concrete that is constructed to appear as brick, stone, or cast stone as approved by the Director of Planning, brick, stone, cast stone, stucco, factory tinted or painted split-faced concrete masonry unit, granite, tile or other similar material approved by the Director of Planning.

(iii) An eight-foot wall may be utilized for security purposes.

(iv) Gates shall be provided in the wall as appropriate to connect to public sidewalks or other pedestrian connections unless such wall is also used as described above for security.

(2) The masonry privacy wall is not required for non-residential uses that are permitted by right in any Single-Family Districts.

## SECTION 15: SIDEWALKS

**(a)** Multi-family and non-residential: Where new multi-family and non-residential primary structures are proposed (including a change in use for existing residential structures to

multi-family or non-residential uses), six (6) foot concrete sidewalks shall be installedparallel to both sides of roadways (unless such sidewalks are already existing) abutting the development and shall be set back at least five (5) feet from the edge of street pavement and at least five feet (5') from the edge of a parking area or building. The Director of Planning shall consider flexibility to this setback requirement if necessary to save existing trees or if an alternative alignment is considered to be in the public interest. Sidewalks shall, if enough area is available outside the public ROW, be coordinated with landscape design so that substantial landscaping is provided on both sides of the sidewalk. The sidewalk may slightly meander within the remaining ROW and the first 15 feet of the front setback on the lot (or in an alternate location as otherwise approved by the Director of Planning) in a manner that will create a desirable pedestrian environment and protect any existing trees. A pedestrian access easement shall be recorded for the public use of the sidewalk. Pedestrian connections shall also be provided at street crossings as well as to buildings within the development. The Director of Planning may consider a reduction in width or deletion of the sidewalk requirement for residential streets that are otherwise exempt from the sidewalk requirement if the proposed use is not expected to generate significant pedestrian traffic on such street and if such sidewalk is not required for pedestrian connectivity. However, the sidewalk shall not be deleted if it will connect with another sidewalk currently existing, planned or required to be installed in the future.

**(b)** Single-family and two-family residential: For single-family and two-family residential development, six foot concrete sidewalks shall be installed on major arterial roadways, and four (4) foot concrete sidewalks shall be installed on all other roads, parallel to both sides of roadways in accordance with the Transportation Criteria Manual, unless sidewalks already exist or if such lot was platted with a subdivision approved prior to November 6, 1997. An additional foot is required to be added to the width of a sidewalk for sidewalks or portions of a sidewalk abutting a curb.

## SECTION 16: FENCES

**(a)** Except in an SFR district and for agricultural uses in any district and to repair existing barbed wire fencing, barbed wire fencing is prohibited for residential districts.

**(b)** Any fencing installed adjacent to a public ROW shall be installed with the finished (smooth) side facing the ROW.

**(c)** All fences along a common property boundary shall be less than or equal to six (6) feet in height except as provided below.

**(d)** Fences less than or equal to eight (8) feet in height shall be allowed for impeding access to hazardous or secured facilities including, but not limited to, electrical substations and chemical or equipment storage yards; or where, the fence forms a perimeter around a subdivision. For high security applications, barbed wire or razor wire (or equivalent) may be installed above the eight (8) foot height limit but not to exceed a total of ten feet in height.

**(e)** Fences less than or equal to three (3) feet in height shall be allowed in front yards of single-family and two-family districts. No fencing is permitted in the front or side street setback of all other districts.

**(f)** No fence or other structure more than twenty percent (20%) solid or more than three (3) feet high shall be located within twenty-five (25) feet of the intersection of any rights-of-way.

**(g)** All fences shall be constructed to maintain structural integrity against natural forces such as wind, rain and temperature variations.

**(h)** The finished side of all fences built to comply with screening regulations shall face away from the screened object.

**(i)** All fencing shall be maintained in an attractive state and shall not be allowed to lean, sag, warp or otherwise fall into disrepair. Any missing, rotted, loose or broken pieces shall be replaced.

**(j)** All posts shall have concrete footings.

**(k)** There is no height limit to fences for exotic hoof stock.

**(l)** Any chain link fencing (including posts) utilized for uses other than single family or duplex uses shall be black or green vinyl coated.

**(m)** Fences associated with single-family homes are encouraged to provide a masonry column separating the wooden fence from the home as a means to disconnect the structure from a potential flammable material.

## SECTION 17: EXCEPTIONS

**(a)** Agricultural and recreational buildings / structures are exempt from the maximum floor area standards for accessory buildings / structures**.**

# ARTICLE VII – ARCHITECTURAL COMPONENTS

An architectural component (Type A, B, C, or D) is required to be adopted with each use component in accordance with combining options of Article II, Sec. 2, b.

## SECTION 1: TYPE A

### (a) Statement of Intent

(1) The Type A architectural component is intended to be utilized for high quality developments or to provide variety as an additional option for portions of a residential development and may be utilized in or adjacent to single-family uses.

(2) This component is intended to be utilized for single-family development that backs up to, or sides to, a major thoroughfare.

(3) Combined with appropriate use and site components, this component is intended to help provide for harmonious land use transitions by applying this component to a less restrictive use or site component adjacent to a more restrictive use or site component. This standard may be utilized to help ensure compatibility for non-residential uses, multi-family, two-family, townhouse or small lot residential development with adjacent property that is more restricted.

(4) This component is intended to be utilized for buildings requiring heights greater than those provided in other architectural components.

(5) This component may be utilized for any high profile development, for any property in a prominent location or at an important gateway to the community.

(6) This component is not intended to become an involuntary standard for the majority of a single-family subdivision, especially with SFR, SFE, SFS, SFU and SFC components.

### (b) Exterior Wall Standards:

(1) At least eighty-five percent (85%) of the exterior surface area of all walls, including all stories of primary buildings / structures, shall consist of un-painted clay brick, ledge stone, fieldstone, cast stone, marble, granite, tile, painted or tinted stucco, non-reflective glass façade, glass block (or alternative glazing e.g. Kalwall) and factory tinted (not painted) split faced concrete masonry unit (non-residential buildings and structures only) or similar material approved by the Director of Planning. The remaining exterior wall surface shall be comprised of those materials listed or cementious-fiber planking (not panels unless they are used with board and batten application). Solid wood planking and decorative cementious-fiber panels may be used for accent features.

(2) A minimum of fifteen percent (15%) of the front primary building façade for buildings in commercial or residential districts shall consist of window or door openings. Window and door areas of the front façade may be reduced to 10% of area of façade if one additional architectural feature is added beyond the requirement stated in paragraph (3) below.

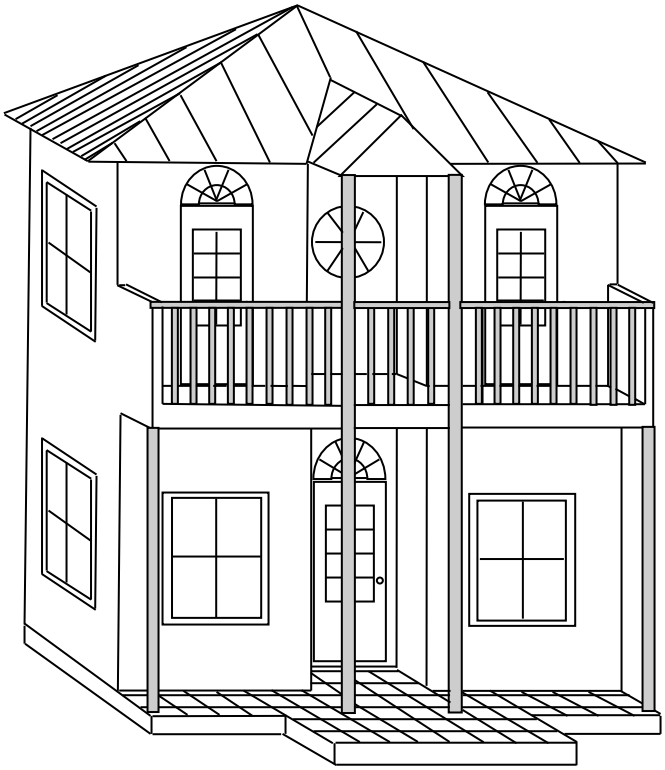
(3) All building fronts shall have at least five different design features to break the wall plane, buildings over 50,000 square feet in size shall have at least seven different design features, and buildings over 100,000 square feet shall have at least nine different design features. The following are examples of the types of design features that shall be utilized: horizontal off-sets, recesses or projections, porches, breezeways, porte-cocheres, courtyards, awnings, canopies, alcoves, recessed entries, ornamental cornices, display or other ornamental windows, vertical “elevation” off-sets, peaked roof forms, arches, outdoor patios, architectural details such as tile work or moldings integrated into the façade, integrated planters or wing walls, accent materials, varied roof heights, premium roofing materials such as tile or standing seam metal, or similar design features approved by the Director of Planning (see Figure S – following page).

(4) Windows shall have a maximum exterior reflectivity of twenty percent (20%).

## FIGURE S

### DESIGN FEATURE EXAMPLES

- PEAKED ROOF WITH MINIMUM 5:12 PITCH
- RECESSED ENTRY
- PORCH
- ORNAMENTAL WINDOWS
- HORIZONTAL OFF-SET
- STANDING SEAM METAL ROOF
- AT LEAST 15% OF FRONT FAÇADE COMPRISED OF WINDOW AND DOOR OPENINGS
- VERTICAL ELEVATION OFF-SET
- VARIED ROOF HEIGHTS
- CANOPY
- BALCONY



