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**(B) the means used to secure the building are inadequate to prevent unauthorized entry or use of the building in the manner described in subparagraph (2) above. .... 34**

**(I) The structure does not have adequate light, ventilation, or sanitation facilities as required by the City's building code and plumbing code..... 35**

**(A) submits a detailed plan and time schedule for the work at the hearing; and ..... 37**

**(B) establishes at the hearing that the work cannot reasonably be completed within 90 days because of the scope and complexity of the work. .... 37**

**(A) an identification, which is not required to be a legal description, of the building and the property on which it stands;..... 39**

**(B) a description of the violation of the standards set forth above that is present at the building; and..... 39**

**(C) a statement that the City will vacate, secure, remove, or demolish the building or relocate the occupants of the building if the ordered action is not taken within a reasonable time. .... 39**

**(A) file a copy of the order in the office of the City secretary; and ..... 39**

**(B) publish in a newspaper of general circulation in the City of Buda a notice containing: ..... 39**

**(A) the property owner was notified of the requirements of the ordinance and the owner's need to comply with the requirements; and ..... 42**

**(B) after notification, the property owner committed an act in violation of the ordinance or failed to take an action necessary for compliance with the ordinance. .... 42**

## **Chapter 1 General Provisions**

### **Section 1.1 Purposes and Intent**

- (1) The purpose of the Unified Development Code (UDC or Code) is to promote the public health, safety, general welfare and quality of life of the present and future citizens of the City of Buda.
- (2) Words with a special meaning relative to the goals and purposes of this Unified Development Code are defined in Appendix B. Words not listed in this section shall be defined using the Webster's Third New International Dictionary, unabridged.

### **Section 1.2 Consistencies with the Comprehensive Plan**

The City of Buda's Comprehensive Plan, as adopted and as amended and periodically updated, is the policy guide for the development of the Unified Development Code (Code). These policies act as a guideline and should not be construed as development regulations. The following General Land Use Policies from the Comprehensive Plan have been used in the development of this Code in order to ensure that land development within the City of Buda jurisdictional area is in accordance with the City of Buda Comprehensive Plan:

- (1) Growth Management
  - a. New development must be compatible with existing development and community character.
  - b. New development must maintain the small town character, look and feel of the community.
  - c. New development must occur in a fiscally responsible manner for the City.
- (2) Environmental Protection
  - a. Development shall preserve and protect waterways and floodplains.
  - b. Development shall preserve and protect surface and ground water resources and hydrologically-active areas.
  - c. Developers shall cooperate with local governmental entities to ensure water quality.
  - d. Development shall seek public acquisition of open space or develop conservative development options for areas of environmental concern.
  - e. Development shall preserve and protect air quality.
  - f. Agricultural and ranch lands should be priority areas for open space preservation. The City will work with landowners who are interested in conservation easements.
  - g. Development shall promote and encourage water conservation practices.
  - h. Development shall promote awareness and implementation of Best Management Practices (BMPs) for purposes of water quality and land conservation (i.e., increase awareness of the impacts of the use of certain pesticides on the drinking water supply).

- (3) Housing
  - a. Development shall provide housing alternatives for all income levels within Buda's jurisdictional area.
  - b. Development shall improve existing housing inventory.
  - c. Development shall encourage safe housing construction.
  - d. Development shall encourage housing that is compatible with existing neighborhoods and land uses.
  - e. Development shall promote cluster development when and where appropriate.
- (4) Economic Development
  - a. Development shall promote economic development opportunities along I-35 and along major arterials.
  - b. Development shall promote quality development that is compatible with neighboring areas.
  - c. Development shall be consistent with community character.
  - d. Development shall enhance downtown area for area residents and tourists.
  - e. Development shall promote economic development consistent with other land use policies.
- (5) Historic Preservation
  - a. Development shall preserve and enhance historic areas and sites throughout the City's jurisdictional area.
  - b. Development shall preserve the community character (e.g., residential street setbacks, architectural styles and layouts).
  - c. Development shall use community history to promote tourism and economic development.
  - d. Development shall preserve significant archaeological sites throughout the City's jurisdictional area.
- (6) Parks and Recreation
  - a. Development should connect existing and future parks.
  - b. Development shall encourage maintenance and safety of parks and recreation resources.
  - c. Development shall provide and preserve open space and parkland in new neighborhoods and associated with new schools.
- (7) Circulation
  - a. Development shall provide more east-west connectivity.
  - b. Development shall reduce truck traffic through downtown and encourage alternative routes south of downtown.
  - c. Development shall provide for safe and ample pedestrian connectivity throughout new and/or existing developments, including schools, park sites, and commercial areas.
  - d. Development shall improve access across and under I-35.
  - e. Development shall encourage streets and street network designs to be interconnected to provide ample, safe, and appropriately scaled access through and between neighborhoods and to commercial centers.
  - f. Development shall encourage adequate parking and layouts of parking to be provided for new commercial, office and retail development, provided that the parking fields do not deter ease of pedestrian access into and through new

- developments, and do not deter or detract from community character (e.g., maximum parking limits).
- g. Development shall ensure that access is safely managed and integrated into land use and site designs.
- (8) Urban Design
- a. Development shall encourage and provide incentives for blending of land uses and mixed-use development.
  - b. Neighborhoods should be the primary organizing element of new, higher density developments, each including civic spaces and access to commercial districts.
  - c. Development shall utilize compatibility standards for adjoining land uses (e.g., building façade, landscape and buffer standards).
  - d. Development shall utilize streetscape design criteria to encourage safe and desirable pedestrian access and community attractiveness.
  - e. Development shall utilize height restrictions for commercial and multifamily development.
  - f. Development shall utilize appropriate building area and bulk regulations, configurations, project scales and some architectural design guidelines for new developments within the community.
  - g. Signage should not detract from the visual integrity of the community.
  - h. Lighting associated with signage, buildings or areawide development should not pose a safety or environmental concern, and should be addressed in an aesthetically pleasing manner, when possible and appropriate – particularly as it relates to the impact on existing or new residential development.
- (9) Civic and Public Spaces
- a. Civic buildings and civic space should be given prominent sites.
  - b. Elementary school sites should be provided as new neighborhood developments are approved, so as to be within walking distance of a majority of the dwelling units in adjoining neighborhoods. This should be coordinated with the appropriate school district.

### **Section 1.3 Authority**

Chapter 2 sets forth the specific responsibilities and authority for each administrative official and review entity as it relates to the implementation of this Code. Chapters 211 and 212 of the Texas Local Government Code together with the general police powers of municipalities empower the City to adopt this Unified Development Code.

### **Section 1.4 Jurisdiction**

#### (1) Within City Limits

The City of Buda has the statutory authority to exercise a broad range of powers within its city limits. Many of those powers are specifically authorized by Chapters 211 and 212 of Texas Local Government Code (LGC). Pursuant to such authority, all chapters and sections of the UDC shall apply to all areas within the city limits of Buda. All structures, land uses, businesses, subdivisions, or property development

constructed or commenced after the effective date of the UDC and all enlargements of, additions to, changes in or relocations of existing structures, land uses, businesses, subdivisions, or property developments occurring after the effective date of the UDC are therefore subject thereto.

(2) Within Extraterritorial Jurisdiction (ETJ)

The City of Buda may extend to its ETJ the regulation of subdivisions and property development adopted under LGC Chapter 212. However, unless otherwise authorized by state law, within its ETJ, the City may not regulate:

- a. the use of any building or property for business, industrial, residential, or other purposes;
- b. the bulk, height, or number of buildings constructed on a particular tract of land;
- c. the size of a building that can be constructed on a particular tract of land, including without limitation any restriction on the ratio of building floor space to the land square footage;
- d. the number of residential units that can be built per acre of land; or
- e. the size, type, or method of construction of a water or wastewater facility that can be constructed to serve a developed tract of land if:
  1. the facility meets the minimum standards established for water or wastewater facilities by state and federal regulatory entities; and
  2. the developed tract of land is:
    - a. located in a county with a population of 2.8 million or more; and
    - b. served by:
      1. on-site septic systems constructed before September 1, 2001, that fail to provide adequate services; or
      2. on-site water wells constructed before September 1, 2001, that fail to provide an adequate supply of safe drinking water

### **Section 1.5 Applicability**

(1) Future Development

This Code shall apply to all matters pertaining to the use and development of land within the jurisdiction described in Section 1.4 above. The Code applies to all public buildings and private land(s), and use(s) thereon, over which the City has jurisdiction under the constitution(s) and law(s) of the State of Texas and of the United States.

(2) Existing Development

Hereafter, no building or structure shall be erected, demolished, remodeled, reconstructed, altered, enlarged, or relocated in the City of Buda and ETJ except in compliance with the provisions of this Code; and then only after securing all required permits and licenses. Any building, structure, or use lawfully existing at the time of passage of this Code, although not in compliance therewith, may be maintained as provided in Chapter 4, Zoning, Section 4.13, Nonconforming Uses.

### **Section 1.6 Minimum Requirements**

- (1) The provisions of this Code shall be interpreted and applied as the minimum



requirements for the promotion of public health, safety, and general welfare.

- (2) Whenever the requirements of this Code are in conflict 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 City Manager will apply.
- (3) The issuance of any permit, certificate or approval in accordance with the standards and requirements of this Code shall not relieve the recipient of such permit, certificate or approval from the responsibility of complying with all other applicable requirements of any other municipality, special district, state or federal agency having jurisdiction over the structures or land uses for which the permit, certificate or approval was issued.

### **Section 1.7 Effective Date**

This Code shall become effective and be in full force and effect immediately following its passage and approval by the City Council, as duly attested by the Mayor and City Secretary.

### **Section 1.8 Severability**

If any section or part of this Code is held by a court of competent jurisdiction to be unconstitutional or invalid, such judgment shall not affect, impair or invalidate the remaining provisions of this Code but shall be confined in its operation to the specific sections of this Code that are held unconstitutional or invalid. The invalidity of any section of this Code in any one or more instances shall not affect or prejudice in any way the validity of this Code in any other instance.

### **Section 1.9 Projects in Transition**

The purpose of this section is to provide guidance to those development projects that have received some form of municipal approval prior to the date of enactment of this Code. More detailed information regarding Vested Rights and Non-conforming uses can be found in Chapter 4.

- (1) Projects in Construction
  - a. Building Permits - Nothing in this Code shall require any change in plans, construction, size or designated use of any building, structure or part thereof that has been granted a building permit prior to the effective date of this Code, or any amendment to this Code, provided construction shall begin consistent with the terms and conditions of the building permit and proceed to completion in a timely manner.
  - b. Approved Site Plans -Nothing in this Code shall require a change in site plan approved prior to the effective date of this Code, provided a building permit is issued prior to expiration of the site plan, and construction begins consistent with the terms and conditions of the building permit and proceeds to completion in a timely manner.

- c. Violations Continue - Any violation of the previous zoning and sign ordinances or subdivision and site development regulations of the City shall continue to be a violation under this Code and shall be subject to penalties and enforcement under Chapter 12, Enforcement, unless the use, development, construction or other activity is consistent with the express terms of this Code, in which case enforcement action shall cease, except to the extent of collecting penalties for violations that occurred prior to the effective date of this Code.
- (2) Dormant Plats  
Any minor plat, replat, amending plat, preliminary plan, or final plat approved pursuant to Subdivision Regulations in effect prior to the date of enactment of this Code that is dormant according to the provisions of Texas LGC §245.005 will expire May 11, 2004. The City Manager shall review all such cases and send written notice to an applicant stating when an issued permit will expire as provided in Section 4.16.
  - (3) Legal Nonconformities Under Prior Ordinances - Any legal nonconformity under the previous Zoning Ordinance will be a legal nonconformity under this Code as provided in Section 4.13, as long as the situation that resulted in the nonconformity under the previous Zoning Ordinance still exists.

### **Section 1.10 Updates or Amendments**

The purpose of this section is to provide for updates to the Code in order to modify procedures and standards for workability and administrative efficiency, eliminate unnecessary development costs, and update the procedures and standards to reflect changes in the law or the state of the art in land use planning and urban design.