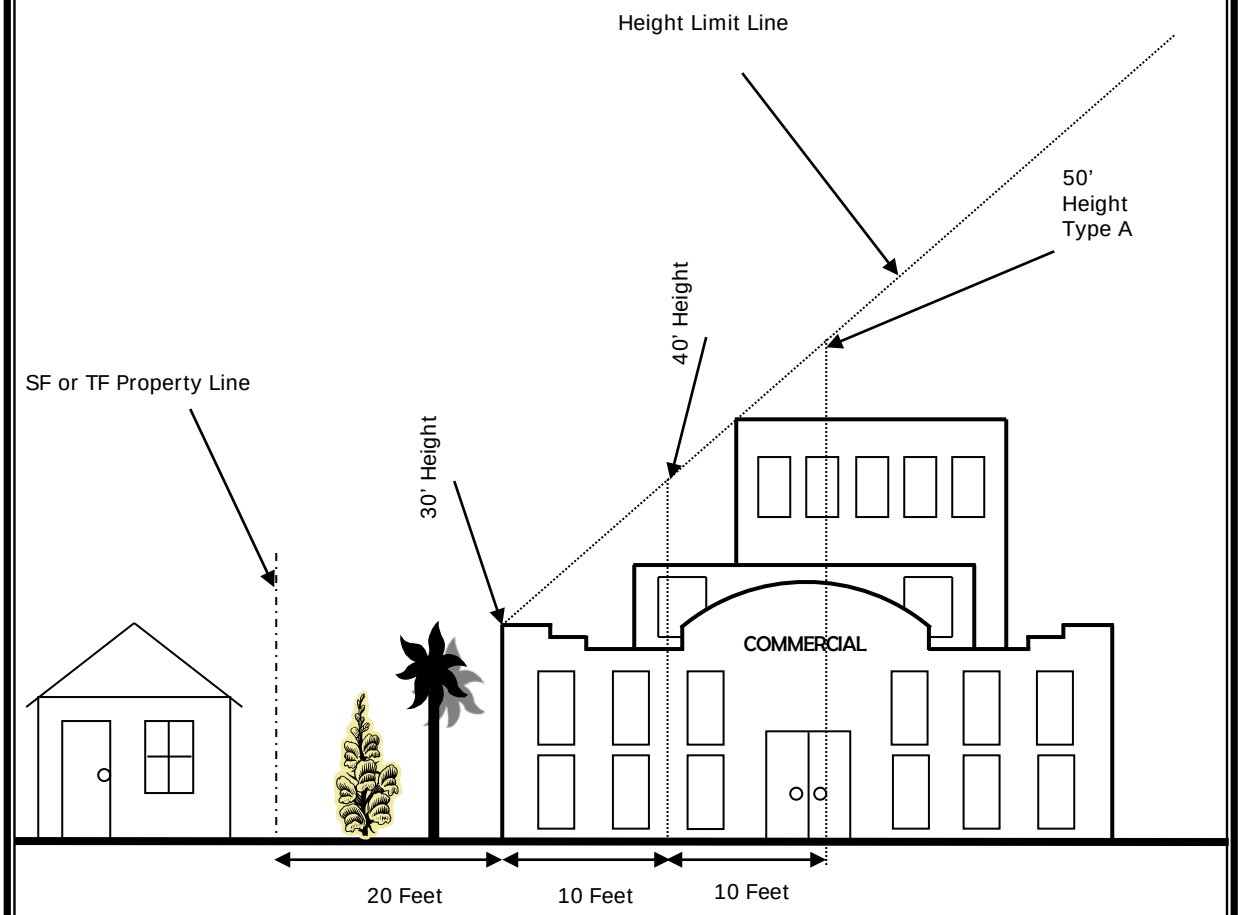
**(c) Height:**

(1) For single-family and two-family districts, no primary building / structure height shall exceed thirty-five (35) feet except as provided in Article VIII, Section 8.

(2) For any non-residential or multi-family district, no primary structure / building shall exceed a height of thirty (30) feet at a distance of twenty (20) feet plus one foot for each one foot of setback beyond twenty (20) feet from a single-family or two-family use district unless such district is utilized for non- residential use (see Figure T – following page). Otherwise, the maximum primary building / structure height for any non-residential or multi-family district shall not exceed forty five (45) feet except that a building may be erected to a height of ninety (90) feet if building setbacks for the building or portions of a building exceeding forty five (45) feet are increased one foot in distance for each two feet of additional building height in excess of forty five (45) feet (except as provided in Article VIII, Section 8).

FIGURE T

**NON-RESIDENTIAL AND MULTI-FAMILY HEIGHT LIMIT**
ADJACENT TO SINGLE-FAMILY OR TWO-FAMILY DISTRICT



## SECTION 2: TYPE B

**(a) Statement of Intent**

(1) The Type B architectural component is intended to be utilized for the majority of residential development except that which is intended as a Type A architectural component.

(2) Combined with appropriate use and site components, this component is intended to help provide for harmonious land use transitions.

(3) This component may be utilized to raise the building standards and help ensure compatibility for non-residential uses adjacent to property that is more restricted.

(4) This component is intended for the majority of the LO and LC use components except those meeting the intent of the Type A or C architectural components.

(5) Compliance with Type A architectural component standards shall also be deemed as compliance with Type B standards.

**(b) Exterior Wall Standards:**

(1) At least eighty-five (85%) percent of the exterior surface area of first story walls and fifty (50%) percent of the exterior surface area of each additional story walls of primary buildings / structures, shall consist of un-painted clay brick, ledge stone, fieldstone, cast stone, marble, granite, tile, painted or tinted stucco, glass façade, glass block (or alternative glazing e.g. Kalwall) and factory tinted (not painted) split faced concrete masonry unit (non-residential buildings and structures only) or similar material approved by the Director of Planning. The remaining exterior wall surface shall be comprised of those materials listed or cementious-fiber planking (not panels unless they are used with a board and batten application). Solid wood planking, decorative cementious-fiber panels and other materials approved by the Director of Planning may be used for accent features.

(2) A minimum of fifteen percent (15%) of the front primary building façade for buildings in commercial or residential districts shall consist of window or door openings. Window and door areas of the front façade may be reduced to 10% of area of façade if one additional architectural feature is added beyond the requirement stated in paragraph (3) below.

(3) All building fronts shall have at least four different design features to break the wall plane, buildings over 50,000 square feet in size shall have at least six different design features, and buildings over 100,000 square feet shall have at least seven different design features. The following are examples of the types of design features that shall be utilized: horizontal off-sets, recesses or projections, porches, breezeways, porte-cocheres, courtyards, awnings, canopies, alcoves, recessed entries, ornamental cornices, display or other ornamental windows, vertical “elevation” off-sets, peaked roof forms, arches, outdoor patios, architectural details such as tile work or moldings integrated into the façade, integrated planters or wing walls, accent materials, varied roof heights, premium roofing materials such as tile or standing seam metal, or similar design features approved by the Director of Planning.

(4) Windows shall have a maximum exterior reflectivity of twenty percent (20%).

**(c) Height:**

(1) For single-family and two-family districts, no primary building / structure height shall exceed thirty-five (35) feet except as provided in Article VIII, Section 8.

(2) For any non-residential or multi-family district, no primary structure / building shall exceed a height of thirty-five (35) feet at a distance of twenty-five (25) feet plus one foot for each one foot of setback beyond twenty-five (25) feet from a permanent single-family or two-family district unless such district is utilized for non- residential use. Otherwise, the maximum primary building / structure height for any non-residential or multi-family district shall not exceed forty five (45) feet except as provided in Article VIII, Section 8.

## SECTION 3: TYPE C

### (a) Statement of Intent

(1) The Type C architectural component is intended to be utilized only in the LO, LC, GC, HC and HI use components for intermediate quality development.

(2) Combined with appropriate use and site components, this component can help to provide for harmonious land use transitions from districts that are less restricted to districts that are more restricted.

(3) This component is not intended for the majority of the LO and LC use components except those that may be adjacent to less restricted districts.

(4) Compliance with Type A or B architectural component standards shall also be deemed as compliance with Type C standards.

### (b) Exterior Wall Standards:

(1) At least sixty (60%) percent of the exterior surface area of street facing walls (See Figures U, V, and W – following pages) of primary buildings and thirty five (35%) percent of the exterior surface area of all other walls of primary buildings / structures shall consist of un-painted clay brick, ledge stone, fieldstone, cast stone, marble, granite, tile, painted or tinted stucco, glass façade, glass block (or alternative glazing e.g. Kalwall) and, for non-residential buildings and structures, factory tinted (not painted) split faced concrete masonry unit, pre-cast concrete tilt wall with a decorative or textured finish (needs approval by the Director of Planning to determine if finish is acceptable) or similar material approved by the Director of Planning. The remaining exterior wall surface shall be comprised of those materials listed or cementious-fiber planking (not panels unless they are used with a board and batten application) orexterior insulating finishing system (E.I.F.S.). Solid wood planking, decorative cementious-fiber panels and other materials approved by the Director of Planning may be used for accent features. For non-residential buildings, smooth faced concrete masonry unit and metal panels or similar materials approved by the Director of Planning may be utilized as an accent feature and shall comprise not more than ten percent (10%) of any wall surface area.

(2) A minimum of fifteen percent (15%) of the front primary building façade for buildings in commercial or residential districts shall consist of window or door openings.

(3) All building fronts shall have at least three different design features to break the wall plane, buildings over 50,000 square feet of gross floor area shall have at least five different design features, and buildings over 100,000 square feet shall have at least six different design features. The following are examples of design features that shall be utilized: horizontal off-sets, recesses or projections, porches, breezeways, porte-cocheres, courtyards, awnings, canopies, alcoves, recessed entries, ornamental cornices, display or other ornamental windows, vertical “elevation” off-sets, peaked roof forms, arches, outdoor patios, architectural details such as tile work or moldings integrated into the façade, integrated planters or wing walls, accent materials, varied roof heights, premium roofing materials such as tile or standing seam metal, or similar design features approved by the Director of Planning.

(4) Windows shall have a maximum exterior reflectivity of twenty percent (20%).

### (c) Height:

(1) No primary building / structure height shall exceed forty-five (45) feet except as provided in Article VIII, Section 8.

(2) No primary structure / building shall exceed a height of forty (40) feet at a distance of thirty (30) feet plus one foot for each one foot of setback beyond thirty (30) feet from a single-family or two-family district unless such district is utilized for non- residential use and except as provided in Article VIII, Section 8.