- (1) Any person may provide a request for amendment to the Code to the City Manager. The request for amendment shall be labeled "Code Amendment Request" and shall include a summary of the proposed changes, the reason for the proposed changes, and suggested text amendments.
- (2) The City Manager shall receive the amendment request and shall refer the proposed amendments to the Planning and Zoning Commission.
- (3) The Manager or the Planning and Zoning Commission may conduct workshops to informally discuss the Code Amendment Requests with neighborhoods, developers, homebuilders, design professionals, and other stakeholders in the development process.
- (4) The Planning and Zoning Commission shall refer the Code Amendment Request to the City Council with recommendations for amendments to the Code.
- (5) Code Amendment Requests shall serve a legitimate purpose. The City Manager will review each request and make a determination on whether the request serves a legitimate purpose. The City Manager will forward the requests as described above and notify individuals who submitted an Amendment Request of the status

of their request. An individual whose request is denied by the City Manager and who disagree with the decision, can petition the City Council to consider his/her request. The City Council will make a final determination as to whether the request should be forwarded to the Planning and Zoning Commission per the procedure described above.

**Section 1.11 Violations**

See Chapter 12, Enforcement.

**Section 1.12 Validity**

The issuance or granting of a permit or approval of plans or plats, site or facility designs, or specifications shall not be construed to be a permit for, or an approval of, any violation of any provision of this Code or any other City ordinance. No permit purporting to give authority to violate or cancel the provisions of this Code shall be valid, except insofar as the work or use that it authorizes is lawful and conforms to the requirements of this Code or a variance or modification granted pursuant to this Code.

## **Chapter 2 Review Authority and Procedures**

### **Section 2.1 General**

- (1) Purpose  
The purpose of this Chapter is to establish the responsibilities and structure for administering and enforcing this Unified Development Code (Code), including the reviewing authority and minimum review procedures that will be followed by each reviewing authority. Chapter 3 provides supplemental information to the review procedures described in Chapter 2.
- (2) Conformity with Development Regulations  
All City officials and employees with the responsibility or authority to issue a permit, certificate or license are prohibited from issuing a permit or license for any use, building, or purpose that conflicts with any provision of this Code. Any permit, certificate or license issued in conflict with the provisions of this Code is null and void.

### **Section 2.2 Responsibility of Property Owner and/or Applicant**

- (1) It is the responsibility of an applicant to provide accurate and complete information and plans to comply with the requirements of this Code and all applicable laws and regulations. The City of Buda is not responsible for the accuracy of information or plans provided to the City for its review or approval.
- (2) The City or its representatives may inspect any development activity to enforce the provisions of this Code. By submitting an application to the City, the applicant consents to entry upon the site by the City or its representatives during regular business hours for the purpose of making reasonable inspection to verify information provided by the applicant and to verify that work is being performed in accordance with the approved plans and permits and the requirements of this Unified Development Code.
- (3) The use of the following terms in this Code refers to the person, entity, or agent thereof who may apply for an approval or a permit or another decision of the City under this Code. All such terms shall be considered interchangeable. The terms include the following: owner, owner's agent, landowner, property owner, applicant, developer, and subdivider.

### **Section 2.3 Administrative Officials and Review Entities**

- (1) City Manager  
The administrative official for the purposes of this Chapter shall be the City Manager and his assistants, deputies, and department heads insofar as they may

be charged by the City Manager and the provisions of this chapter with duties and responsibilities referenced in this Chapter and Chapter 3. The City Manager or his designee shall ordinarily administer and enforce the provisions of this Code. The City Manager shall serve as staff to the Planning and Zoning Commission, Board of Adjustments (BOA), Parks and Recreation Commission, Historic Preservation Commission, and the City Council except where otherwise provided by this Chapter.

a. Powers and Duties

The City Manager has the following powers and duties:

(i) Final Action

The City Manager is responsible for taking final action on the following procedures described in this Code and according to the specific criteria for each procedure as described in the Code.

1. Certificate of Zoning Compliance
2. General Development Plan Compliance
3. Subdivision Plat Compliance
4. Master or Common Sign Plan
5. Temporary Use Permit
6. Administrative Plat Review
7. Minor Plat or Amending Plat. (If the City Manager does not approve such a plat, the plat must automatically be forwarded to the Planning and Zoning Commission under the Subdivision Plat Review procedure.)
8. Site Development Permit

(ii) Review and Report

The City Manager will review and make either a report or recommendation to the Historic Preservation Commission, BOA, Planning and Zoning Commission, Parks and Recreation Commission, or City Council, as required pursuant to the Code, on the following procedures:

1. General Development Plan
2. Preliminary Plan Review
3. Final Plat Review
4. Special Use Permit
5. Planned Unit Development
6. Comprehensive Plan Amendment
7. Zoning Map Amendment (Rezoning)
8. Unified Development Code Text Amendment
9. Annexation

(iii) Additional Duties

The City Manager shall have the following additional duties:

1. To comply with any other duty or responsibility clearly assigned to the City Manager elsewhere in this Code;
2. To enforce all provisions of this Code;
3. To meet with potential applicants in preapplication conferences as described in this Code;
4. To act and serve as staff for each review body designated by this Code; and
5. To render advice and guidance, upon reasonable request of any property owner, or its agent, or occupant, on development or new

- construction or the restoration, alteration or maintenance of any historic resource or other building within the City.
- b. Compliance with Rules and Procedures
    - (i) The City Manager shall comply with any specific procedures described in this Code.
    - (ii) The City Manager may develop administrative rules or additional procedures to clarify implementation of this Code, provided that such rules or procedures are approved by the City Council prior to their implementation or enforcement, and provided further that additional procedures do not violate any other provisions of this Code.
    - (iii) The City Manager will develop an Administrative Procedures Manual for application requirements for all procedures described within or developed pursuant to this Code. Such requirements must be sufficient to permit the Manager to effectively review the application and for the final approving authority to render an informed decision.
      - 1. Application requirements must be consistent with state law.
      - 2. The Manager may waive application requirements when appropriate, but may not require additional submission requirements after an application has been determined to be complete.
    - (iv) Interpretation of the Code.

Whenever there appears to be an uncertainty, vagueness, or conflict in the terms of the Code, the Manager, in consultation with the staff, city engineer, or city attorney, as may be appropriate, shall make every effort to interpret the Code in such a way that it fulfills the goals of the Comprehensive Plan and the UDC. The interpretation given by the Manager shall be final unless an appeal is made by the applicant to the City Council or Board of Adjustment to review and overturn his decision. In such a case the burden shall be on the applicant to prove that the Manager's interpretation is unreasonable and in clear conflict with the governing law and the goals of the Comprehensive Plan.
- (2) City Engineer
- a. Designation

The City Manager will appoint a City Engineer to function as described in this Code. The City Engineer is an advisor to the City Manager. As such, the City Engineer's powers are delegated by the City Manager, and in the case of conflict, the City Manager's decision will prevail. This does not allow the City Manager to make decisions that require the certification of a registered professional engineer, only that the authority delegated to the City Engineer stems from the City Manager and can be revoked in the case of conflict. The City Engineer must be a registered professional engineer, licensed by the State of Texas and competent in the design and review of land development and urban public works.
  - b. Powers and Duties
    - (i) Final Action

The City Engineer is responsible for taking final action on the following procedure described in this Code, subject to the specific criteria for the procedure as described in the Code:

      - 1. Approval of Master Drainage Plans
      - 2. Approval of Street and Drainage Plans

3. Approval of Water Distribution Plans
  4. Approval of Wastewater Plans
  5. Approval of Electric, Telephone and Telecommunications Plans
  6. Approval of Water Quality Controls
- (ii) Review and Report  
The City Engineer will review and make either a report or recommendation to the City Manager, Planning and Zoning Commission or City Council on the following procedures, subject to the terms and conditions set forth for such procedures in this Code:
1. General Development Plan
  2. Preliminary Plan and Final Plat Review
  3. Administrative Plat Review
  4. Site Plan Review
- c. Compliance with Rules and Procedures
- (i) The City Engineer shall comply with any specific procedures or technical criteria described in this Code.
  - (ii) The City Engineer may develop and implement additional procedures or technical criteria to clarify implementation of this Code, provided that such procedures or criteria are approved by the City Manager prior to their implementation and enforcement, and provided further that the additional procedures do not violate any other provisions of this Code.
- (3) Historic Preservation Commission (HPC)
- a. General  
The regulations and restrictions of the Historic Preservation Commission (HPC) for the City of Buda shall be pursuant to the provisions of applicable statutory requirements of the State of Texas.
  - b. Powers and Duties  
The HPC shall be responsible for hearing and making recommendations to the Planning and Zoning Commission and City Council on the following procedures:
    - (i) Historic District Designation
    - (ii) Additional Duties  
The HPC has the following additional duties:
      1. To act and assist the City in formulating design guidelines and other supplemental materials relevant to historic preservation or design review;
      2. To render advice and guidance, upon request of the property owner, its authorized agent, or occupant, on new construction or the restoration, alteration or maintenance of any historic resource or other building within the District; and
      3. To perform any other functions requested by the City Council.
  - c. Membership and By-Laws  
The HPC will be constituted and conduct all activities in accordance with this Code and all other applicable Codes, and any adopted By-Laws. The HPC shall submit its proposed bylaws to the City Council for approval before the HPC becomes effective.
  - d. HPC Review Process  
The HPC review process will be required for any permit or application for a property located within a Historic District, as described in this Code.

- (i) **Initiation**

Initiation of an HPC review process may be made upon application by the property owner of the affected property or its authorized agent, or the occupant, to the City Manager.
  - (ii) **Application**

Application must be submitted in a format consistent with requirements determined by the City Manager. Applications must include all materials determined necessary by the City Manager. Format requirements and submittal materials required for the application will be made available by the City Manager in advance of any application.
  - (iii) **Completeness Determination**

Upon submission of an application, the City Manager will determine whether the application is complete, as described in Chapter 3.
  - (iv) **Staff Review**

Once a procedure has been initiated and the application deemed complete, the City Manager will review the application, considering any applicable criteria for approval and prepare a report to the HPC.

    - 1. The City Manager may establish procedures for administrative review necessary to facilitate compliance with this Code and state statutes.
    - 2. The Manager may assign staff to review the application and make a preliminary report to the Manager.
    - 3. The Manager's report may include a recommendation for final action.
  - e. **HPC Final Action**

The HPC is responsible for taking final action on the following procedures described in this Code and according to the specific criteria for each procedure as described in the Code.

    - (i) **Certificate of Design Compliance**

The HPC will review the application and the Manager's report, conduct a hearing in accordance with the HPC's established procedures and state law, and approve or deny the application. An application before the HPC will be considered approved by a simple majority.
  - f. **Criteria for Recommendation for Approval**
    - (i) The application is complete and the information contained within the application is sufficient and correct enough to allow adequate review and final action.
    - (ii) Specific criteria for granting a certificate of design compliance are provided in Chapter 3.
- (4) **Parks and Recreation Commission**
- a. **General**

The regulations and restrictions of the Parks and Recreation Commission for the City of Buda will be pursuant to the enabling ordinance establishing the Parks and Recreation Commission.
  - b. **Powers and Duties**

The Parks and Recreation Commission shall be an advisory body to the Planning and Zoning Commission and City Council on policies, programs, public and private parks within new developments in Buda's jurisdictional area, and park and recreation facilities that serve the citizens of Buda. The Parks and Recreation Commission shall be responsible for maintaining the Park and Open Space Plan.



- c. Membership and By-Laws  
The Parks and Recreation Commission will be constituted and conduct all activities in accordance with this Code and all other applicable codes, and any adopted By-Laws. The proposed bylaws shall be submitted to the City Council for review approval before the Parks and Recreation Commission becomes effective.
  - d. Parks and Recreation Commission Review Process  
The Parks and Recreation Commission shall be responsible for hearing and making recommendations to the Planning and Zoning Commission and City Council on the following:
    - (i) Park Land Dedication Requirements (including fee in lieu of)
    - (ii) Parks and Recreation Improvements and Amenities included with Park Land Dedications
  - e. Criteria for Recommendation for Approval by City Council  
The Parks and Recreation Commission will review the application or park-related project or policy, the Manager's report, and make recommendations to the Planning and Zoning Commission and City Council based on the Parks and Recreation Plan set forth in the Comprehensive Plan, or other subsequent plans that are developed related to parks and recreation.
- (5) Board of Adjustment (BOA or Board)
- a. General  
The regulations and restrictions of the Board of Adjustment (BOA) for the City of Buda will be pursuant to the provisions of applicable statutory requirements of the State of Texas. No BOA action may govern if in conflict with specific provisions of this Code.
  - b. Powers and Duties  
The BOA has the powers and duties of a BOA in accordance with the Texas Local Government Code §211.008. The BOA's jurisdiction extends to and includes the following final actions:
    - (i) Appeal of an Administrative Decision
    - (ii) Administrative Exception
    - (iii) Judicial Variance
    - (iv) Nonconforming Use
  - c. Membership and By-Laws  
The BOA will be constituted and conduct all activities in accordance with the Code and all other applicable Codes, and any adopted By-Laws.
  - d. BOA Review Process  
The BOA review process will be required for any permit or application that requires final action from the BOA, as described in this Code.
    - (i) Initiation  
Initiation of a BOA process may be made upon:
      - 1. Application by the property owner of the affected property or its authorized agent.
      - 2. An administrative exception may only be requested by the City Manager.
      - 3. Appeal of an administrative decision may be initiated by any person aggrieved by the administrative decision, in compliance with §211.010 of the Texas Local Government Code.
    - (ii) Application

1. Applications must be made in a format consistent with requirements determined by the City Manager. Applications must include all materials determined necessary by the City Manager. Information regarding format requirements and submittal materials required for the application will be made available by the City Manager in advance of any application.
  2. Appeal of an administrative decision must be made to the BOA in a format acceptable to the BOA.
- (iii) Completeness Determination
1. Upon submission of an application, the City Manager will determine whether the application is complete, as described in Chapter 3.
  2. Appeals of administrative decisions will be forwarded to the BOA regardless of completeness. The BOA will determine whether the appeal is complete.
- (iv) Staff Review
- Once a procedure has been initiated and the application deemed complete, the City Manager will review the application, considering any applicable criteria for approval and prepare a report to the BOA.
1. The City Manager may establish procedures for administrative review necessary to ensure compliance with this Code and state law.
  2. The City Manager may assign staff to review the application and provide a preliminary report to the Manager.
  3. The City Manager's report may include a recommendation for final action.
- e. BOA Final Action
- The BOA will review the application, the City Manager's report, conduct a hearing in accordance with the BOA's established procedures and state law, and take final action on the application. In accordance with Texas Local Government Code 211.009, the concurring vote of 75 percent of the members of the board is necessary to:
- (i) reverse an order, requirement, decision or determination of an administrative official,
  - (ii) decide in favor of an applicant on a matter on which the board is required to pass under a zoning ordinance, or
  - (iii) authorize a variation from the terms of the zoning ordinance.
- f. Criteria for Approval – Generally
- (i) The application is complete and the information contained within the application is sufficient and correct enough to allow adequate review and final action.
  - (ii) Specific criteria for considering Administrative Exceptions are provided in Chapter 3.
  - (iii) Specific procedures and criteria for considering appeals of administrative decisions are provided in Chapter 3.
- g. Appeals
- A person aggrieved by a final action on a BOA procedure may appeal to a competent court of record within ten (10) days of the final action (see Texas Local Government Code, SS 211.011). Failure to appeal within ten (10) days shall cause the final action to be contractually agreed to and the action will become final. The action will be abated upon request of either party for mediation if appealed within 10 days.

(6) Planning and Zoning Commission

a. General

The regulations and restrictions of the Planning and Zoning Commission for the City of Buda will be pursuant to the provisions of applicable statutory requirements of the State of Texas. No requirement or the procedure of the Planning and Zoning Commission action may govern if it is in conflict with specific provisions of this Code.

b. Powers and Duties

The Planning and Zoning Commission has the powers and duties of a Planning and Zoning Commission in accordance with Texas Local Government Code §211.007 and §371.042, provided, however, that it serve only in an advisory capacity to City Council. The Planning and Zoning Commission's authority extends to and includes review and recommendation of the following:

- (i) General Development Plan
- (ii) Final Plat
- (iii) Preliminary Plan
- (iv) Plat Amendments
- (v) Site Development Permit
- (vi) Development Agreement
- (vii) Special Use Permit
- (viii) Historic District Designation
- (ix) Planned Unit Development
- (x) Comprehensive Plan Amendment
- (xi) Zoning Map Amendment (Rezoning)
- (xii) Legislative Variance Request
- (xiii) Unified Development Code Text Amendment

c. Membership and By-Laws

The Planning and Zoning Commission will be formed and conduct all activities in accordance with this Code and other applicable City codes requirements, the ordinance creating the Commission and any adopted By-Laws.

d. Planning and Zoning Commission Review Process

The Planning and Zoning Commission review process will be required for any permit or application that requires review and recommendations from the Planning and Zoning Commission, as described in this Code.

(i) Initiation

Initiation of a Planning and Zoning Commission process may be made upon application by the property owner of the affected property or its authorized agent.

(ii) Application

Application must be made in a format consistent with requirements determined by the City Manager. Applications must include all materials determined necessary by the City Manager. Information regarding the format requirements and submittal materials required for the application will be made available by the Manager in advance of any application.

1. Subdivision plats must have signatures of all owners of land within the boundary of the tract of platted land.
2. An application fee shall be submitted with the plat or replat as required by Chapter 3 and in accordance with the Administrative

- Procedures Manual. Additional fees may not be required on subsequent submittals of revised plats.
3. All plats must be submitted in a form acceptable to the Manager. Electronic submissions must be compatible with the City's geographic information system (ArcView, USGS NAD 83, mean sea level, and Texas State Plane, South Central, Feet).
- e. Planning and Zoning Commission Final Action  
The Planning and Zoning Commission will serve as an Advisory Body to the City Council. The Planning and Zoning Commission will have no authority for final action.
  - f. Criteria for Recommendation  
A preliminary plan\_or final plat, site development permit, special use permit, zoning map amendment, or variance request will not be recommended for approval until:
    - (i) The application is complete and the information contained within the application is sufficient and correct so as to allow adequate review and a decision on a recommendation by the appropriate review authority.
    - (ii) No plat shall be recommended without a determination that the plat conforms to the following:
      1. The requirements of this Code and any applicable state law.
      2. The City's Comprehensive Plan and any other adopted plans as they relate to:
        - (a) The City's current and future streets, sidewalks, alleys, parks, playgrounds, and public utility facilities; and
        - (b) The extension of the City or the extension, improvement, or widening of its roads, taking into account access to and extension of sewer and water mains and the instrumentalities of public utilities.
        - (c) Any subdivision design and improvement standards adopted by the City pursuant to Texas Local Government Code § 212.002 or Texas Local Government Code § 212.044, governing plats and subdivision of land within the City's jurisdiction to promote the health, safety, morals, or general welfare of the City and the safe, orderly, and healthful development of the City.
    - (iii) The tract of land subject to the application is adequately served by public improvements and infrastructure, or will be adequately served upon completion of required improvements.
  - g. Appeals  
Until the Commission has been given final action authority by the City Council, appeals shall be made to City Council.
- (7) City Council (Council)
- a. General  
The regulations and restrictions of the City Council for the City of Buda will be pursuant to the provisions of applicable statutory requirements of the State of Texas.
  - b. Powers and Duties  
The City Council (Council) has the following powers and duties:
    - (i) Appointments  
The City Council is responsible for appointing and removing any

members of the Planning and Zoning Commission, BOA, Parks and Recreation Commission and Historic Preservation Commission. Appointments will be made on the recommendation of the Mayor and a vote of approval by the City Council.

(ii) Final Action

The City Council has responsibility for hearing and taking final action on the following procedures described in this Code.

1. General Development Plan
2. Preliminary Plan
3. Legislative Variance Request
4. Final Plat
5. Plat Amendments
6. Development Agreement
7. Special Use Permit
8. Dedication of land and community facilities
9. Historic District Designation
10. Planned Unit Development
11. Comprehensive Plan Amendment
12. Zoning Map Amendment (Rezoning)
13. Unified Development Code Text Amendment
14. Annexation
15. Any other specific procedure or legislative action that requires City Council action as specified in this Code, or required by state or federal law.

c. City Council Review Process

Procedures for City Council review and action will be developed and adopted by the Council when appropriate.

d. City Council Final Action

The City Council shall serve as the final action authority for all development-related applications listed above, and as indicated throughout this Code.

(8) Hays County

Hays County and the City of Buda will have an interlocal agreement granting subdivision review authority in the City of Buda's ETJ to the City of Buda.

a. Powers and Duties

(i) Review and Recommendation

Review and comment on Text Amendments to this Code, as they relates to Hays County technical issues (e.g., on-site sewage treatment).

(ii) Final Action

The City of Buda recognizes that Hays County has responsibility for hearing and taking final action on the following procedures described in this Code.

1. Onsite Wastewater Permit Application Approval
2. Procedures

Procedures to be utilized by the City of Buda for Hays County action will be developed and adopted when available.

**Section 2.4 Summary of Review Authority**

Table 3.1 summarizes the decision-making authority of each review body for the City of Buda (outlined above in Chapter 2 and further described in Chapter 3). A review authority with decision-making authority for a procedure is considered the Final Action Authority for that procedure.

## **Chapter 3 Applications and Permits**

### **Section 3.1 Purpose and Intent**

The purpose of this Chapter is to establish application procedures, internal review procedures, public notice and hearing procedures, and review criteria for the processing of applications and actions that affect the development and use of property subject to the jurisdiction of the City of Buda.

### **Section 3.2 Types of Applications and Permits**

Application and permit types can be categorized as (a) Policy- and Legislative-Related Applications and Permits, (b) Subdivision-Related Applications and Permits, or (c) Development-Related Applications and Permits. Review authorities for applicable development applications and permits are described in Table 3.1, below. The Administrative Procedures Manual (developed by the City Manager) establishes timelines for review and applicable fees. Certain procedures apply inside city limits that do not apply in the ETJ. Table 3.1 also provides guidelines for the procedures that apply in the city limits or ETJ.

(1) **Policy- and Legislative-Related Applications and Permits**

Approval of applications for development is based (among other bases for consideration described in this Code) upon the proposed development's conformance with existing policies (including the Comprehensive Plan, Zoning Map, and Code). In cases where a proposed development is not in accordance with these policies changes to policies must be made by the appropriate review entity (either the City Council or Board of Adjustment for Policy- and Legislative-related applications and permits before any subdivision or development not in accordance with existing policies may proceed). Includes: Comprehensive Plan Amendment, Unified Development Code Text Amendment, Special Use Permit, Zoning Map Amendment (Rezoning, Planned Unit Development and Historic District Designation), Annexation Petition, Development Agreement.