FIGURE U

**STREET FACING WALLS**
(Shown with bold lines)

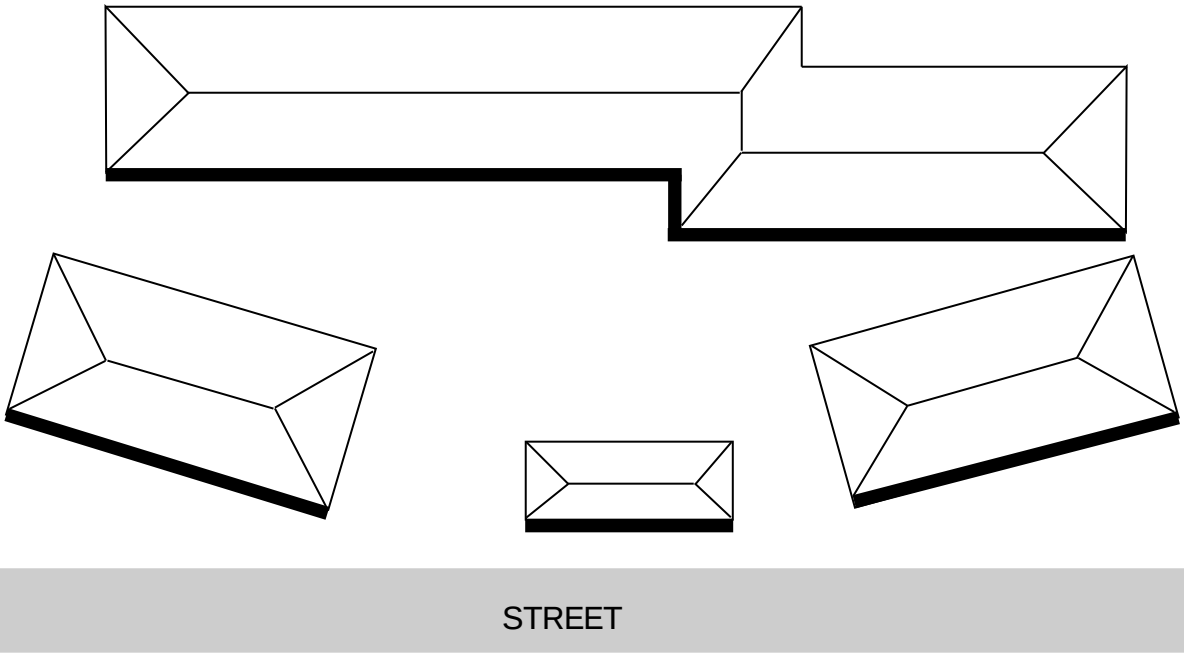



FIGURE V

**STREET FACING WALLS**
(Shown with bold lines)

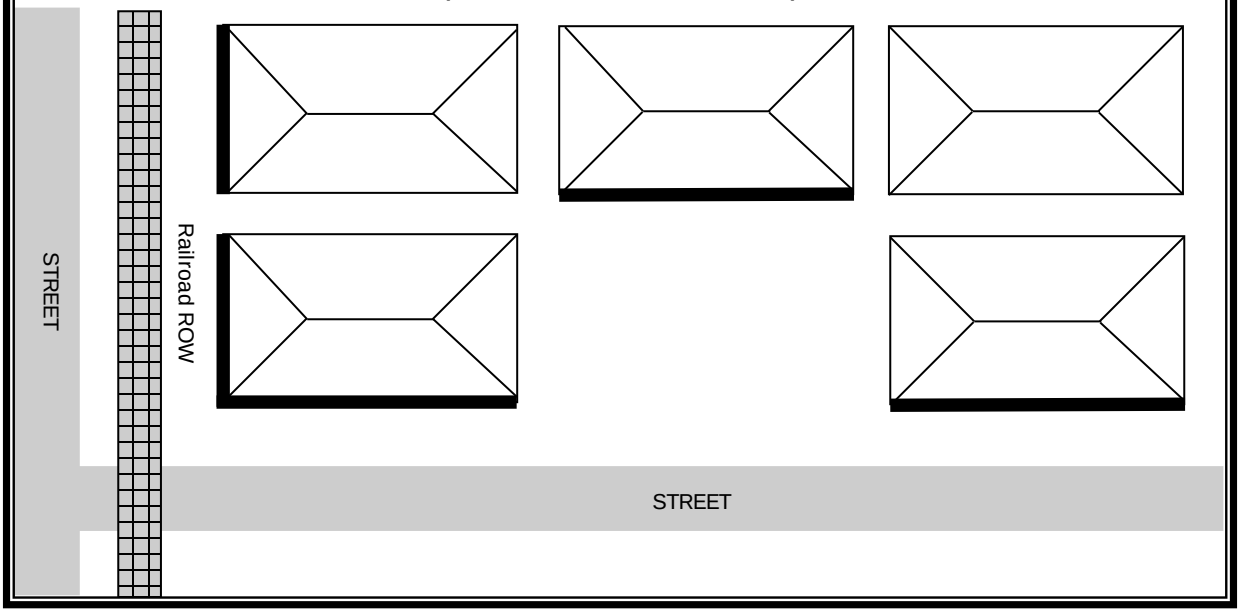
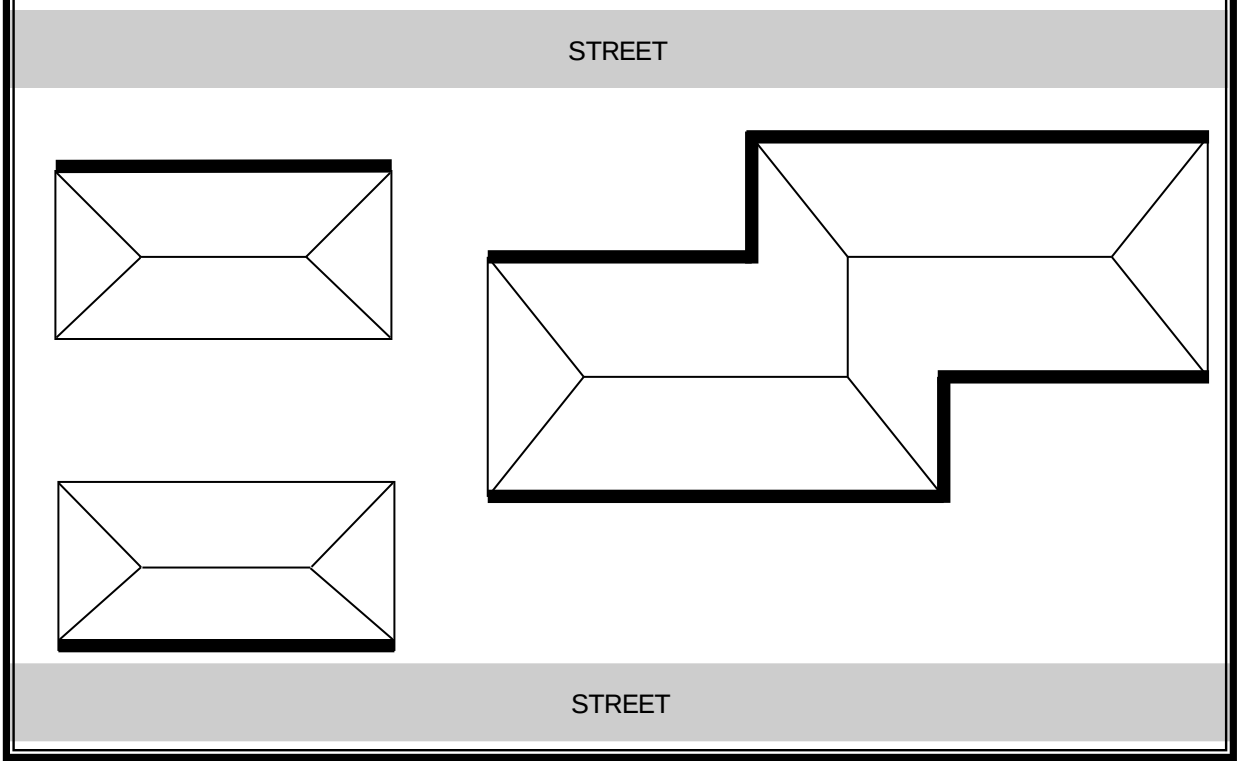


FIGURE W

STREET FACING WALLS
**(Shown with bold lines)**



## SECTION 4: TYPE D

**(a) Statement of Intent**

(1) This architectural component is intended only for industrial warehouse, heavy commercial service and other similar applications and shall be utilized only with GC, HC or HI use components.

(2) This component is not intended to be utilized with the majority of GC districts.

(3) This component is not intended for retail or office development or adjacent to residential neighborhoods where not adequately buffered from residential uses.

(4) This site component is discouraged along major thoroughfares and is intended to be utilized within industrial park development.

(5) Compliance with Type A, B or C architectural component standards shall also be deemed as compliance with Type D standards.

**(b) Exterior Wall Standards:**

(1) For all buildings / structures that are more than four hundred (400') feet from a street, the masonry requirements do not apply. For all buildings / structures that are within four hundred (400') feet of a street at least sixty (60%) percent of the exterior surface area of street facing walls (See Figures U, V, and W – following pages) of primary buildings and thirty five (35%) percent of the exterior surface area of all other walls of primary buildings / structures shall consist of un-painted brick, ledge stone, fieldstone, cast stone, marble, granite, tile, painted or tinted stucco, exterior insulating finishing system (E.I.F.S.), glass façade, glass block (or alternative glazing e.g. Kalwall), factory tinted (not painted) split faced concrete masonry unit, pre-cast concrete tilt wall with a decorative or textured finish or similar material approved by the Director of Planning. The remaining exterior wall surfaces shall be comprised of those materials listed or cementious-fiber planking or panels, or painted metal siding except that metal siding is not permitted on any street facing wall. Solid wood planking, decorative cementious-fiber panels and other materials approved by the Director of Planning may be used for accent features. Smooth faced concrete masonry unit and metal panels or similar materials approved by the Director of Planning may be utilized as an accent feature only and shall not comprise more than fifteen percent (15%) of any wall surface area.

(2) Metal exterior walls shall be compatible in color with existing surrounding structures and shall be muted earth tones. Exterior finishes for metal walls shall be of a permanent material such as baked on enamel finish or painted to the wall manufacturer standards. The use of unpainted exterior metal finish is prohibited.

(3) (3) All building fronts visible from a public street or residential district shall have at least two different design features to break the wall plane, buildings over 50,000 square feet in size shall have at least four different design features, and buildings over 100,000 square feet shall have at least five different design features. The following are examples of the types of design features that shall be utilized: horizontal off-sets, recesses or projections, porches, breezeways, porte-cocheres, courtyards, awnings, canopies, alcoves, recessed entries, ornamental cornices, display or other ornamental windows, vertical "elevation" off-sets, peaked roof forms, arches, outdoor patios, architectural details such as tile work or moldings integrated into the façade, integrated planters or wing walls, accent materials, varied roof heights, premium roofing materials such as tile or standing seam metal, or similar design features approved by the Director of Planning.

(4) This component also permits facilities that have no exterior walls as a primary use which exposes mechanical, electrical of other facilities.

**(c) Height:**

(1) No primary building / structure height shall exceed thirty-five (35) feet except as provided in Article VIII, Section 8.

# ARTICLE VIII - ARCHITECTURAL STANDARDS

## SECTION 1: WALL AREA CALCULATIONS

**(a)** In calculating percentage of exterior wall area, the area of windows and window frames, doors and door frames, eves, soffits, dormers, columns, recessed entryways, foundation and similar areas are excluded from the calculations and may utilize any of the materials listed in the applicable component exterior wall standards, when, in the opinion of the Building Official, construction with the required masonry materials is not reasonably feasible.

**(b)** A street facing wall is the exterior wall of a building, including any off-sets, projections or recesses, facing a street or within forty-five (45) degrees of such orientation and within four hundred (400) feet of the street. A wall is considered facing a street even if there is another public ROW between the wall and the street. A wall is not considered facing a street if another building or other permanent screening material on site is between the wall and the street and blocks the view of the wall from the street by at least seventy-five percent (75%) from all view angles. Five year projected maturity of any on-site evergreen planted materials may be considered in the screening assessment.

**(c)** A masonry calculation table is required at the building permit stage to demonstrate compliance with the ordinance requirements.

## SECTION 2: WAREHOUSE, MINI-WAREHOUSE AND OVERHEAD DOORS

Warehouse, mini-warehouse and overhead (commercial service) doors shall not be oriented so as to face a street(s) or residential property or shall be screened from view from the street(s) or residential property unless the Director of Planning determines that there is no other feasible alternative.

## SECTION 3: ROOFTOP EQUIPMENT

Parapets or other similar screening enclosures shall be utilized to conceal rooftop equipment from view from the street or surrounding properties. Such enclosures shall be constructed at least 42” high or as high as the equipment it is designed to conceal from view, whichever is greater. Such equipment includes, but is not limited to, equipment such as A/C compressors and satellite dishes (see Figure X – following page). The enclosures shall be constructed out of materials consistent with the wall siding material. Rooftop mechanical equipment such as A/C compressors is not permitted in residential districts. Nothing in these regulations shall be construed so as to limit the use of solar power panels.

## SECTION 4: BUILDING OVER LOT LINES

A building or structure may be constructed over lot lines with the following conditions:

**(a)** Any easements in the area of the building shall be released, and

**(b)** The lots are owned by the same owner.

The construction of buildings with a common wall at the property line is permitted without condition (b) if otherwise permitted by this ordinance.

## SECTION 5: MASONRY AND OTHER ARCHITECTURAL STANDARDS

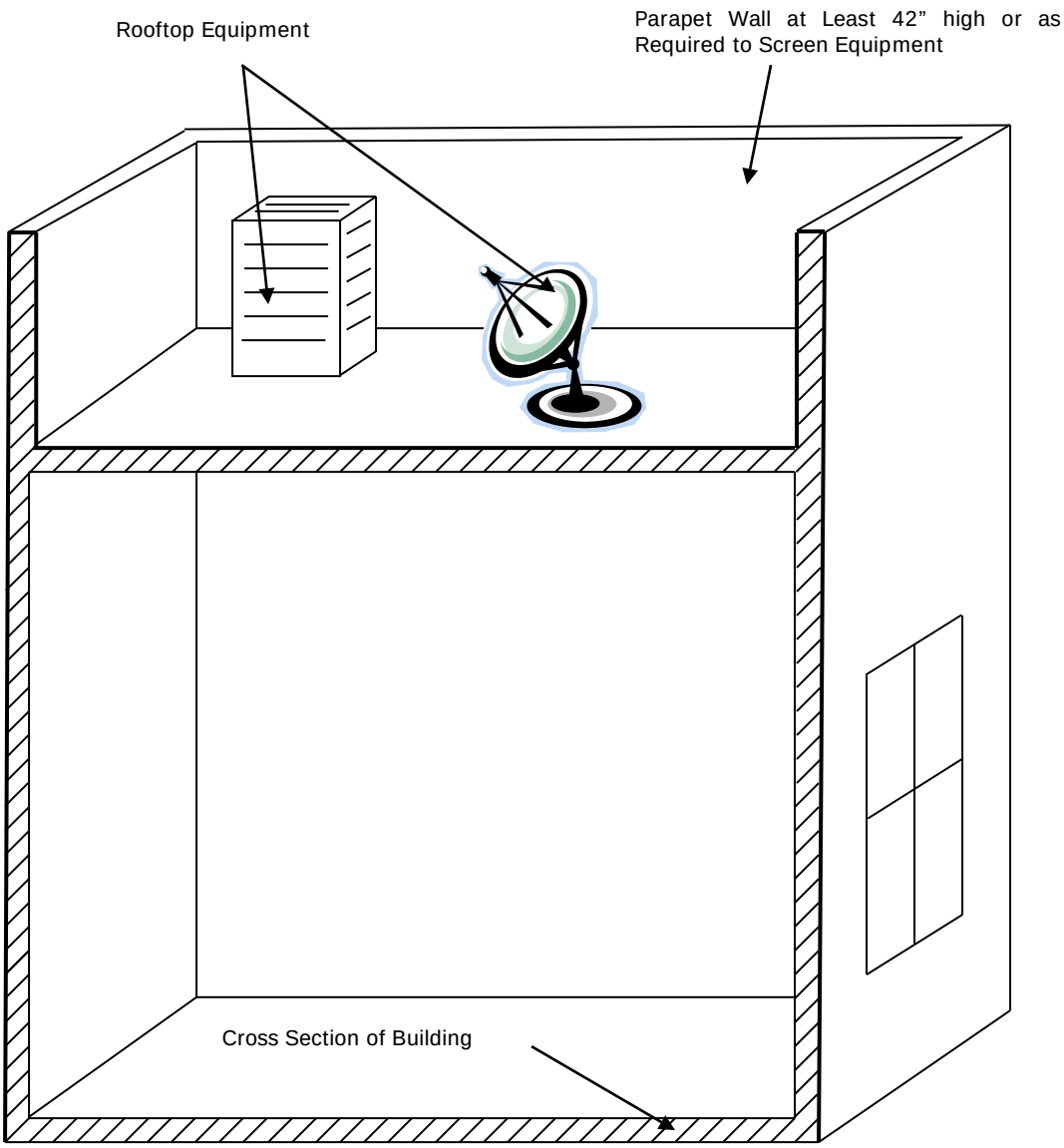
**(a)** Brick, stone, cast stone or other similar masonry product shall not be painted.

**(b)** All window trim shall be cementious-fiber or similar product.

**(c)** The number of combinations of single-family or two-family residential floor plans and elevations in any final plat section shall, at a minimum, equal at least twenty-five percent (25%) of the total lots in the final plat, but is not required to exceed fifteen. (For example, five floor plans with three different elevation options for each floor plan results in fifteen different floor plan / elevation combinations.)

FIGURE X

PARAPETS SCREENING - ROOFTOP EQUIPMENT




**(d)** No two homes side by side or across the street within one house (directly across the street or "caddy corner" across the street) shall have the same elevation plan or the same floor plan except for the SFT district.

**(e)** In the event of a natural disaster (tornado, fire, etc.) the resident may replace the current structure with a new structure built of the same masonry percentages as the pre-existing residence.

**(f)** All exterior walls on remodels and additions must be consistent with the exterior of the existing dwelling.

**(g)** Supporting columns on the front of structures shall be constructed of clay brick, ledge stone, field stone, native stone, stucco, cementious-fiber planking or panel, aluminum, solid cedar, stripped cedar posts (sealed for protection), solid redwood, or similar materials and not less

than eight by eight inches (8” x 8”) square. Standard trade sizes of preformed fiberglass columns shall be permitted. The use of dimensional lumber posts shall not be permitted.

**(h)** The Director of Planning may approve premium architectural grade, decorative metal siding and other premium architectural materials for conformance with exterior wall building material standards as appropriate and applicable.

**(i)** Recreational vehicles, travel trailers and manufactured/mobile homes shall not be used for on-site dwelling or for any nonresidential or other purpose except as authorized in an SFU/MH district, as provided in Article IV, Sec. 2, Special Use Permit or as otherwise permitted in this ordinance.

**(j)** Single-family and two-family residential dwelling street-facing garage standards. To prevent residential streetscapes from being dominated by garage doors, and to allow the visually interesting features of the house to dominate the streetscape, the following standards shall apply:

(1) Except as provided for in this subsection, street-facing garages must be recessed at least five (5) feet behind the ground floor living area of the dwelling or a roof-covered porch that is at least seven (7) feet wide by six (6) feet deep.

(2) The total width of the garage door openings of a garage with street-facing doors shall be no more than fifty (50) percent of the ground floor street-facing linear building frontage.

(3) Street-facing garages that have a total garage door opening width that is less than forty (40) percent of the ground floor street-facing linear building frontage width, may be in-line with the ground floor living area or roof-covered porch that is at least seven (7) feet wide by six (6) feet deep.

(4) Street-facing garages that have a total garage door opening width of less than forty (40) percent of the ground floor street-facing linear building frontage width and that incorporate enhanced architectural features as described in this section, may protrude up to five (5) feet in front of the ground floor living area of the dwelling or roof-covered porch that is at least seven (7) feet wide by six (6) feet deep, but in no case shall the garage be setback from the street less than the minimum setback for the zoning district.

(5) Street-facing three car garages that have a total garage door opening width of less than fifty (50) percent of the ground floor street-facing linear building frontage width and that incorporate enhanced architectural features as described in this section, may have up to two (2) bays of the garage protrude up to five (5) feet in front of the ground floor living area of the dwelling or roof-covered porch that is at least seven (7) feet wide by six (6) feet deep, but in no case shall the garage be setback from the street less than the minimum setback for the zoning district. The third bay of the garage shall be located in-line with the ground floor living area of the dwelling or roof-covered porch that is at least seven (7) feet wide by six (6) feet deep.

(6) For garages that meet the standards of subsection (4) or (5) and where the site topography (typically slopes greater than 10% or for other similar topography as allowed by the Planning Director) requires stairs from the garage into the living space, the garage may protrude up to eight (8) feet in front of the ground floor living area of the dwelling or roof-covered porch that is at least seven (7) feet wide by six (6) feet deep, but in no case shall the garage be setback from the street less than the minimum building setback for the zoning district.

(7) The Planning Director may approve garage placement that does not meet the standards of this section in the case of unique site conditions including the existence of significant trees, extreme topography and similar natural features.

(8) For the purposes of this subsection, enhanced architectural features shall include:

a. Architectural garage doors that are painted to match the color scheme of the house and include decorative hardware; or

b. Doors that have a natural wood appearance; and

c. Both a. and b. above must also be combined with at least one of the following features:
   (i) a garage door recess of at least two (2) feet;
   (ii) a roof overhang over the garage doors with supporting architectural columns that extends at least two (2) feet in front of the garage doors; or
   (iii) any similar architectural feature, approved by the Planning Director, that diminishes the prominence of the garage doors on the street-facing building facade.

(9) Garages accessed from rear alleys are exempt from the standards of this section.

(10) Second or higher floor living areas do not count toward the measurement of ground floor street-facing linear building frontage.

## SECTION 6: SOFFITS AND FACIA; MANSARD ROOFS

**(a)** All residential primary building roof fascia and soffits shall be constructed of cementious-fiber panel or planking or its equivalent or better product approved by the Building Official or materials in compliance with the exterior wall standards of the applicable architectural component.

**(b)** All non-residential roof fascia and soffits shall be constructed of a non-combustible material.

**(c)** Fascia shall not be increased (e.g. sign bands) nor shall mansard roofs, Quonset roofs, “A” frame designs or other similar roofs be utilized when having the effect of reducing the normal amount of exterior wall surface area. Sign bands may not exceed three feet in height and may not extend across more than forty percent (40%) of a structure frontage.

## SECTION 7: ROOFS

**(a)** Roofing materials for peaked roofs shall be a thirty (30) year laminated dimensional shingle or its equivalent or better product.

**(b)** Unless constructed as a roof deck, all residential roofs shall be peaked and have at least a 5:12 pitch except for porches and shed roofs which may be constructed to a minimum pitch of 2:12.

**(C)** Flat roofs shall be enclosed by parapets a minimum of 42 inches high, or as required to conceal mechanical or other rooftop equipment.