(2) **Subdivision-Related Applications and Permits**

Subdivision-related procedures are necessary to establish how individual lots or projects may be developed. These procedures are used to establish what is commonly referred to as a "legal lot" on which development may occur. Subdivision activities and projects must be in compliance with this Code. Includes: Administrative Plat (Amending and Minor Plat), General Development Plan, Preliminary Plan, Final Plat, Replat, Construction Plan.

a. **General Development Plan** - A map or plat designed to illustrate the general design features and street layout of a proposed subdivision which is proposed to be developed and platted in sections. Also called a Concept Plan or Bubble Plan. A General Development Plan shall be valid for two (2) years and will expire if no preliminary plan has been approved within the two (2) year time period. Subsequent approvals shall automatically extend the approval of the General Development Plan for two (2) years following the last approval. Expiration of any subsequent development permit will result in expiration of

- the General Development Plan.
- b. Subdivision Preliminary Plan - A map or drawing of a proposed subdivision plan which upon approval establishes an agreement to the layout. This agreement includes the location and width of proposed streets, lots, blocks, floodplains, and easements. A preliminary plan approval is required prior to final plat approval, except under certain conditions described herein in Section 3.8(4).
  - c. Final plat - A subdivision map or drawing intended for recordation in the plat records of the county in which the subdivision is located. Final plat submittal will normally be consolidated with construction plan/development permit submittal. There are three types of final plats: minor plat, replat, and final plat. A final plat requires a preliminary plan and concurrent construction plans for streets and infrastructure in accordance with this Unified Development Code. The preliminary plan must be approved prior to the final plat approval.
  - d. Amending Plat - An amending plat shall be filed in accordance with the procedures and requirements set forth in Section 212.016 of the Local Government Code. The Commission may recommend and the Council may approve and issue an amending plat, which may be recorded and controlling over the preceding plat without vacation of that plat and without notice and hearing, if the amending plat is signed and acknowledged by the owners of the property being replatted and is solely for one or more of the following purposes:
    - (i) To correct an error in a course or distance shown on the preceding plat;
    - (ii) To add a course or distance that was omitted on the preceding plat;
    - (iii) To correct an error in a real property description shown on the preceding plat;
    - (iv) To indicate monuments set after the death, disability, or retirement from practice of the engineer or surveyor responsible for setting monuments;
    - (v) To show the location or character of a monument which has been changed in location or character or that is shown incorrectly as to location or character on the preceding plat;
    - (vi) To correct any other type of scrivener or clerical error or omission previously approved by the municipal authority responsible for approving plats, including lot numbers, acreage, street names, and identification of adjacent recorded plats;
    - (vii) To correct an error in courses and distances of lot lines between two (2) adjacent lots if:
      1. Both lot owners join in the application for amending the plat;
      2. Neither lot is abolished;
      3. The amendment does not attempt to remove recorded covenants or restrictions; and
      4. The amendment does not have a materially adverse effect on the property rights of the other owners in the subdivision;
    - (viii) To relocate a lot line to eliminate an inadvertent encroachment of a building or other improvement on a lot line or easement;
    - (ix) To relocate one or more lot lines between one or more adjacent lots if:
      1. The owners of all those lots join in the application for amending the plat;
      2. The amendment does not attempt to remove recorded covenants or



- restrictions; and
  - 3. The amendment does not increase the number of lots; or
  - (x) To make necessary changes to the preceding plat to create six or fewer lots in the subdivision or a part of the subdivision covered by the preceding plat if:
    - 1. The changes do not affect applicable zoning and other regulations of the municipality;
    - 2. The changes do not attempt to amend or remove any covenants or restrictions; and
    - 3. The area covered by the changes is located in an area that the Commission or City Council has approved, after a public hearing, as a residential improvement area; or
  - (xi) To replat one or more lots fronting on an existing street if:
    - 1. The owners of all those lots join in the application for amending the plat;
    - 2. The amendment does not attempt to remove recorded covenants or restrictions;
    - 3. The amendment does not increase the number of lots; and
    - 4. The amendment does not create or require the creation of a new street or make necessary the extension of municipal facilities.
  - e. Re-plat – A new plat that changes the restrictions of a previously adopted final plat.
  - f. Minor Plat – A subdivision involving four (4) or fewer lots fronting on an existing street and not requiring the extension of municipal facilities; and
  - g. Construction Plans – The maps, drawings, and specifications indicating the proposed location and design of improvements to be installed in a subdivision/site plan.
- (3) Development-Related Applications and Permits
- Development in the City must occur in compliance with all regulations of this Code, and development in the extraterritorial jurisdiction must occur in compliance with certain elements of this Code (See Section 1.4 and Table 3.1 for applicability of requirements to the ETJ). Any necessary modification to those standards must occur before a development project may be permitted that deviates from existing plans, standards or requirements. In addition, land must be appropriately subdivided and platted before any development project may occur. Includes: Letter of Regulatory Compliance (Zoning Verification Letter and Legal Lot Verification Letter), Written Interpretation of the Unified Development Code, Master or Common Sign Plan, Temporary Use Permit, Special Exception, Site Plan Review and Site Development Permit, Stormwater Permit, Certificate of Design Compliance, Appeal of an Administrative Decision, Variance, Sign Permit, and On-Site Wastewater Permit.

**Table 3.1: Summary of Review Authority**

<b>Permit or Application</b>	<b>Within City Limits</b>	<b>Within ETJ</b>	<b>Admin. Review</b>	<b>Parks and Rec. Commission</b>	<b>Historic Pres. Commission</b>	<b>Board of Adjustment</b>	<b>Plan. And Zoning Commission</b>	<b>City Council</b>	<b>Hays County</b>
<b>POLICY RELATED APPLICATIONS AND PERMITS</b>									
Comprehensive Plan Amendment	+	+	O	O	O		O	X	
UDC Text Amendment	+	+	O	O	O		O	X	
Special Use Permit	+		O	O	O		O	X	
Zoning Map Amendment (Zoning or Rezoning)	+		O	O	O		O	X	
Historic District Designation	+		O	O	O		O	X	
Planned Unit Development	+		O	O	O		O	X	
Annexation		+	O					X	
<b>DEVELOPMENT RELATED APPLICATIONS AND PERMITS</b>									
Zoning Verification	+		X						
Legal Lot Verification	+	+	X						
Written Interpretation	+	+	X						
Cert. of Design Compliance	+		O		X				
Stormwater Permit	+	+	X						
Appeal of Admin. Decision	+	+				X			
Special Exception	+	+	O			X			
Legislative Variance	+	+					O	X	
Judicial Variance	+	+	O			X			
<b>SUBDIVISION RELATED APPLICATIONS AND PERMITS</b>									
Minor Plat	+	+	X						
Amending Plat	+	+	X						
Replat	+	+	O				O	X	
Development Plat	+	+	O				O	X	
General Development Plan	+	+	O				O	X	
Preliminary Plan	+	+	O	O*	O*		O	X	
Final Plat	+	+	O				O	X	
Construction Plan	+	+	X						
Development Agreement	+	+	O	O*			O	X	
<b>NONRESIDENTIAL &amp; MULTIFAMILY APPLICATIONS AND PERMITS</b>									
Site Development Permit	+	+	X						
Master/Common Sign Plan	+	+	X						
Sign Permit	+	+	X						
Temporary Use Permit	+	+	X						
On-Site Wastewater Permit	+	+							X

+: Applicable    X: Final Action    O: Review/Recommendation    \*: Limited Review Authority/Applicability

**Section 3.3 Related Applications and Permits**

Related applications and permits shall be submitted, reviewed, and approved/denied based on the procedures listed below. Some of these procedures may be followed concurrently, while some procedures require pre-approval of other procedures. Notify the City Manager if the Administrative Procedures Manual does not clarify the timing of these procedures.

**(1) Development Requiring Multiple Approvals**

The following restrictions apply to development applications requiring multiple approvals:

**a. Policy- or Legislative-Related Applications**

Policy- or legislative-related applications for permits required for a particular project may occur in any order, but shall be sequenced so that when final actions occur, each approval provides any requisite requirement for a subsequent related approval.

**b. Subdivision Applications**

(i) Subdivision applications may generally be considered concurrently.

(ii) The Comprehensive Plan Compliance Review should occur before any Subdivision Application.

(iii) When required, the General Development Plan must be approved before the preliminary plan may be submitted.

(iv) No application for final plat review will be considered complete and accepted for submittal until final action on the Preliminary Plan has occurred.

(v) Approval of the final plat shall not be granted until written approval of associated construction plans and plans for dedication of land and community facilities has been given by the City Manager.

**c. Development or Building Permit Applications**

(i) Development or permit applications may generally be considered concurrently.

(ii) No Development or permit application may be considered if there is pending subdivision activity for the same tract of land, except for administrative determinations.

(iii) Appeals of administrative decisions may only occur after a final decision by the City Manager.

(iv) Consideration of development or permit applications shall be sequenced so that when an approval occurs, it will provide any requisite requirement for a subsequent related approval.

**(2) Simultaneous Submission of Related Applications**

Submittal of different applications related to the same development may be made simultaneously, although the review and processing of applications must remain in sequence as described in Table 3.1 above and elsewhere in this Code.

a. Applicants may file multiple applications for non-concurrent actions/approvals. Provided, however, applications shall be reviewed and processed in the sequence required pursuant to this Code. After each application receives final action, the next consecutive application in the Code process will be reviewed for completeness pursuant to the appropriate

process.

- b. Any application submitted simultaneously with other applications is subject to approval of all other related applications that are prerequisite(s) to consideration of another application in the development process. Denial or disapproval of any concurrently submitted application shall prevent consideration of any related applications unless and until the denied or disapproved application is resolved or approved.
- c. An applicant may withdraw any individual application from a group of simultaneously submitted applications.

### **Section 3.4 Common Review Elements**

#### **(1) Preapplication Conference**

Prior to submission of an application, a preapplication conference between the applicant and the City Manager is recommended. A preapplication conference is a meeting between a potential applicant under this Code and the City Manager or his designee. The conference is an opportunity for an applicant to describe the development that will be submitted and for the City Manager to explain the development process (i.e., which application is appropriate, which review body is responsible for final action, what the potential timelines for review may be, and what criteria will be used to determine whether the application may be approved). Completion of a preapplication conference does not imply or indicate subsequent City approval of the permit or application. The preapplication conference shall proceed as follows:

- a. The applicant is responsible for completing a preapplication conference, and upon completion of the conference, the applicant must attest to whether or not the applicant is satisfied it has received adequate information to proceed with its application.
- b. A preapplication conference is recommended for the following applications; provided, however, that one preapplication conference may suffice for a project involving multiple submittals of development applications.
  - (i) Administrative Plat (Minor Plat, Amending Plat, Replat or Development Plat)
  - (ii) Master Sign Plan
  - (iii) Site Plan
  - (iv) Variance
  - (v) General Development Plan
  - (vi) Preliminary Plan
  - (vii) Final Plat
  - (viii) Site Development Permit
  - (ix) Special Use Permit
  - (x) Historic District Designation
  - (xi) Planned Unit Development
  - (xii) Comprehensive Plan Amendment
  - (xiii) Zoning Map Amendment (Rezoning)
  - (xiv) Code Text Amendment
- c. Preapplication conferences may be combined when an applicant will be

making simultaneous applications for the same project. Completion of a combined preapplication conference does not imply or indicate City approval of any requisite application.

(2) Application Forms and Fees

The following regulations shall apply to all applications.

a. Forms

Applications required under this Code shall be submitted on forms, with any requested information and attachments, and in such numbers, as required by the City and/or indicated in the Administrative Procedures Manual. The City Manager shall have the authority to request any pertinent information required to ensure compliance with this Code.

(i) The City Manager must make any submission requirements and applicable fee requirements available to the applicant as a part of the Administrative Procedures Manual.

(ii) The City Council may, from time to time, adopt by resolution specific forms and submission requirements. Such resolution shall be incorporated as an Appendix to this Code.

b. Submission Requirements

Development applications (which include, among other types, those listed in Section 3.4(1)b above) shall be prepared and submitted initially in paper and electronic format and finally in Mylar and digital formats acceptable to the City Manager.

c. Fees

(i) Development and permit application fees shall be established from time to time by ordinance of the City Council.

(ii) All required fees shall be made payable to "The City of Buda", by local check, money order, or cashier's check.

(iii) An applicant who has paid the appropriate fee pursuant to submission of an application, but who chooses to withdraw such application prior to the formal written notification of completeness or incompleteness, shall be entitled to a refund of fifty (50) percent of the total amount paid upon written request to the City. The application fee required for all policy or legislative applications is not refundable.

(3) Application Deadline

All applications shall be completed and submitted to the City Manager in accordance with the Administrative Procedures Manual. An application shall not be considered as officially submitted or filed until it is determined to be complete as specified below.