## SECTION 8: EXCEPTIONS

**(a)** The height limits prescribed herein shall not apply to television and radio towers, church spires, belfries, monuments, tanks, water and fire towers, stage towers, scenery lofts, cooling towers, ornamental towers and spires, chimneys, elevator bulkheads, smokestacks, necessary public or private utilities, conveyors, flag poles, agricultural buildings or related structures and necessary mechanical appurtenances unless they extend twenty (20) feet above the maximum height established for the district.

**(b)** Public or semi-public service buildings, hospitals, institutions or schools, where permitted, may be erected to a height not exceeding sixty (60) feet and churches and other places of worship may be erected to a height not exceeding seventy-five (75) feet when each of the required yards is increased by one (1) foot for each two (2) feet of additional building height above the height limits for the district in which the building is located.

**(c)** No structure shall be erected to a height in excess of that permitted by regulations of the Federal Aviation Agency that apply to the area in which the structure is located.

**(d)** The Building Official and the Director of Planning may approve variations of up to 5% in architectural standards including, but not limited to, the amount of masonry required, building height and roof pitch.

**(e)** Agricultural buildings and recreational storage buildings are exempt from exterior wall standards.

**(f)** Maintenance and additions to existing structures are permitted in conformance with the existing standards of the structure including standards that relate to masonry, setback, architectural, landscaping or other zoning standards, as long as an addition does not exceed 50% percent of the existing gross floor area or 900 square feet, whichever is greater, but never more than 100% of the existing structure. However, metal siding and manufactured homes are not permitted to be added to a structure unless permitted under current zoning regulations.

**(g)** Solar energy systems and small wind energy systems meeting the standards of Article IV, Sec. 5 of this code are exempt from this Article.

# ARTICLE IX - SITE DEVELOPMENT

## SECTION 1: GENERAL PROVISIONS

**(a) Purpose**

The purpose of this chapter is as follows:

(1) To establish rules and procedures for the orderly planning and development of commercial sites and residential sites involving more than two dwelling units;

(2) To provide for a permit separate and distinct from the building permit so that site issues such as drainage, driveways, access, utilities and internal circulation may be resolved without the need for the preparation and review of detailed architectural plans;

(3) To permit site preparation and drainage improvements without imposing the expense and time burden required for a full building permit;

(4) To permit the planning of a phased site development without imposing the expense and time burden required for the preparation and review of complete architectural plans for all phases of the development;

(5) To provide development applicants a site development permit to help expedite and enhance success and marketability of the project;

(6) To provide city staff with procedures for the review and approval of site development;

(7) To enhance the ability of a developer to obtain financing for a development project;

(8) To maintain consistency with other area jurisdictions; and

(9) To simplify and expedite the building permit process.

**(b) Applicability; Site Development Permit Required**

Any person who develops, or causes to be developed, property located within the corporate limits of the City shall comply with this Chapter. Within the city corporate limits the use of property shall not be changed, no development shall take place and no building permit shall be issued until a site development permit has been issued in accordance with the code of ordinances of the City. Property for which a site development permit has been issued shall be developed in compliance with the approved site plan. The following are exceptions to the applicability of this Chapter:

(1) Construction, alteration or addition to a single-family or two family residential structure, or an accessory building to any such structure.

(2) Alteration or finish-out of an existing building when the alteration or finish-out does not increase the square footage of the building or change the building footprint as long as one of the following applies:

  (i) The use does not change, or if the use changes, the new use does not require more parking than is currently existing and no additional parking spaces, aisles or driveways are proposed;

  (ii) The alteration, finish-out or change of use is in compliance with all applicable codes and regulations of the city; and

  (iii) The proposal does not increase the degree of any existing non-conforming use or non-conforming structure.

(3) Construction of a fence, but no exception is granted by this subsection for construction of a retaining wall or for a fence that may obstruct or change the flow of water.

(4) Substantial restoration that is commenced within a period of one year of a building damaged by fire, explosion, flood, tornado, riot, act of the public enemy, or accident of any kind.

(5) A canopy or carport placed over existing parking spaces or other paved area.

(6) Any other minor site activity similar to those listed above and eligible for a minor site development permit approved by the Planning Department prior to beginning such site activity or work.

**(c) Site Plan Processing**

(1) Site plan submission: The applicant is encouraged to request a pre-development meeting with city staff to help familiarize the applicant with applicable codes and regulations and to expedite the site development permit approval process. Site plans shall be submitted by appointment with the Planning Department in conformance with all information and materials required by the most recent site development permit application/checklist and this Chapter. An incomplete site development permit application shall not be accepted for review and processing. As coordinator of the site development permit process, the Planning Department shall distribute copies of the site plan to all reviewing departments. Within 45 calendar days of the application date, the site development permit shall be disapproved, with reasons provided for such disapproval, or approved. Issuance of comments by city staff identifying items to be addressed by the applicant shall constitute disapproval of such application until the applicant addresses such comments. Failure to disapprove or approve the site development application within 45 days shall constitute approval of the application.

(2) Expiration of application: A site development permit application shall expire within nine (9) months of the date that all initial staff review comments from all reviewing departments have been issued on the application if a site development permit has not been issued due to the applicant's failure to cause the proposed site development application to comply with applicable city regulations. The Planning Department may grant one six (6) month extension if the applicant can show substantial progress in obtaining a site development permit. Substantial progress shall consist of, at a minimum, a resubmission of the site development plans and all relevant materials by the applicant that address all initial staff review comments from all reviewing departments.

(3) Construction not to begin prior to permit issuance: Except for development permitted by an approved rough grading permit, site construction shall not begin until all necessary permits have been obtained, all fees paid, approval has been granted by all reviewing departments and a site development permit is issued by the Planning Department. A stop work order may be issued and an applicant shall be required to pay two (2) times the normal permit fee for any property upon which construction has begun prior to the issuance of a site development permit, unless prior written approval is obtained from the Planning Department. If a stop work order is issued as a result of construction beginning prior to issuance of a site development permit, construction activities shall cease until the required approval is obtained.

(4) Review fee and professional recovery fee: A professional recovery fee as set forth in Appendix A shall be required at the time of site development permit application submittal. In addition to the professional recovery fee and the review fee, a phasing fee shall be required at the time of site development permit application submittal for all projects with more than one phase. The phasing fee shall be as set forth in Appendix A and shall not be assessed for the first phase. Fees associated with proposed site development permit revisions shall apply to proposed changes to an approved site plan that are considered minor deviations or design modifications and impervious cover shall be calculated based only on the portions of the plan proposed to be changed. Fees for proposed changes to an approved site plan may be waived by the Planning Department if such deviations are so minor so

as not to require the submission or review of new plans. All fees shall be non-refundable. Changes to an approved site plan which are necessary to relocate approved building square footage or parking areas due to the exercise of the power of eminent domain by the City shall be considered minor deviations and design modifications for the purposes of this section and, in addition, shall not be assessed any additional fee.

(5) Approved plans signed: After all comments from all reviewing departments have been addressed and all fees have been paid, the applicant shall deliver a digital file of the corrected site plan and landscape plan with a letter from the person preparing the plan stating that the digital file is the most recent version reflecting all changes made to the site plan and landscape plan and is the same version as represented on the prints provided. The applicant shall also deliver the required number of prints of the sets of plans, including civil plan sheets and all accompanying materials, as required on the most recent site plan checklist, for final review and approval. The applicant or applicant's agent shall include a letter with the re-submission explaining how all staff comments have been addressed. The applicant or applicant's agent shall also provide a signed statement indicating what additional changes, other than those required to address staff comments, if any, have been made to the site plan and any accompanying materials and plan sheets. If no additional changes have been made, the applicant or applicant's agent shall provide a signed statement verifying this. Once city staff has verified that the application and plans conform to all applicable ordinances of the city, staff reviewers shall sign all sets of approved plans, and one signed set shall be provided to the applicant or applicant's agent. The applicant shall provide the applicant's signed set (or a copy thereof) to the contractor responsible for completing site improvements. Approval of a site development permit does not constitute, nor does it guarantee, approval of a building permit to construct a building.

(6) Certificate of completion: A certificate of completion shall be issued upon completion of the project according to the site development plans approved by the city. The site shall not be occupied until the certificate of completion is issued. The city shall not consider site improvements for a certificate of completion until: all disturbed areas are satisfactorily re-vegetated in accordance with the landscape plan or fiscal surety is posted with the City to complete such improvements, as determined by the City Engineer and the landscape reviewer; a concurrence letter is received from the applicant's appropriate design professional(s) that all improvements have been installed in accordance with the approved plans; and the city has inspected and approved the construction. If the landscape reviewer determines that it is desirable to delay installation of certain landscaping until after occupancy of the project, the applicant shall make a cash escrow payment to the City for the amount of the estimate for the cost of such landscape improvements plus fifteen percent (15%) and a conditional certificate of completion shall be issued. The final certificate of completion shall not be issued until all landscaping is installed in compliance with the approved site plan. If the applicant can demonstrate that an emergency situation exists so as to necessitate a conditional certificate of completion in order to occupy the site prior to completion of other minor site improvements that are not necessary for the protection of the health, safety or welfare of the public including all individuals utilizing the facilities (the "remaining improvements"), the Planning Department may issue such conditional certificate of completion if the following conditions are met prior to issuance of the conditional certificate of completion:

(i) The applicant's engineer shall supply a certified engineer's estimate for the cost of completing the remaining improvements plus fifteen percent (15%) for project administration (the "Estimate") and an agreement from the

applicant's contractor to complete said remaining improvements, if required by the City, under contract with the City for the amount stated in the estimate;

(ii) The applicant shall deposit into an escrow account held by the City or provide the City with a performance bond or letter of credit issued in the format and from an institution approved by the City for the amount of the Estimate (the "surety instrument"), and the City shall hold such surety instrument until the work is completed, at which time the surety instrument shall be released. If the work is not completed within the term of the conditional certificate of completion, the City may declare the applicant in default, invoke the surety instrument, and use the surety instrument to install all improvements.

(iii) The applicant and the project contractor shall verify by providing a notarized signed statement stating that such remaining improvements can and shall be completed within a period not to exceed thirty (30) calendar days, or other time frame specifically approved by staff;

(iv) The applicant shall verify by providing a notarized statement that the applicant has not and will not enter into any lease agreement with a tenant for a period exceeding thirty (30) days or other time frame specifically approved by city staff. In addition, the applicant will agree that the site and all buildings and improvements on the site will cease to be occupied if the remaining improvements are not completed within the duration of the conditional certificate of completion. The applicant will also acknowledge that utility service for the project (including water and wastewater service) may, at the city's discretion, be disconnected if the remaining work is not completed within the duration of the conditional certificate of completion. The applicant shall further notify any and all tenants of the terms of this section and shall acknowledge to the City that such notice has been given;

(v) The applicant's engineer shall provide a certified engineer's statement stating that there is no direct or indirect threat to the health, safety or welfare of the public, including individuals utilizing the facilities on the subject site, by occupation or use of the site prior to all improvements having been completed;

(vi) The applicant shall provide an additional non-refundable fee in the amount of thirty (30) percent of the original review fee submitted with the request for a conditional certificate of completion to cover the cost of the additional staff review required for review and administration of this process; and

(vii) All applicable city staff reviewers recommend granting a conditional certificate of completion.