(4) Determination of Application Completeness

a. Every application for a development permit shall be subject to a determination of completeness by the City Manager or his designee.

b. No application shall be deemed complete and accepted for processing unless it is accompanied by all documents required by and prepared in accordance with the requirements of this ordinance. For a determination of completeness to be issued, an application must include the following:

(i) Payment of the appropriate fee;

(ii) An accurate metes and bounds description of the subject property (or other suitable legal description);

- (iii) A survey exhibit and other appropriate exhibits as deemed necessary by the City Manager (or his/her designee). Said exhibits shall include but not be limited to site plans, maps, architectural elevations, and information about proposed uses; and
  - (iv) All documents, forms or other materials required by this ordinance for processing of a specific development permit.
- c. The City Manager or his designee may from time to time identify additional requirements for a complete application that are not contained within but are consistent with the application contents and standards set forth in this Code.
- d. A determination of completeness shall not constitute a determination of compliance with the substantive requirements of this Code.
- e. Not later than the tenth (10<sup>th</sup>) business day after the date an application is submitted, the City Manager or his designee shall make a written determination whether the application constitutes a complete application. This shall include a determination that all information and documents required by this Code for the type of permit being submitted or other requirements have been submitted. A determination that the application is incomplete shall be mailed to the applicant within such time period by United States Certified Mail at the address listed on the application. The determination shall specify the documents or other information needed to complete the application and shall state that the application will expire if the documents or other information is not submitted within 45 days after the date the application was submitted.
- f. An application filed on or after the effective date of this ordinance shall be deemed complete on the 11th business day after the application has been received, if the applicant has not otherwise been notified that the application is incomplete. For purposes of this Section, the applicant shall be deemed to have been notified if the City has mailed a copy of the determination as provided in subsection E.
- g. The processing of an application by any City employee prior to the time the application is determined to be complete shall not be binding on the City as the official acceptance of the application for filing. The incompleteness of an application shall be grounds for denial of the application regardless of whether a determination of incompleteness was mailed to the applicant.
- h. A development permit application shall be deemed to expire on the 45th day after the application is submitted to the City Manager or his designee for processing if the applicant fails to provide documents or other information necessary to meet the requirements of this Code or other requirements as specified in the determination provided to the applicant. Upon expiration, the application will be returned to the applicant together with any accompanying documents. Thereafter, a new application must be submitted.
- i. No vested rights accrue solely from the filing of an application that has expired pursuant to this section, or from the filing of a complete application that is subsequently denied.

(5) Expiration of Inactive Permits and Approvals

Approvals and permits issued pursuant to this Code shall expire in the time period indicated in the following table unless the proposed development, project or use for which the approval was given is pursued as described below. Expiration of a project shall be measured from the date the project was approved.

- a. Notification of the expiration of regulations shall be provided to the applicant as part of the notification of approval of the development-related permit.
- b. A Letter of Regulatory Compliance or Written Interpretation stays in effect indefinitely where no related development is proposed. Upon submission of a proposed development application related to the Letter of Regulatory Compliance or Written Interpretation, the Letter of Regulatory Compliance or Written Interpretation shall expire according to Table 3.2 unless the proposed development is not pursued.
- c. A development for which an approval or permit has been issued pursuant to this Code shall be considered to be in process as set forth below:
  - (i) A complete building permit application has been submitted or, if no building permit is required, a certificate of occupancy has been issued.
  - (ii) In case of projects where more than one building or phase is to be built, the applicant may submit a series of building permit applications. The first application must be submitted within twelve (12) months from the date site plan approval is granted. Each subsequent application must be submitted within twelve (12) months from the date of issuance of a certificate of occupancy for the previous building or phase.
- d. A lapse of a period equal to or greater than the period set forth in Table 3.2 shall cause the related approvals or permits to expire and be of no further force and effect.
- e. The City Manager may extend the expiration date of any permit one time for a period not to exceed one (1) year in length. Such extension may be granted at any time prior to or within the twelve (12) months preceding the expiration date, but the extension period may not begin later than the original expiration date.
- f. Reinstatement of a lapsed approval shall require the applicant to pursue the same submittal and to obtain approval as an original application.
- g. Any minor plat, replat, amending plat, preliminary plan, general development plan, final plat, concept plan (approved pursuant to previous Subdivision Regulations) or Detailed Development Plan (approved pursuant to previous Subdivision Regulations) that is dormant in accordance with the provisions of Texas Local Government Code §245.005 will expire November 19, 2004.

**Table 3.2: Expiration of Inactive Permits or Approvals**

<b>Procedure</b>	<b>Expiration</b>
Comprehensive Plan Amendment	No Expiration
UDC Text Amendment	No Expiration
Special Use Permit	No Expiration
Zoning Map Amendment (Rezoning)	No Expiration
Historic District Designation	No Expiration
Planned Unit Development	No Expiration
Annexation	No Expiration
Letter of Regulatory Compliance	24 months
Written Interpretation	24 months
Certificate of Design Compliance	24 months
Storm water Permit	24 months
Appeal of Administrative Decision	24 months
Administrative Exception	24 months
Variance	No Expiration
Administrative Plat	No Expiration
General Development Plan	24 months
Preliminary Plan	24 months
Final Subdivision Plat	No Expiration
Construction Plan	24 months
Development Agreement	(as specified in Agreement)
Site Plan Development Permit	24 months
Master Sign Plan	24 months
Sign Permit	24 months
Temporary Use Permit	2 months (or as specified in Permit)

- (6) Written Decision after Final Action
  - a. Within ten (10) days after a final decision is made by the authority authorized to make the final determination under the requirements of this Code, a copy of the written decision will be sent to the applicant. A copy of the notice will be filed at the Office of the City Manager, where it will be available for public inspection during regular office hours.
  - b. The written decision will also state the final action authority’s findings, conclusions, and supporting reasons or facts whenever this Code requires such findings as a prerequisite to the final action.

(7) Limitation on Reapplication  
 If any development permit application or other application for approval, any petition for a plan amendment or any petition for an amendment to this Code is disapproved by the final action authority, another application or petition for the same permit, approval, or amendment for the same property or any portion thereof may not be filed within a period of ninety (90) days or within a period of twelve (12) months for zoning change applications from the date of final disapproval, except with written approval of the City Council. Such reapplication must demonstrate:



- a. There is a substantial change in circumstances relevant to the issues and/or facts considered during the original review of the application that might reasonably affect the decision-making body's review of the relevant standards to the development described in the application; or
- b. New or additional information is available that was not available at the time of the original application that might reasonably affect the decision-making body's review of the relevant standards to the proposed development; or
- c. A new application is proposed to be submitted that is materially different (e.g., proposes new uses, or a substantial decrease in proposed densities and intensities) from the prior application; or
- d. The final decision on the application was based on a material mistake of fact.

### **Section 3.5 Standard Review Period**

#### **(1) Establishment of Review Period**

The City Manager is required to establish a standard time period for review and final action on all applications. This information will be published in the Administrative Procedures Manual. This review period will be used to determine the number of days for all time limits within this Code. If the City Manager fails to establish review periods for each procedure, the default review period will be ninety (90) days unless State law imposes a shorter period, in which event the shorter period will prevail.

#### **(2) Restrictions on Review Period Serving as Time Limit**

All review time requirements are guidelines, and do not require final action within a specified period of time. The following rules describe administration of time requirements.

- a. If a final action has not been taken on an application by the appropriate City staff, board, or commission, at the end of the time requirement for that application, there will be no penalty assessed to the applicant or final review authority. In these cases, consideration of the application continues, however the application becomes eligible for final action upon written request of the applicant.
- b. Ongoing consideration of an application beyond the standard review period allows a review body or the final action authority to work in good faith with the applicant to make changes, modifications, and corrections in order to continue consideration of an application that might otherwise be disapproved without the changes, modifications, or corrections. If the applicant elects to proceed without making any changes, modifications, or corrections to the application, the applicant may request action as provided in (c) below.
- c. Once consideration of an application has continued past the standard review period and is eligible for final action upon request of the applicant, the applicant may request in writing a final action decision from the final action authority. An administrative final action authority must respond with written notification of final action within ten (10) days.

#### **(3) Exception to Standard Review Period**

- a. The standard review period for any application may be extended one time for a

period not to exceed thirty (30) days if a review body or final action authority requests additional studies or information concerning the application. Such an extension may not be granted after an applicant has requested final action. For purposes of a subdivision plat or development plat, when a 30 day extension has been issued, the application is deemed to have been denied but still subject to review by the City of the applicable review authority.

- b. Standard review periods may be extended by the City Manager as described below when, in the opinion of the City Manager, conditions beyond the City's control exist that prevent the City Manager, other administrative officials, or any final action authority from effectively reviewing and considering all applications in a timely manner. Typical conditions may include an excessive number of applications received by the City during a certain period of time, inadequate staff time due to temporary limitations of personnel resources or lack of availability of a required professional staff member such as the City Engineer.
  - (i) The City Manager may initially declare that such conditions exist without approval of the City Council, and must provide timely notice to all affected applicants.
  - (ii) During these periods, all applications being considered are subject to the extended review period. No submittal of an application may be refused during the extended review period.
  - (iii) The City Manager will report the action requiring the extended review period to the City Council at the next regular City Council meeting. In order to have the review period officially changed, the City Council must adopt a resolution establishing the extended review period at that meeting. The period must have a time limit, not to exceed ninety (90) days. If such a resolution is not adopted by the City Council, then the authority of the City Manager to set aside standard review periods for this exception is no longer valid.
  - (iv) Review and processing of applications will continue during this extended review period, pursuant to the implementation of the extended review period.
  - (v) If the conditions causing the delay are not resolved, the process may be repeated. An applicant may request final action, as specified in Section 3.5(2)(c) above if the City has not taken final action on the application one hundred and twenty (120) days after the date the standard review period would have expired.
  - (vi) The delay of standard review periods may not be implemented as a moratorium.

### **Section 3.6 Public Hearing and Notice**

- (1) Required Public Hearing  
Table 3.3 identifies the types of procedures requiring a public hearing. The decision-making body may modify the application at the public hearing and refer such modifications back to the recommending body.

**Table 3.3: Summary of Required Public Hearing**

<b>Type of Application</b>	<b>HPC</b>	<b>Board of Adjustment</b>	<b>Planning and Zoning Commission</b>	<b>City Council</b>
Comprehensive Plan Amendment			X	X
UDC Amendment			X	X
Special Use Permit			X	X
Zoning Map Amendment (Zoning or Rezoning)			X	X
Historic District Designation	X		X	X
Planned Unit Development			X	X
Annexation				X
Certificate of Design Compliance	X			
Appeal of Administrative Decision		X		
Legislative Variance			X	X
Judicial Variance		X		
Development Agreement			X	X
Appeal of Denial of Sign Permit		X		
Replat			X	X

*X – Public Hearing Required*

*Development Agreements containing any of the above provisions must meet the public hearing requirements of such.*

(2) Summary of Notice Required

Notice shall be required for review of an application as shown in Table 3.4.

**Table 3.4: Summary of Notice Requirements**

<b>Procedure</b>	<b>Published</b>	<b>Mailed</b>	<b>Posted</b>
Comprehensive Plan Amendment	X		
UDC Text Amendment	X		
Special Use Permit	X	X	X
Zoning Map Amendment (Zoning or Rezoning)	X	X	X
Historic District Designation	X	X	X
Planned Unit Development	X	X	X
Annexation	X		X
Certificate of Design Compliance			X
Appeal of Administrative Decision	X		
Legislative Variance	X	X	X
Judicial Variance	X	X	X
Development Agreement	X	X	X
Appeal of Denial of Sign Permit			X
Replat	X	X	

*X – Notice Required*

(3) Published Notice

Before the 15<sup>th</sup> day before the date of the hearing before the governing body, the City Manager shall cause to be published public notice in an official newspaper or a newspaper of general circulation in the municipality. The notice shall contain notice of the time and place of the hearing and a description of the item to be considered or reviewed. If notification of a public hearing before the

Planning and Zoning Commission is required to be published, publication of the hearing before the Planning and Zoning Commission and the City Council may be done concurrently.

- (4) Mailed Notice  
Before the 10<sup>th</sup> day before the hearing date, written notice of each public hearing on a proposed change in zoning classification shall be sent to each owner, as indicated by the most recently approved municipal tax roll, of real property within 200 feet of the property on which the change in classification is proposed. The notice may be served by its deposit in the municipality, properly addressed with postage paid, in the United States mail.
- (5) Posted Notice  
The City shall be responsible for posting notice along rights-of-way frontage of the subject property in a format approved by the City Manager not less than fifteen (15) days prior to the scheduled public hearing.
- (6) Conduct of Public Hearings
  - a. All public hearings shall follow the procedures set forth by the City of Buda. Modifications of the application during a public hearing may be made if assurances can be given by the applicant that the changes will be made. The City Council or other review authority holding the public hearing may approve or recommend action on the application subject to the suggested changes being made and incorporated into the new application.
  - b. All findings and conclusions necessary to the permit or decision (crucial findings) shall be based upon reliable evidence. Competent evidence (evidence that people of ordinary prudence would rely on in conducting their own affairs.) shall be preferred whenever reasonably available, but in no case may crucial findings be based solely upon incompetent evidence unless competent evidence is not reasonably available, the evidence in question appears to be particularly reliable, and the matter at issue is not seriously disputed.

### **Section 3.7 Policy and Legislative Related Applications and Permits**

This section provides specific approval criteria for the following policy-related applications:

- Comprehensive Plan Amendments
  - Unified Development Code Text Amendments
  - Special Use Permits
  - Zoning Map Amendment
    - (i) Rezoning
    - (ii) Planned Unit Developments (PUD)
    - (iii) Historic District Designation
  - Annexation Petition
  - Development Agreement
- (1) Comprehensive Plan Amendment
    - a. Applicability

The Comprehensive Plan reflects Buda's long-term plan for growth and development. The City Council may, from time to time, on its own motion or on petition, amend, supplement, change, modify, or repeal the regulations, restrictions, and boundaries herein established, or contained in the Comprehensive Plan.

b. Review Process

The following sections set forth the specific requirements for amendment of the Comprehensive Plan.

(i) Initiation

Initiation of a City Council Review of a Comprehensive Plan Amendment may be made upon:

1. Recommendation of the City Council;
2. Recommendation of the Planning and Zoning Commission; or
3. Recommendation of the City Manager.

(ii) Staff Review

Once a procedure has been initiated, the City Manager will review the application, considering any applicable criteria for approval and prepare a report to the Planning and Zoning Commission and City Council.

1. The City Manager may establish procedures for administrative review necessary to ensure compliance with this Code and state statutes.
2. The City Manager may assign staff to review the application and make a report to the City Manager.
3. The City Manager's report may include a recommendation for final action.

(iii) Planning and Zoning Commission Review

The Planning and Zoning Commission will hold a public hearing, in accordance with its rules and state law, and make a recommendation to the City Council.

(iv) City Council Final Action

The City Council will hold a public hearing, in accordance with its rules and state law, and may take final action on the proposed amendment.

c. Criteria for Approval – Generally

In determining whether to approve, approve with modifications, or disapprove a proposed amendment, the City Council shall consider the following matters regarding the proposed amendment:

- (i) The proposed amendment promotes the health, safety, or general welfare of the City and the safe, orderly, and healthful development of the City.
- (ii) The proposed amendment is consistent with the Future Land Use element of the Comprehensive Plan (most recent version of Comprehensive Plan).
- (iii) The proposed amendment is consistent with other goals and objectives of the Comprehensive Plan.
- (iv) Unified Development Code Compliance  
No requirement of the procedure for Comprehensive Plan or Code amendments may govern if in conflict with specific provisions of this Code or Comprehensive Plan. Any potential conflicts of proposed amendments with the UDC or Comprehensive Plan shall be considered and dealt with prior to the review and adoption of any amendment.
- (v) The City Council may consider other criteria it deems relevant and important in taking final action on the amendment.

- d. Responsibility for Final Action  
Recommendations regarding Comprehensive Plan amendments shall be made by the Planning and Zoning Commission. The Planning and Zoning Commission shall forward their recommendation to the City Council who is responsible for final action on Comprehensive Plan Amendments.

(2) Unified Development Code Text Amendment

a. Applicability

Amendments to this Code may be made from time to time in order to establish and maintain sound, stable, and desirable development within the jurisdiction of the City, or to correct errors in the text or caused by changing conditions in a particular area or in the City. All text amendments shall be in accordance with the Comprehensive Plan. If the Comprehensive Plan is amended, the CODE should also be amended if found to be necessary or advisable by the Planning and Zoning Commission.

b. Review Process

The following sections set forth the specific requirements for amendment of the Code: Section 1.10, Updates or Amendments, describes the amendment and update process.

(i) Initiation

Initiation of a City Council Review of a UDC Amendment may be made upon:

1. Recommendation of the City Council;
2. Recommendation of the Planning and Zoning Commission; or
3. Recommendation of the City Manager.

(ii) Staff Review

Once a procedure has been initiated, the City Manager will review the application, considering any applicable criteria for approval and prepare a report to the Planning and Zoning Commission and City Council.

1. The City Manager may establish procedures for administrative review necessary to ensure compliance with this Code and state statutes.
2. The City Manager may assign staff to review the application and make a report to the City Manager.
3. The City Manager's report may include a recommendation for final action.

(iii) Planning and Zoning Commission Review

The Planning and Zoning Commission will hold a public hearing, in accordance with its rules and state law, and make a recommendation to the City Council.

(iv) City Council Final Action

The City Council will hold a public hearing, in accordance with its rules and state law, and may take final action on the proposed amendment.

c. Criteria for Approval – Generally

In determining whether to approve, approve with modifications, or disapprove a proposed amendment, the City Council shall consider the following matters regarding the proposed amendment:

- (i) The proposed amendment promotes the health, safety, or general welfare of the City and the safe, orderly, and healthful development of the City.
- (ii) The proposed amendment is consistent with the Future Land Use element of the Comprehensive Plan (most recent version of

- Comprehensive Plan).
- (iii) The proposed amendment is consistent with other goals and objectives of the Comprehensive Plan.
  - (iv) Unified Development Code Compliance  
No requirement of the procedure for Comprehensive Plan or Code amendments may govern if in conflict with specific provisions of this Code or Comprehensive Plan. Any potential conflicts of proposed amendments with the UDC or Comprehensive Plan shall be considered and dealt with prior to the review and adoption of any amendment.
- d. Responsibility for Final Action  
Recommendations regarding the Code text amendments shall be made by the Planning and Zoning Commission. The Planning and Zoning Commission shall forward its recommendation to the City Council who is responsible for final action on Code Text Amendments.
- (3) Special Use Permit
- a. Applicability  
Special use permits allow for discretionary City Council approval of uses with unique or widely varying operating characteristics or unusual site development features, subject to the terms and conditions set forth in this Code. These uses and the districts where they may locate are listed in Section 4.8 and Table 4.2. These uses may locate in districts as indicated under special conditions described in a special use permit recommended by the Planning and Zoning Commission and approved by the City Council. No such use shall commence without prior approval of a special use permit.
  - b. Approval Criteria (Special Use Permit)
    - (i) A binding Site Plan for the Special Use Permit must be approved by the City Council in order to approve issuance of a Special Use Permit. The Site Plan must be reviewed by the City Manager for compliance with this Code.
    - (ii) In addition to the criteria for zoning changes found in this Section, the City Council may approve an application for a Special Use Permit where it reasonably determines that there will be no significant negative impact upon residents of surrounding property or upon the general public. The City Council will review the Special Use Permit application based on the potential use's impact on the health, safety and welfare of the surrounding neighborhood; its impact on public infrastructure such as roads, parking facilities and water and sewer systems; and its impact on public services such as police and fire protection and solid waste collection, and the ability of existing infrastructure and services to adequately provide services.
    - (iii) Any modification to an approved site plan that was filed as part of a Special Use Permit shall cause the Special Use Permit to become void, regardless of its current status, including any approval previously given by the City Council.
    - (iv) Such Special Use Permits must be resubmitted to the City Manager and the City Council for consideration using the modified site plan.
      - 1. The City Manager may determine that the modification to the site plan does not change the basis for Special Use Permit approval and issue a temporary approval to the modified Special Use Permit. In this

- case, the City Manager shall report this action in writing to the City Council and place the modified Special Use Permit directly on the City Council agenda for action at the Council's next meeting.
2. If the City Manager determines that the modifications to the site plan changes the basis for the initial Special Use Permit approval, the modified permit shall follow the regular review process for a regularly submitted Special Use Permit.
- c. Responsibility for Final Action  
The City Council is responsible for final action on applications for Special Use Permits.
- (4) Zoning Map Amendment – Rezoning
- a. Applicability  
For the purpose of establishing and maintaining sound, stable, and desirable development within the corporate limits of the City, the Official Zoning Map may be amended based upon changed or changing conditions in a particular area or in the City generally, or to rezone an area, or to extend the boundary of an existing zoning district.
  - b. Review Process
    - (i) Initiation  
Initiation of a Zoning Change may be made upon:
      1. Recommendation of the City Council;
      2. Recommendation of the Planning and Zoning Commission;
      3. Recommendation of the HPC (Historic District Designation only); or
      4. Application by the property owner of the affected property or its authorized agent.
    - (ii) Application
      1. Application on behalf of a property owner must be made in a format consistent with requirements established by the City Manager. Applications must include all materials determined necessary by the City Manager. Information regarding the format requirements and materials required for the application will be made available by the Manager in advance of any application.
      2. The City Manager is responsible for ensuring that a complete application is prepared for changes initiated by the City Council, Planning and Zoning Commission, or HPC such that all material necessary for the City Council to render an informed decision is provided.
    - (iii) Completeness Determination
      1. Upon submission of an application for any type of zoning change, the City Manager will determine whether the application is complete, as described in Section 3.4.
      2. Applications prepared by the City Manager on behalf of the City Council, Planning and Zoning Commission, or HPC shall be considered complete.
    - (iv) Staff Review  
Once a procedure has been initiated and the application deemed complete, the City Manager will review the application, considering any applicable criteria for approval and prepare a report to the HPC (if necessary), the Planning and Zoning Commission and the City Council.



1. The City Manager may establish procedures for administrative review necessary to ensure compliance with this Code and state.
  2. The City Manager may assign staff to review the application and make a preliminary report to the City Manager.
  3. The City Manager's report to the Planning and Zoning Commission and City Council may include a recommendation for final action.
- (v) HPC Review  
The HPC will review and make a recommendation to the Planning and Zoning Commission and City Council regarding any zoning change within a Historic District or the Central Business District Overlay, and the designation of any new Historic District.
- (vi) Planning and Zoning Commission Review  
The Planning and Zoning Commission will hold a public hearing, in accordance with its rules and state law, and make a recommendation to the City Council.
- (vii) City Council Final Action
1. The City Council will hold a public hearing, in accordance with its rules and state law, and take final action on the application, according to the following rules:
  2. The rezoning, planned unit development, historic district designation or initial zoning of annexed territory will become effective by a simple majority vote of the City Council. If a proposed rezoning of a tract of land has been protested in writing by the owners of at least 20 percent of the area within 200 feet of the tract (who are also resident inside the City Limits), the rezoning may not become effective except by three-fourths vote of the City Council. At least three-fourths vote of the City Council is required to overrule a recommendation by the Planning and Zoning Commission that a regulation or boundary be denied.
- c. Criteria for Approval – Generally
- (i) The application is complete and the information contained within the application is sufficient and correct enough to allow adequate review and final action.
  - (ii) Zoning changes may be approved when the following standards are met:
    1. The zoning change is consistent with the Comprehensive Plan;
    2. The zoning change promotes the health, safety, or general welfare of the City and the safe, orderly, and healthful development of the City;
    3. The zoning change is compatible with and conforms with uses of nearby property and the character of the neighborhood;
    4. The property affected by the zoning change is suitable for uses permitted by the proposed amendment to the zoning map;
    5. Infrastructure, including roadway adequacy, sewer, water and storm water facilities, is or is committed to be available that is generally suitable and adequate for the proposed use.
    6. Zoning variance requests will not be considered. Zoning changes must be made by Zoning Map Amendment.
  - (iii) All amendments must be in accordance with the Comprehensive Plan, which may be amended according to the procedure in this Section. Newly annexed areas shall be zoned during the annexation process.
- d. Responsibility for Final Action

Conditions and proposed decisions regarding rezoning shall be reviewed by the Planning and Zoning Commission. The Planning and Zoning Commission shall forward its recommendation to the City Council, which is responsible for final action on Zoning Map Amendments.

(5) Zoning Map Amendment – Planned Unit Development (PUD)

a. Applicability

A PUD is a zoning overlay district that may be used to permit new or innovative concepts in land utilization, master-planned communities, mixed use development that other zoning districts do not accommodate, and to provide site-specific compatibility standards. While greater flexibility is given to allow special conditions or restrictions that would not otherwise allow the development to occur, procedures are established to insure against misuse of increased flexibility. PUDs are appropriate in areas where the Comprehensive Plan reflects the specific uses proposed in the PUD or where the Comprehensive Plan reflects mixed use as a land use category.

b. Submission Requirements

(i) The applicant is responsible for submitting an application for a PUD that must include submission of a proposed development ordinance with an attached General Development Plan. The proposed ordinance, as modified and if approved by the City Council, shall be binding on the applicant and its successors. Final action on the PUD includes final action on the proposed development agreement. Any future development permits must comply with the final approved development ordinance.