A conditional certificate of completion shall be effective for a maximum of thirty (30) days (unless otherwise approved by staff and recommended by the project engineer) except for landscaping improvements. For landscaping improvements, the term of the conditional certificate of completion shall be established by the landscape reviewer. The Planning Department may, at its discretion, extend the term of a conditional certificate of completion for unusual circumstances that could not be anticipated when the certificate was issued. The final certificate of completion shall not be issued until all improvements are installed in compliance with the approved site development plans and applicable City ordinances.

**(d) Site Development Permit Expiration**

(1) A site development permit, including all phases identified on the site plan, expires two (2) years after the date of its approval, or as identified on an approved phasing plan, unless one or more of the following events occur:

(i) Building permits required to construct all buildings shown on the site plan are issued prior to the expiration date and those active building permits are in effect until the work is completed and certificates of occupancy are issued.

(ii) If no building permits are required to complete the development authorized by the site development permit, any required site work is commenced and diligently pursued to completion and a certificate of completion is issued. For purposes of this section, the term "diligently pursued" shall mean that activity towards completion of the development approved by the site development permit does not cease for more than thirty (30) consecutive days, that substantial progress is being made and that all improvements required by the site development permit are completed with two years of issuance of the permit. The Planning Department will be responsible for making the determination of whether site work is diligently pursued to completion. The determination may be appealed to the City Manager, whose decision is final.

(2) If a site development permit expires, the applicant may request a reinstatement of the site development permit with the following conditions:

(i) No changes are permitted to be made to the site development permit except for minor changes as defined in this Chapter and approved by the Planning Department.

(ii) The applicant shall pay a non-refundable fee in the amount of one-half of the original fee.

(iii) The application is in conformance with all applicable rules and regulations of the City in effect at the time that the application for reinstatement is made.

**(e) Minor Site Development Permit**

(1) Projects that include minor site activity similar to those listed in Section 1(b), Article IX of this ordinance and including brush clearing, may be eligible for a minor site development permit. To be eligible, such projects may increase the impervious cover by no more than 1,000 square feet. In addition, a minor site development permit application shall be submitted for review in conformance with all information and materials required by the most recent minor site development permit application/checklist.

(2) A professional recovery fee as set forth in Appendix A shall be required at the time of site development permit exemption application submittal.

## SECTION 3: PROCEDURES FOR APPROVAL OF SITE PLANS

**(a) Site Plan Approval**

The Planning Department shall not approve a site plan until all reviewing departments of the city have indicated that the proposed site plan, with all applicable attachments, complies with all applicable provisions of the code of ordinances of the city including the Composite Zoning Ordinance and the Subdivision Ordinance. Park land and park improvements shall be required for all multi-family development in accordance with the standards of Sec. 61 of the Subdivision Ordinance. Development shall comply with regulations for Riparian Corridors set forth in Sec. 49 of the Subdivision Ordinance. The Planning Department shall approve a site plan if the proposed development complies with all applicable codes of the city. If the Planning Department finds that the site plan does not comply with all applicable codes of the city, the site plan shall be disapproved pending submittal of a site plan in compliance with the code of ordinances of the city. Approval of a site development permit authorizes the applicant to begin site development.

**(b) Revisions to Approved Site Plans**

Minor deviations or design modifications requiring changes in an approved site plan may be approved by the Planning Department after review by the applicable reviewing departments if determined that the deviations or modifications are in compliance with the code of ordinances of the city. For purposes of this section, minor deviations or design modifications have no significant impact on neighboring properties, the public or persons who will occupy or use the proposed development, do not significantly affect runoff quantities and drainage patterns, do not relocate buildings by more than 25 horizontal feet, and do not increase impervious cover by more than 1,000 square feet. Changes to an approved site plan which are necessary to relocate approved building square footage or parking areas due to the exercise of the power of eminent domain by the City shall be considered minor deviations and design modifications for the purposes of this section. An applicant requesting changes to an approved site plan shall submit a written request identifying the requested changes to the Planning Department along with a revised site plan that identifies the proposed changes. Any changes approved by the Planning Department shall be in writing.

**(c) Development Phasing**

If site development is proposed to be constructed in phases, the applicant shall clearly identify the phases on the site plan and all other applicable materials that accompany the site plan. The phasing shall also be defined in a proposed timetable of completion for each phase. The phasing plan shall not contain any proposal for a phase to be completed more than four years from approval of the site development permit.

**(d) Easements**

No structures shall be permitted within a utility easement or drainage easement.

# ARTICLE X - ADMINISTRATION

## SECTION 1: GENERAL

The Director of Planning shall administer the provisions of this ordinance, and in furtherance of such authority, shall:

**(a)** Maintain permanent and current records with respect to this ordinance, including amendments thereto.

**(b)** Receive, file, and review all zoning applications to determine whether such applications comply with this ordinance.

**(c)** Forward zoning applications to the Commission as required by this ordinance with a planning analysis.

**(d)** Forward zoning applications to the Council, together with the recommendations of the Commission and the staff planning analysis.

**(e)** Make such other determinations and decisions as may be required of the City by this ordinance, the Commission or the Council.

## SECTION 2: INTERPRETATION OF PROVISIONS

In the interpretation and application of the provisions of this ordinance, the following regulations shall govern:

**(a) Interpretation**

In the City's interpretation and application, the provisions of this ordinance shall be regarded as minimum requirements for the protection of the public health, safety, comfort, convenience, prosperity and welfare. This ordinance shall be regarded as remedial and shall be liberally construed to further its underlying purposes.

**(b) Duplicative Restrictions**

Whenever more than one provision of this ordinance covers the same subject matter, or when any provision in any other law, ordinance, rule or regulation of any kind contains any restrictions covering any of the same subject matter, whichever restrictions are more restrictive or impose higher standards or requirements shall govern.

**(c) Written Decision of Meaning or Intent**

Where there is a question concerning the meaning or intent of a provision of this ordinance, the City shall render a written decision setting forth the exact manner in which said provision shall be interpreted and administered. In the event exception is taken by any interested party to such a decision the matter shall be appealed to the Commission, and, as appropriate, to the Council, whose decision shall be final.

(1) Any written decision shall be attached to and made a part of this ordinance, until rescinded by amendment of this ordinance as provided for herein.

(2) The terms, provisions and conditions of this ordinance shall be interpreted and applied in a manner consistent with *Chapter 211, Texas Local Government Code*, and, particularly as to property within the extraterritorial jurisdiction of the City.

**(d) Consistency with the Comprehensive Plan**

All zoning applications shall conform to the Comprehensive Plan for the community and be consistent with all of the elements thereof. Where the proposed zoning application is inconsistent with one (1) or more of the elements of the Comprehensive Plan, the developer may petition the City for amendment to the particular element or elements of the Comprehensive Plan either prior to, or concurrent with, submitting a request for subdivision plat or development plan approval. Inconsistency with the provisions of the Comprehensive Plan shall be grounds for disapproval of the zoning application by the City

**(e) Consistency with the Subdivision Ordinance**

All development projects within the corporate limits and extraterritorial jurisdiction of the City shall be in conformance with the City's Subdivision Ordinance. Where the proposed development requires a zoning classification or approval other than that currently applying to the property to be developed, the developer shall make appropriate application to secure the necessary zoning classification or approval such that the proposed development would comply with the Zoning Ordinance.

## SECTION 3: ADMINISTRATIVE PROCEDURES FOR CHANGES & AMENDMENTS TO ALL ZONING ORDINANCES.

**(a) Declaration of Policy and Review Criteria**

The City of Leander declares the enactment of these regulations governing the use and development of land, buildings, and structures as a measure necessary to the orderly development of the community. Therefore, no change shall be made in these regulations or in the boundaries of the zoning district except:

(1) To correct any error in the regulations or map.

(2) To recognize changed or changing conditions or circumstances in a particular locality.

(3) To recognize changes in technology, the style of living, or manner of conducting business.

(4) To change the property to uses in accordance with the approved Comprehensive Plan. In making a determination regarding a requested zoning change, the Commission and City Council shall consider the following factors:

- (i) Whether the uses permitted by the proposed change will be appropriate in the immediate area concerned and their relationship to the general area and the City as a whole.
- (ii) Whether the proposed change is in accord with any existing or proposed plans for providing public schools, streets, water supplies, sanitary sewers, and other utilities to the area.
- (iii) The amount of vacant land currently classified for similar development in the vicinity and elsewhere in the City, and any special circumstances, which may make a substantial part of such vacant land unavailable for development.
- (iv) The recent rate at which land is being developed in the same zoning classification as the request, particularly in the vicinity of the proposed change.
- (v) How other areas designated for similar development will be, or are unlikely to be, affected if the proposed amendment is approved.
- (vi) Any factors which may substantially affect public health, safety, morals, or welfare.

**(b) Authority To Amend Ordinance**

The City Council may from time to time, after the Commission has had opportunity to make a recommendation, and after public hearings required by law, amend, supplement, or change the regulations herein provided or the boundaries of the zoning districts specified on the Zoning Map. Any ordinance regulations or zoning district boundary amendment may be ordered for consideration by the City Council, be initiated by the Commission, or be requested by the owner of real property or the authorized representative of an owner of real property.

Consideration for a change in any district boundary line or special zoning regulation may be initiated only with written consent of the property owner, or by the Commission or City Council on its own motion when it finds that public benefit will be derived from consideration of such matter. In the event the ownership stated on an application and that shown on the City records are different, the applicant shall submit proof of ownership.

No person who owes delinquent taxes, delinquent paving assessments, impact fees, or any other delinquent debts or obligations to the City of Leander, and which are directly attributable to a piece of property requested for zoning, shall be allowed to submit a zoning request until the taxes, assessments, debts, or obligations directly attributable to said property and owed by the owner or previous owner thereof shall have been first fully discharged by payment, or until an arrangement satisfactory to the City has been made for the payment of such debts or obligations. It shall be the applicant's responsibility to provide evidence or proof that the taxes have been paid.

**(c) Application**

Each application for zoning or for an amendment or change to the existing provisions of this Zoning Ordinance shall be made in writing by the owner or person authorized to represent the owner on an application form available at the City, filed with the City and shall be accompanied by payment of the appropriate fee as established by the City of Leander, Texas in Appendix A, City Code of Ordinances, Article 4, Section 4.100, subsection (13). Applications shall contain all information required by the application form.

**(d) Public Hearing And Notice**

Prior to making its report to the City Council, the Commission shall hold at least one public hearing on each application as required by state law (Texas Local Government Code Chapter 211 as amended). Written notice of all public hearings on proposed changes in district boundaries shall be sent to the owners of property, or to the person rendering the same for City taxes, that is located within two hundred feet (200') of the property that is the subject of the application. The notices will be mailed within not less than ten (10) days before such hearing is held. Such notice may be served by using the last known address as listed on the latest approved tax roll and depositing the notice, postage paid, in the United States mail. Notice of hearings before the City Council shall be accomplished by one publication not less than fifteen (15) days prior thereto in the official newspaper of the City.