(ii) The PUD development ordinance and general development plan must provide sufficient information for the Council's evaluation. These submission items must also include development standards which shall address: uses, density, lot area, lot width, lot depth, yard depths and widths, setback requirements, building height, building elevations, parking, access, streets and circulation, screening, landscaping, accessory buildings, signs, lighting, project phasing or scheduling, management associations, restrictive covenants and other restrictions, fiscal surety for completion of construction of improvements, cost participation agreements, and other requirements the City Council may deem appropriate.

c. Approval Criteria (PUD)

In addition to the zoning change criteria in this Section, upon receipt of the Planning and Zoning Commission's recommendation to the City Council, the Council will consider the following specific objectives and criteria in making a determination on the development ordinance and general development plan associated with the PUD. Rezoning to and development under the PUD district will be permitted only if the development ordinance and general development plan meet the following criteria:

(i) Compatible with the goals and policies of the Comprehensive Plan.

(ii) Assurance of adequate utility infrastructure in conformance with the Utility Master Plan and Drainage Master Plan.

(iii) Assurance of a variety of housing types, employment opportunities or commercial services to achieve a balanced community for families of all ages, sizes and levels of income.

(iv) Provision of a comprehensive transportation system for bicycle,

- pedestrian and vehicular traffic that is connected and integrated with existing development.
- (v) Provision of cultural or recreational facilities for all residents.
  - (vi) Provision of a gross site area as well-designed and appropriately improved open space for the use of all residents.
  - (vii) Development is staged in a manner that can be accommodated by the timely provision of public utilities, facilities and services
- d. Effect of Council Approval
- City Council approval of a PUD also constitutes final approval of the binding PUD development ordinance and PUD general development plan that were attached to the PUD application, as modified by the City Council.
- (i) The PUD development ordinance, as modified and approved by the City Council, becomes, in effect, a modification to the regulations and standards of this Code that apply only to the area of land described by the PUD development ordinance. All future or ongoing development approvals or permits within the area of the PUD shall comply with the PUD development ordinance in addition to this Code.
  - (ii) The PUD general development plan, as modified and approved by the City Council, becomes, in effect, an amendment to the City's Comprehensive Plan and Zoning Map that applies only to the area of land described by the PUD. All future or ongoing development approvals or permits, including any plat-related approval, shall comply with the PUD general development plan in addition to the City's Comprehensive Plan.
  - (iii) Minimum Requirements
- Unless otherwise indicated in the approved PUD development ordinance or PUD general development plan, the minimum requirements for each development shall be those stated in this Code for subdivisions and the requirements of the most restrictive standard zoning district in which designated uses are permitted.
- e. Responsibility for Final Action
- Decisions regarding a Planned Unit Development (PUD) shall be reviewed by the Planning and Zoning Commission. The Planning and Zoning Commission shall forward its recommendation to the City Council, which is responsible for final action on a PUD.
- (6) Zoning Map Amendment – Historic District Designation
- a. Applicability
- Application of a Historic Overlay shall have the effect of applying historic preservation restrictions to the area, parcel, or landmark contained within the overlay. An historic overlay may also specify additional criteria or development standards that apply to the specific historic overlay. Any area, parcel, or landmark may be designated as historic if it meets the historic overlay criteria.
- b. Interim Control during Historic District Consideration
- No building permit may be issued by the City for alteration, construction, demolition, or removal of any property or structure within an area proposed for designation to the historic overlay from the date the application for historic overlay designation is deemed complete until the application has received a final decision by the City Council; provided however; that alterations, removal

or demolition is authorized by formal action of the City Manager as necessary for preservation of the public health, welfare, or safety as provided for in this Code. In no event will the delay to issuance of the building permit exceed one hundred and twenty (120) days, unless a moratorium is then in effect.

c. Approval Criteria (Historic District Designation)

In addition to the approval criteria for zoning changes in this Section, the City Council will consider the following:

- (i) The following criteria shall be considered in determining whether the Historic District Designation should be applied to a structure, site or area of the City.
  1. Character, interest and/or value of the structure, site and/or area because of its unique role in the development, heritage or cultural characteristics of the City of Buda, State of Texas or nation or other society.
  2. Occurrence of a notable historical event at the structure, site or area.
  3. Identification or relationship of a structure, site or area with a person or persons who contributed notably to the culture and development of the city, state, nation or other society.
  4. Multiple buildings in a structure or site under consideration of distinctive elements of architectural design, detail, material, or craftsmanship related to a uniqueness to the area or the related distinctiveness of a craftsmen, master builder or architect, or a style.
  5. Archaeological value in the sense that the structure, site or area has produced or can be expected to yield, based on physical evidence, information affecting knowledge of history or prehistory of the area.
  6. Other unique historical value.

(ii) Required Findings

In recommending the application of an historic overlay designation to an area of the City, the Historic Preservation Commission (HPC) shall recommend express findings to the Planning and Zoning Commission and City Council regarding the specific structures, landscapes or other physical aspects of the district on which it bases the determination required by the above criteria.

d. Responsibility for Final Action

Recommendations regarding the application shall be made by the Historical Preservation Commission and forwarded to the Planning and Zoning Commission. The Planning and Zoning Commission shall forward its decision to the City Council, which is responsible for final action on Historic District Designation.

(7) Annexation Petition

a. Applicability

For the purpose of establishing and maintaining sound, stable, and desirable development within the jurisdiction of the City, the Official Map may be amended to extend the corporate limits.

b. Review Process

(i) Initiation

Initiation of an annexation may be made upon:

1. Recommendation of the City Council;
2. Petition by the property owner of the affected property or its

- authorized agent; or
- 3. Petition by a majority of the qualified voters residing in the area to be annexed.
- (ii) Application
  - 1. Application on behalf of a property owner must be made in a format consistent with requirements established by the City Manager. Applications must include all materials determined necessary by the City Manager. Information regarding the format requirements and materials required for the application will be made available by the Manager in advance of any application.
  - 2. The City Manager is responsible for ensuring that a complete application is prepared for changes initiated by the City Council or Planning and Zoning Commission such that all material necessary for the City Council to render an informed decision is provided.
- (iii) Completeness Determination
  - 1. Upon submission of an application, the City Manager will determine whether the application is complete, as described in Section 3.4.
  - 2. Applications prepared by the City Manager on behalf of the City Council or Planning and Zoning Commission shall be considered complete.
- (iv) Staff Review

Once a procedure has been initiated and the application deemed complete, the City Manager will review the application, considering any applicable criteria for approval and prepare a report to the City Council.

  - 1. The City Manager may establish procedures for administrative review necessary to ensure compliance with this Code and the state.
  - 2. The City Manager may assign staff to review the application and make a preliminary report to the City Manager.
  - 3. The City Manager's report to the City Council may include a recommendation for final action.
- (v) City Council Final Action

The City Council will hold two (2) public hearings, in accordance with its rules and Texas Local Government Code §43.063, and take final action on the application in a separate meeting according to the following rules:

  - 1. The annexation will become effective by a simple majority vote of the City Council.
  - 2. If a proposed annexation of a tract of land has been protested in writing by the owners of at least 20 percent of the area within 200 feet of the tract, the annexation may not become effective except by three-fourths vote of the City Council.
- c. Criteria for Approval – Generally

Annexation petitions may be approved when the following standards are met:

  - (i) The application is complete and the information contained within the application is sufficient and correct enough to allow adequate review and final action.
  - (ii) The application meets all state laws and regulations.
  - (iii) The annexation promotes the health, safety, or general welfare of the City and the safe, orderly, and healthful development of the City;
  - (iv) The property owners or a majority of the registered voters in the area consent to the annexation, or the City exercises unilateral annexation

- powers according to state law;
      - (v) The application includes a service plan providing for infrastructure, including roadway adequacy, sewer, water, and storm water facilities, in the area affected by the petition.
    - d. Responsibility for Final Action  
The City Council is responsible for final action on annexation petitions.
- (8) Development Agreement
  - a. Applicability  
A developer may request a Development Agreement to be applicable to the development of a tract of land that is located in the ETJ. The Development Agreement will be in the form promulgated by the City and will contain such terms and conditions as may be approved by the City Council.
  - b. The Development Agreement will be binding on the City and the developer when fully executed, and will be subject to all of the provisions of Chapter 245 of the Texas Local Government Code.
  - c. Responsibility for Final Action  
Recommendations regarding Development Agreement approval shall be made by the Planning and Zoning Commission. The Planning and Zoning Commission shall forward its recommendation to the City Council, which is responsible for final action on the Development Agreement.

### **Section 3.8 Subdivision-Related Applications**

This section applies to the following subdivision-related applications:

- Administrative Plat
  - General Development Plan
  - Preliminary Plan
  - Final Plat
  - Replat
  - Construction Plans
- (1) General Requirements for Approval of Plats
    - a. Prior to the subdivision, re-subdivision, or development of any land within the City, or its extraterritorial jurisdiction, all plans, plats, and construction plans for infrastructure improvements must first be approved in accordance with regulations specified in subsections 3.8(1) (b) – (f) except for:
      - (i) Construction of additions or alterations to an existing building where no drainage, street, utility extension or improvement, additional parking or street access change is required to meet the standards of this Code are necessary to support such building addition or alterations.
      - (ii) Divisions of land created by order of a court of competent jurisdiction.
      - (iii) A change in ownership of a property through inheritance or the probate of an estate.
      - (iv) Cemeteries complying with all state and local laws and regulations.
      - (v) Those plats exempted in Section 212.004, Texas Local Government Code
    - b. Except as exempted in Section 3.8(1)a, above, no land may be subdivided or platted through the use of any legal description other than with reference to a

plat approved by the City Council or the City Manager in accordance with these regulations.

- c. Except for agricultural leases, no land described in this section shall be platted or sold, leased, transferred or developed until the property owner has obtained approval of the applicable general development plan, preliminary plan, final plat or development plat from the City Council or the City Manager as required by these regulations.
- d. No building permit or certificate of occupancy may be issued for any parcel or tract of land until such property has received final plat or development plat approval and is in conformity with the provisions of this Code, the plat has been recorded, public improvements have been accepted by the City (if applicable), and no private improvements will take place or be commenced except in conformity with these regulations in this Code.
- e. No person shall transfer, lease, sell or receive any part of a parcel before an administrative plat or final plat of such parcel and the remaining parcel have been approved by the City Council in accordance with the provisions of these regulations in this Code and filed of record with the County Clerk of Hays County.
- f. The platting or subdivision of any lot or any parcel of land, by the use of GPS using the Texas State Plane Coordinate System as a substitute for metes and bounds for the purpose of sale, transfer, lease or development is prohibited. The Texas State Plane Coordinate System may be used as supporting documentation only and the datum source must be referenced.
- g. The Planning and Zoning Commission shall act on a plat within 30 days after the date a complete application for the plat is filed. A plat is considered approved by the Commission unless it is disapproved within that period. The City Council shall act on the plat within 30 days after the date the plat is acted on by the Planning and Zoning Commission. A plat is considered approved by the City Council unless it is disapproved within that period.

(2) Administrative Plat Review

a. Applicability

Minor plats or amending plats may be approved by the City Manager following an evaluation for plan compliance and technical compliance with this Code.

(i) Minor Plat

A minor plat is any plat involving four (4) or fewer lots fronting on an existing street and not requiring the creation of any new street or the extension of municipal facilities

(ii) Amending Plat

A plat that complies with Texas Local Government Code §212.016, as amended, which is generally submitted to correct errors and omissions when agreed to by all adjacent property owners.