**(e) Failure To Appear**

Failure of the applicant or his representative to appear before the Commission or City Council for more than one hearing without notice to and approval by the Director of Planning or a waiver being granted by the Commission or Council, as applicable, shall constitute sufficient grounds for the Commission or the City Council to table or deny the application. Provided the Director of Planning or City Secretary is notified in writing by the applicant at least seventy-two (72) hours prior to the hearing, applicants shall be entitled to one postponement.

**(f) City Council Consideration**

(1) Every application or proposal which is recommended for approval by the Commission shall be automatically forwarded to the City Council for setting and holding of public hearings thereon. No change, however, shall become effective until after the adoption of an ordinance for the same and its publication as required by law.

(2) When the Commission makes a recommendation that a proposal should be denied, the request in its original form, will automatically be placed on the City Council agenda unless a request not to place the item on the agenda is made by the applicant within ten (10 days) of such action.

(3) No applications for a change of zoning classification, variance, or special use permit shall be accepted if a similar application for the same property has been denied by a three-fourths (75%) vote of the City Council within the preceding six (6) month period.

(4) Notice of the City Council public hearing shall be given by publication in the official newspaper of the City, stating the time and place of such hearing, which shall be at least fifteen (15) days after the date of publication.

(5) Upon approval of a zoning request by the City Council, the applicant shall submit all related material with revisions, if necessary, to the City for the preparation of the amending ordinance. A metes and bounds description, lot and block description or a tax map of all property and appropriate exhibits must be submitted with the zoning change request application. The amending ordinance will not be approved until a correct description has been prepared. The zoning request shall be approved at the time the City Council makes a decision to approve the request as submitted or with certain conditions.

## SECTION 4: BOARD OF ADJUSTMENT

**(a) Established**

A Board of Adjustments (Board) is established in accordance with the provisions of *Section 211.008, et.seq., Tex. Loc. Gov't. Code*, and the City Charter, regarding the zoning of cities. The Board shall have the powers and duties as provided in Chapt. 211 and this Ordinance.

**(b) Organization and Membership.**

(1) Regular Membership. The Board shall consist of five citizens appointed or reappointed by the City Council. The Mayor shall have the authority to nominate persons for appointment. Members of the Board shall be removable for cause by the City Council, upon written charges and after a public hearing. Vacancies shall be filled for the unexpired term of the member whose term becomes vacant. The Board shall elect its own chair, who shall serve for a period of one (1) year or until his or her successor is elected.

(2) Alternate Members. The Board shall also consist of not more than four alternate members who will serve in the absence of one or more regular members, as and when requested to do so by the Mayor or City Manager. Alternate members shall be appointed in the same manner as regular members; shall serve for the same period as a regular member; and are subject to removal in the same manner as a regular member. Vacancies among the alternate members shall be filled in the same manner as vacancies among the regular members.

**(c) Meetings**

Meetings of the Board shall be held at the call of the chair and at such other times as the Board may determine.

**(d) Hearings**

All meetings and hearings held by the Board of Adjustment shall be public; provided that upon the advice and consent of the City Attorney the Board may go into executive session pursuant to *Chapt. 551, Tex. Gov't. Code*.

**(e) Rules and Regulations**

The Board shall keep minutes of its proceedings, showing the vote of each member upon each question, or, if absent or failing to vote, indicating such fact, and such minutes shall be immediately filed in the office of the Board and shall be a public record. The Board shall act by resolution in which four members must concur. The Board may adopt rules in accordance and consistent with this Ordinance as necessary and required. A copy of any such rules shall be furnished to any person requesting same. All rules and regulations shall operate uniformly in all cases and all resolutions and orders shall be in accordance therewith.

**(f) Appeals**

(1) Procedure. Any person aggrieved by a decision of an administrative officer in the enforcement of *Chapt. 211, Tex. Loc. Gov't. Code*, or this ordinance, or any officer, department, board or bureau of the City affected by any such decision by an administrative officer, may appeal such decision to the Board. Such appeal shall be made by filing with the office of the Board and the officer whose action is being appealed, a notice of appeal specifying the grounds thereof. The officer from which the appeal is taken shall forthwith transmit to the Board a certified, true and correct copy of all of the papers constituting the record upon which the action appealed from is taken.

(2) Stay of Proceedings. An appeal shall stay all proceedings in furtherance of the action appealed from, unless the officer whose decision is appealed shall certify to the Board that by reason of facts stated in the certificate, a stay would, in his or her opinion, cause imminent peril to life or property, in which case proceedings shall not be stayed other than by restraining order granted for just cause by the Board, or by a court of record, after notice to the officer from whom the appeal is taken.

(3) Notice of Hearing on Appeal. The Board shall fix a reasonable time for the hearing of the appeal or other matter referred to it, and shall give public notice of the hearing and due notice to the parties in interest. The Board shall mail notices of such hearing to the petitioner, to the owners of the property that is the subject of the hearing, to the owners of property lying within two hundred (200) feet of any point of the lot or portion thereof that is the subject of the appeal or variance request, the Building Official and the Director of Planning. The owners of property shall be determined according to the current tax rolls of the City, and the deposit of the notice in the U.S. mail, addressed to the name and address on the tax rolls, postage prepaid, shall be deemed actual notice and full compliance with the requirements of this Ordinance for notice.

(4) Decision by Board. The Board shall decide appeals within a reasonable time. Any party to the appeal may appear in person or by agent or attorney at any hearing. The Board may, upon the concurring vote of four (4) members, reverse or affirm, in whole or in part, or modify the administrative official's order, requirement or decision, and make the correct order, requirement, decision, or determination on the matter appealed from and shall make such order, requirement, decision or determination as in its opinion ought to be made, and to that end, shall have all powers of the officer or department from whom the appeal is taken. The Board shall promptly file in the office of the Building Official and City Secretary a written decision on each appeal and variance request. The decision shall be signed by the Board Chair or, as applicable in his/her absence, the Vice Chair of the Board.

**(g) Powers and Duties of the Board**

The Board shall have authority and jurisdiction to hear appeals from the decisions of an administrative official in the interpretation and application of this Ordinance, and to hear and consider variance requests only as authorized by *Chapt. 211*, and this Ordinance.

(1) Appeals Based on Error. The Board shall have the power to hear and decide appeals based solely upon the applicable law and facts, where it is alleged there is error in any order, requirement, decision, or determination made by an administrative official in the enforcement of *Chapt. 211, Tex. Loc. Gov't. Code*, or this Ordinance.

(2) Special Exceptions. The Board shall have the power to hear and decide special exceptions to the terms of this Ordinance when this ordinance by specific provision authorizes the Board to do so. Such special exceptions shall be as follows:

(i) To permit a public utility or public service use or structure in any district as necessary to house equipment, pumps, switching gear, and similar devices only, required for the provision of the utility service or a public utility or public

service building of a ground area and of a height at variance with those provided for in the district in which such public utility or public service building is permitted to be located, when found reasonably necessary for the provision of utility service and the public health, convenience, safety or general welfare.

(ii) Authorize a variance from the parking and loading requirements in any of the districts whenever the character or use of the building is such as to make unnecessary the full provision of parking or loading facilities, and where the topography or unusual shape of the lot and regulations would impose an unreasonable hardship upon the use of the lot, as contrasted with merely granting an advantage or a convenience.

(iii) The Board shall have the authority to recommend to the Council the classification of any use not specifically named in this ordinance, in cases of uncertainty; and that Council consider authorizing and granting a special use permit or otherwise amending this Ordinance, in those instances where:

a. A business, commercial or industrial use that requires less restrictive zoning be permitted within 300 feet of the boundary of such a required zoning district but in an abutting more restrictive commercial or industrial district, because of the methods by which it would be operated and its limited effect upon uses within surrounding zoning districts; or

b. In those cases where an extension of use authorized in subsection (h)(iii) below should be considered for an extension beyond the 100 foot limitation, or beyond the lot line.

**(h) Variances**

The Board shall have the power to authorize upon application for variance in specific cases when such variance from the terms of this Ordinance as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of this Ordinance will result in unnecessary hardship, and so that the spirit of this ordinance shall be observed and substantial justice done, including the following:

(1) Yard and Setback. Permit a variance in the yard requirements of any district where there are unusual and practical difficulties or unnecessary hardship in the carrying out of these provisions due to an irregular shape of the lot, topography or other conditions; provided that such variance will not significantly affect any adjoining property or the general welfare.

(2) Structures. Authorize upon appeal, whenever a property owner can show that a strict application of the terms of this Ordinance relating to the construction or alteration of a building or structure or the use of land will impose unusual and practical difficulties or particular hardship, such variances from the strict application of the terms of this Ordinance as are in harmony with its general purpose and intent, but only when the Board is satisfied that a granting of such variance will not merely serve as a convenience to the applicant, but will alleviate some demonstrable and unusual hardship or difficulty so great as to warrant a variance as established by this Ordinance, and at the same time, the surrounding property will be properly protected; provided that the Board shall not in any event permit a use on any property that is not permitted within the Zoning category for which such property is zoned.

(3) Extension of Use. To grant a permit for the extension of a use, height, area, site and/or architectural regulation into an adjoining district to include an entire legal lot but not to exceed an extension of 100 feet, where the boundary line of the district divided a lot under single ownership on the effective date of this ordinance.

**(i) Subpoena Witnesses**

The Board shall have the power to subpoena witnesses, administer oaths, and punish for contempt, and may require the production of documents, under such regulations as it may establish.

**(j) Changes**

The Board shall have no authority to change any provision of this Ordinance and its jurisdiction is limited to hardship and borderline cases which may arise from time to time.

## SECTION 5: CONDITIONS FOR ISSUING A BUILDING PERMIT

No Building Permit shall be issued for any new structure or change, improvement or alteration of any existing structure, on any lot or tract of land and no municipal utility service will be furnished to such lot or tract which does not comply with the provisions of this ordinance and all applicable elements of the Comprehensive Plan, except as herein exempted or upon the written application and approval of a variance as authorized by this ordinance.

## SECTION 6: CERTIFICATES OF OCCUPANCY

**(a) Application**

Certificates of occupancy shall be required for any of the following:

(1) Occupancy and use of a building hereafter erected or structurally altered.
(2) Change in use of an existing building to a use of a different classification.
(3) No such occupancy, use or change of use, shall take place until a Certificate of Occupancy therefore shall have been issued by the City Building Official.

**(b) Procedure**

(1) Written application for a Certificate of Occupancy for a new building or for an existing building, except a dwelling and lodging house, which is to be altered shall be made at the same time as the application for the Building Permit for such building. Said Certificate shall be issued within three (3) days after a written request for the same has been made to said City Building Official or his agent after the erection or alteration of such building or part thereof has been completed in conformity with the provisions of this ordinance.
(2) Written application for a Certificate of Occupancy for the use of vacant land or for a change in the use of land or a building, or for a change in a non-conforming use, as herein provided shall be made to the City Building Official. If the proposed use is in conformity with the provisions of this ordinance, the Certificate of Occupancy shall be issued within three (3) days after the application for same has been made.

**(c) Approval**

Every Certificate of Occupancy shall state that the building or the proposed use of a building or land complies with applicable provisions of law. A record of all Certificates of Occupancy shall be kept in file in the office of the City Building Official or his agent and copies shall be furnished on request to any person having proprietary or tenancy interests in the building or land affected.

**(d) Temporary Certificate of Occupancy**

Pending the issuance of a regular Certificate of Occupancy, a temporary certificate may be issued by the City Building Official for a period not exceeding six (6) months, during the completion of alterations or during partial occupancy of a building pending its completion. Such temporary certificates shall not be construed as in any way altering the respective rights, duties or obligations of the owners or of the City relating to the use or occupancy of

the premises or any other matter covered by this ordinance. Applicant is responsible for all additional inspections required for temporary certificates of occupancy.

**(e) Non-conforming Uses**

A Certificate of Occupancy shall be required for all lawful non-conforming uses of land or buildings created by adoption of this ordinance. Application for such Certificate of Occupancy for a non-conforming use shall be filed with the City Building Official by the owner or lessee of the building or land occupied by such non-conforming use within one (1) year of the effective date of this ordinance. It shall be the duty of the City Building Official to issue a Certificate of Occupancy for a lawful non-conforming use, or refusal of the City Building Official to issue a Certificate of Occupancy for such non-conforming use shall be evidence that said non-conforming use was either illegal or did not lawfully exist on the effective date of this ordinance.

## SECTION 7: FEES

To defray the costs of administering this ordinance, the applicant seeking zoning approvals shall pay to the City, at the time of submittal, the prescribed fees as set forth in the current administrative fee schedule approved by the Council, and on file in the office of the City.

## SECTION 8: AMENDMENTS OR REPEAL

Ordinance numbered 02-016-00, 02-029-00, 02-029-01, 02-029-02, 02-029-03, 02-029-04, 02-029-05, 02-029-06 and 04-039-00 are hereby amended in their entirety and all ordinances or parts thereof conflicting or inconsistent with the provisions of this ordinance, are hereby amended to the extent of such conflict. In the event of a conflict or inconsistency between this ordinance and any other code or ordinance of the City, the terms and provisions of the more restrictive ordinance shall govern. The Council may, from time to time, adopt, amend and make public rules and regulations for the administration of this ordinance. This ordinance may be enlarged or amended by the Council after public hearing, due notice of which shall be given as required by law.

## SECTION 9: VIOLATIONS

Except as otherwise provided for in this ordinance, it shall be unlawful for any person, firm or corporation to develop, improve or sell any lot, parcel, tract or block of land within the City's territorial jurisdiction for other than agricultural purposes, regardless of the size or shape of said lot, parcel, tract or block, unless such lot, parcel, tract or block of land conforms with this ordinance.

## SECTION 10: ENFORCEMENT

**(a) Penalty**

(1) Penalty. Any person who shall violate any of the provisions of this ordinance, or shall fail to comply therewith, or with any of the requirements thereof, within the City limits shall be deemed guilty of an offense and shall be liable for a fine not to exceed the sum of two thousand dollars ($2000.00). Each day the violation exists shall constitute a separate offense. Such penalty shall be in addition to all the other remedies provided herein

(2) Administrative Penalty. Any person who removes a Significant Tree greater than 8 inches in caliper prior to approval of a tree preservation plan, or who removes a Significant Tree greater than 8 inches in caliper that is not authorized to be removed under an approved tree preservation plan shall be charged and shall pay a fee of $300 per inch for each Significant Tree greater than 8 inches in caliper removed in violation of this ordinance. The City will rely on remaining evidence on site to

determine if a violation of this ordinance has occurred. For enforcement purposes the City will consider that any stump remaining on the property which is eight inches or more in diameter measured at ground level or higher was a stump of a Significant Tree greater than 8 inches in caliper. Furthermore, any cut wood discovered on site will be considered evidence of a Significant Tree greater than 8 inches in caliper if the diameter of the cut wood is measured at eight inches or greater at any point on any piece of cut wood. A site development or building permit application for property from which one or more Significant Trees have been removed in violation of this ordinance may not be approved until an administrative

(3)

**(b) Administrative Action**

The Director of Planning, Building Official, City Engineer and/or the City Manager shall enforce this ordinance by appropriate administrative action and the issuance of stop work orders, including, but not limited to, rejection of plans, plats, certificates of occupancy and specifications not found to be in compliance with this ordinance and good engineering practices.

**(c) Court Proceedings**

Upon the request of the City Council, the City Attorney or other authorized attorney shall file an action in the district courts to enjoin the violation or threatened violation of this ordinance, or to obtain declaratory judgment, and to seek and recover court costs and attorney fees, and/or to recover damages in an amount sufficient for the City to undertake any construction or other activity necessary to bring about compliance with a requirement regarding the property and established pursuant to this ordinance.

**(d) Conflicting Provisions**

(1) Conflict with State or Federal Regulations: If the provisions of this ordinance are inconsistent with state or federal law, this ordinance shall be construed, applied and administered consistent with such state or federal law.

(2) Conflict with Other City Regulations: If the provisions of this ordinance are inconsistent with one another or if they conflict with provisions found in other adopted ordinances or regulations of the City, the more restrictive provision will control.

(3) Conflict with Private Agreements: It is not the intent of this ordinance to interfere with, abrogate or annul any easement, covenant, deed restriction or other agreement between private parties. If the provisions of this ordinance impose a greater restriction than imposed by a private agreement, the provisions of this ordinance will control. The City shall not be responsible for monitoring or enforcing private agreements.

(4) The terms and provisions of the Code and the Community Plan adopted for the Transit Oriented Development shall, as to permitted uses and other provisions specifically applicable therein, govern and control within the geographic area that is included within such Community Plan, when in conflict with this ordinance.

## SECTION 11: SEVERABILITY

Should any section or provision of this ordinance be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the ordinance as a whole or any part thereof other than the part so declared to be unconstitutional or invalid.

## SECTION 12: TRANSITIONAL PROVISIONS

**(a) Violations Continue:**

Any violation of the previous zoning regulations of the City shall continue to be a violation under this ordinance and shall be subject to penalties and enforcement unless the use, development, construction or other activity is consistent with the express terms of this ordinance, in which case enforcement action shall cease, except to the extent of collecting penalties for violations that occurred before the effective date of this ordinance.

**(b) Applications Prior to Effective Date**

A completed application submitted prior to the effective date of this ordinance will be reviewed on the basis of any regulations or requirements in effect at the time the completed application is filed; unless, at the applicant's option, the applicant elects to proceed under the terms and provisions of this ordinance.

**(c) Zoning Regulations Affecting Appearance of Buildings or Open Space**

(1) This subsection applies only to a zoning regulation that affects:
   - (i) The exterior appearance of a single-family house, including the type and amount of building materials;
   - (ii) The landscaping of a single-family residential lot, including the type and amount of plants or landscaping materials or tree preservation; or
   - (iii) Lot size, lot coverage or building size.

(2) A zoning regulation adopted after the approval of a residential subdivision plat does not apply to that subdivision until the second anniversary of the later of:
   - (i) The date the plat was approved; or
   - (ii) The date the City accepts the subdivision improvements offered for public dedication.

(3) This section does not prevent the City from adopting or enforcing applicable building codes or prohibiting the use of building materials that have been proven to be inherently dangerous.

**(d) Applicant Claiming Exemption**

Any applicant that claims exception from any provision of this ordinance based upon a claim of vested rights shall file a Request for Vested Rights Determination with the Director of Planning demonstrating:

(1) In reliance upon properly issued permits or approvals:
   - (i) The applicant made substantial financial commitments or assumed substantial financial obligations within the purview of the activities authorized by said permit or approval; and
   - (ii) The applicant has proceeded in good faith, and no approvals or permits have lapsed or been revoked; or
   - (iii) The applicant has established any other factor which may establish vested rights under State or federal law; or

(2) The applicant used its property or filed an application as provided in Texas Local Government Code, Section 43.002 prior to annexation, and that the regulations against which vested rights are claimed are not subject to an exemption as provided in Texas Local Government Code, Section 43.002(c); or

(3) The applicant filed an application as provided in Texas Local Government Code Chapter 245 prior to adoption of the regulations against which vested rights are claimed, that the regulations against which vested rights are claimed are not subject to an exemption as provided in Texas Local Government Code Section

245.004 and that the project has not become dormant as defined in Texas Local Government Code section 245.005, or

(4) Prior to six months after adoption of this ordinance by the City Council, the applicant applied for permit(s) under rules in effect immediately prior to the adoption of this ordinance instead of the rules contained in this ordinance and the applicant can demonstrate that he/she made a significant investment or is contractually committed to make such investment, for design work or facilities prior to July 13, 2005 and the applicant proposes to utilize the old rules in effect prior to the adoption of this ordinance only to the extent that such design work or facilities are in non-compliance with this ordinance, are in compliance with the rules in effect immediately prior to the adoption of this ordinance and such work or facilities would be irretrievable or could not be reasonably altered to comply with this ordinance.

(5) After receiving a Request for Vested Rights Determination, the Director of Planning shall review the request and approve, deny or request additional information to be provided for consideration of the request within 20 working days. Upon review of the request, if the Director of Planning finds that the applicant has provided sufficient information to establish that one or more permits exists on a project, the Director shall issue a certificate to the applicant recognizing vested rights for the project and the terms and conditions required for the continuance of the vested rights.

(6) This section shall not extend the time of validity for any permit. Any rights recognized by the application of this section shall not extend beyond the time periods prescribed for the validity of the permit or permits that were submitted for recognition except by the granting of a variance from the time limit as provided herein.

## SECTION 13: CODE OF ORDINANCES

This ordinance shall become a part of the Code of Ordinances of the City of Leander, Texas, and may be renumbered and codified therein accordingly.

## SECTION 14: EFFECTIVE DATE

This ordinance shall take effect immediately from and after its passage and publication in accordance with the provisions of the City Charter of the City. Prior to January 13, 2006, applicants may apply for permits under rules in effect immediately prior to the adoption of this ordinance instead of the rules contained in this ordinance if he/she can demonstrate that he/she made a significant investment or is legally committed to make such investment, for design work or facilities prior to July 13, 2005 and then only to the extent that such design work or facilities are in non-compliance with this ordinance, are in compliance with the rules in effect immediately prior to the adoption of this ordinance and such work or facilities would be irretrievable or could not be reasonably altered to comply with this ordinance

## SECTION 15: OPEN MEETINGS

It is hereby officially found and determined that the meeting at which this ordinance is passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act.