(iii) Development Plat

1. Development plats are required for previously unsubdivided or unplatted land that is not being divided into separate parcels, as described in §212.045 of the Texas Local Government Code.
2. Any person who proposes the development of a tract of land within the City limits or the extraterritorial jurisdiction of the City of Buda must have a development plat of the tract prepared in accordance with this Section. New development may not begin on the property

- until the development plat is filed with and approved by the City.
3. When an applicant is required to file a preliminary plan or final subdivision plat by other requirements of this Section, a development plat is not required in addition to the subdivision plat.
- (iv) Any plat that requires a waiver from Subdivision Design and Improvement Standards, any utility dedication, dedication of land must be reviewed as a preliminary plan by the Planning and Zoning Commission and finally approved by the City Council.
  - (v) It shall be unlawful to offer and cause to be filed any plan, plat, or replat of land within the City limits or ETJ of Buda of record with the County Clerk unless the plan, plat or replat bears the endorsement and approval of the City Manager.
- b. Approval Criteria (Administrative Plat)

All subdivisions and plats of land shall be reviewed using the criteria in this Code. Infrastructure construction plans must be filed and be consistent with Chapter 8. They must be reviewed and approved before any final action may be taken by the City Manager or the developer.
  - c. Responsibility for Final Action

The City Manager is responsible for final action on Administrative Plat Reviews. If the City Manager determines the Administrative Plat does not meet the approval criteria, the applicant may request that the application be forwarded to the Planning and Zoning Commission for its review and for its recommendation to City Council, which will take final action.
  - d. Action Following Plat Approval

After approval of an administrative plat, the subdivider shall notify the City Engineer within ten (10) days which of the following construction procedure(s) the subdivider proposes to follow:

    - (i) The subdivider may file a Construction Plan, and upon approval of the Construction Plan by the City Manager or his designee, proceed with construction of streets, alleys, sidewalks, and utilities that the subdivider is required to install. The City will inspect the work as it progresses, and upon completion and final acceptance by the City, and upon written request of the subdivider, the final plat may be approved and filed of record with the County Clerk; or
    - (ii) The subdivider may elect to post fiscal surety and assurance of construction as provided in Chapter 9, in which case the surety of assurance shall be filed with the City, together with a request that the plat be filed for record. In this case, the final plat will be approved and filed with the County Clerk. The subdivider shall pay the record filing fee. The City will inspect the construction work as it progresses and will make the final inspection to assure compliance with City requirements; and upon completion of construction, the subdivider shall deliver to the City a two (2) year guarantee of workmanship and materials as provided in Chapter 9.
    - (iii) The City Engineer's signature on the construction documents provides the requisite authority for the subdivider to proceed with the construction of streets and utilities.
  - e. Recordation

After the City Manager has approved the plat, the City Engineer has approved the Construction Plan and the subdivider has either posted fiscal surety and



assurance of construction (see Chapter 12) or completed required provision of infrastructure and public improvements, the final plat shall be recorded in the Office of the County Clerk. The subdivider will pay the record filing fee.

(3) General Development Plan

a. Purpose

The purpose of the general development plan is to provide for review of certain developments for compliance with the Comprehensive Plan, this Code, any additional adopted plans (e.g., Wastewater, Drainage or Water Plan), the compatibility of land uses, and the coordination of improvements within and among individual parcels of land or phases of development, prior to City approval of a preliminary plan.

b. Applicability

(i) A general development plan is required for any development that meets the following criteria:

1. If the property is undeveloped, is under one ownership, and is greater than 50 acres; or
2. Is to be platted and developed in phases; or
3. Will require off-site road, drainage, or utility connections or improvements that will have a substantial impact or effect on other properties or developments; or
4. Is proposed for approval as a Planned Unit Development.

(ii) The City Manager will determine during the pre-application conference for any plat application whether a general development plan is required in accordance with the purpose stated in this Code.

1. When a development is located on a portion of a large tract under one ownership, is developed in phases, or is located on land that was not legally subdivided, the developer may be required to submit a general development plan for review and recommendation to City Council by the Planning and Zoning Commission.
2. The City Manager's decision to require a general development plan may be considered by the Planning and Zoning Commission upon written request of the applicant.

c. Approval Criteria

General development plans will be reviewed by the Planning and Zoning Commission using the criteria for approval of subdivisions and plats in this Code, and forwarded to City Council for its review and final action.

d. Responsibility for Final Action

Recommendations regarding a General Development Plan shall be made by the Planning and Zoning Commission. The Planning and Zoning Commission shall forward its recommendation to the City Council, which is responsible for final action on General Development Plans.

e. All current and future phases of development referenced in a general development plan shall be designed and constructed in conformance with the general development plan. Any changes to project layout, land use, infrastructure design or construction, or other changes that would require a revision of subsequent plats or permits from what was originally proposed shall require a revision of the general development plan prior to proceeding to apply for approval of subsequent development phases on the same property. All revisions to a general development plan shall be subject to review and

recommendation by the Planning and Zoning Commission and final approval by the City Council.

(4) Preliminary Plan Review

a. Applicability

- (i) Preliminary Plan approval shall be required before any land is subdivided (that does not meet the requirements of Section 3.8(2), Administrative Plat Review).
- (ii) Preliminary Plans are required for land being divided into separate parcels, plats with six or more lots, and any plats that require a dedication of land to the City.
- (iii) It shall be unlawful to offer and cause to be recorded any Preliminary Plan of land within the City limits or extraterritorial jurisdiction of Buda with the County Clerk by any party other than the City Manager or another duly authorized representative of the City of Buda.

b. Preliminary Plan Application Requirements

- (i) Submission requirements for the preliminary plan will be established by the City Manager, and will include basic engineering information necessary for the Planning and Zoning Commission to render an informed recommendation and for the City Council to render an informed decision (Detailed engineering information will be required for the Final Plat).
- (ii) A plat submitted for consideration as a Preliminary Plan is not required to have an area or signature block for any endorsement and approval by the City Council, as is required to file the final plat with the County Clerk.
- (iii) No Preliminary Plan for a project requiring a General Development Plan may be submitted without a copy of the approved General Development Plan.

c. Approval Criteria

Subdivisions and plats of land shall be reviewed using the criteria specified or referenced in this Code.

d. Waivers

The Planning and Zoning Commission may recommend to City Council the approval, approval with conditions, or disapproval of waivers of the standards required for plat approval, by using the criteria for consideration of Variances in Section 3.9(10).

e. Responsibility for Final Action

Recommendations regarding Preliminary Plan approval shall be made by the Planning and Zoning Commission. The Planning and Zoning Commission shall forward its recommendation to the City Council, which is responsible for final action on the Preliminary Plan.

f. Action Following Preliminary Plan Approval

After approval of a preliminary plan, the subdivider shall prepare and submit a final plat.

(5) Final Plat Approval

a. Applicability

- (i) Final plats are technically complete versions of an already approved preliminary plan. Notwithstanding the provisions in Section 3.9(4)a(ii), no final plat may be considered or approved unless the preliminary plan

- for the same land has been approved.
- (ii) Final plat review is required to ensure that a final recorded plat includes final engineering diagrams and descriptions that conform to the preliminary plan as approved by the City Council. The final plat must incorporate all changes from the preliminary plan that were considered and approved by the City Council.
- b. Final Plat Application Requirements
  - (i) Submission requirements for the final plat will be developed by the City Manager, and will include detailed engineering information necessary for the Planning and Zoning Commission to render an informed recommendation and for the City Council to render an informed decision.
  - (ii) When filed, the final plat must also provide all support documentation required by the County Clerk's office for recordation.
  - (iii) A plat submitted for consideration as a final plat must have an area or signature block for any endorsement and approval by the City Council, as required to file the final plat with the county clerk.
  - (iv) Estimates for posting fiscal surety for landscaping requirements, maintenance, erosion and sedimentation control, roads, and utilities are also required for final plat review.
- c. Approval Criteria
  - (i) Subdivisions and plats of land shall be reviewed using the criteria in this Code and any technical criteria referenced by this Code.
  - (ii) A final plat must be determined to be consistent with a previously approved preliminary plan.
  - (iii) A construction plan for any required or agreed improvements must be approved by the City Manager or his designee as required in this Code.
- d. Responsibility for Final Action

Recommendations regarding final plat approval shall be made by the Planning and Zoning Commission. The Planning and Zoning Commission shall forward its recommendation to the City Council, which is responsible for final action on the final plat.
- e. Recordation

If the City Council has approved the plat, the City Manager or his designee has approved the construction plans, and the subdivider has either posted fiscal surety and assurance of construction, or completed the required infrastructure and public improvements, the final plat becomes the instrument to be recorded in the Office of the County Clerk when all requirements have been met. The subdivider shall pay the record filing fee and the City shall file the final plat with the County Clerk.
- (6) Replat
  - a. Applicability
    - (i) A replat is any plat that complies with Texas Local Government Code §212.014, §212.0145, and §212.015, as amended, which is generally submitted to replat a subdivision or part of a subdivision without vacation of the original plat.
    - (ii) Replatting a portion of a recorded lot is not permitted.
    - (iii) A replat does not itself constitute approval for development of the property.
  - b. Replat Application Requirements

Submission requirements for a replat shall be the same as those required for final plats.

c. Approval Criteria

- (i) Replats shall be reviewed using the criteria in this Code and any technical criteria referenced by this Code.
- (ii) A construction plan for any required or agreed improvements must be approved by the City Manager or his designee as required in this Code.

d. Responsibility for Final Action

Recommendations regarding replat approval shall be made by the Planning and Zoning Commission following a public hearing. The Planning and Zoning Commission shall forward its recommendation to the City Council, which is responsible for final action on the replat.

e. Recordation

If the City Council has approved the replat, the City Manager or his designee has approved the construction plans, and the subdivider has either posted fiscal surety and assurance of construction, or completed the required infrastructure and public improvements, the replat becomes the instrument to be recorded in the Office of the County Clerk when all requirements have been met. The subdivider shall pay the record filing fee and the City shall file the replat with the County Clerk.

f. Additional Requirements for Certain Replats

- (i) In addition to a public hearing, public notice is required for a replat of a preceding plat if:
  1. during the preceding five (5) years, any of the area to be replatted was limited by an interim or permanent zoning classification to residential use for not more than two (2) residential units per lot; or
  2. any lot in the preceding plat was limited by deed restrictions to residential use for not more than two (2) residential units per lot.
- (ii) Notice of the required hearing shall be given before the 15th day before the date of hearing by:
  1. publication in an official newspaper or a newspaper of general circulation in the county in which the municipality is located; and
  2. by written notice, with a copy of Subsection (iii) below attached, forwarded by the municipal authority responsible for approving plats to the owners of lots that re in the original subdivision and that are within 200 feet of the lots to be replatted, as indicated on the most recently approved municipal tax roll or in the case of a subdivision within the extraterritorial jurisdiction, the most recently approved county tax roll of the property upon which the replat is requested. The written notice may be delivered by depositing the notice, properly addressed with postage prepaid, in a post office or postal depository within the boundaries of the municipality.
- (iii) If the proposed replat requires a variance and is protested in accordance with this subsection, the proposed replat must receive, in order to be approved, the affirmative vote of at least three-fourths of the members present of the Planning and Zoning Commission or City Council, or both. For a legal protest, written instruments signed by the owners of at least 20 percent of the area of the lots or land immediately adjoining the area covered by the proposed replat and extending 200 feet from that area, but within the original subdivision, must be filed with the Planning and

Zoning Commission or City Council, or both, prior to the close of the public hearing.

- (iv) In computing the percentage of land area under Subsection (iii), the streets and alleys shall be included.
- (v) Compliance with Subsections (iii) and (iv) is not required for approval of a replat of part of a preceding plat if the area to be replatted was designated or reserved for other than single or duplex family residential use by notation on the last legally recorded plat or in the legally recorded restrictions applicable to the plat.

(7) Construction Plans (City Engineer Approval)

a. Applicability

Construction plans must be submitted to the City Engineer prior to or concurrently with a final plat for all existing or proposed streets, sidewalks, drainage and utility improvements, water quality controls, park improvements, and any other infrastructure or public improvements that are required or proposed to be constructed, reconstructed, improved, or modified to serve the development. Where the final plat is for property being developed in phases, the required construction plans must include the improvements specified in the general development plan or preliminary plan to serve the phase being platted. The construction plans are intended to provide for the detailed engineering drawings for all improvements required to serve the development. The construction plans must be kept as a permanent record of the City. The City Engineer as referenced in this Code is acting as agent for the City Manager, and shall have the powers specified in this Code only to the extent that the Engineer is expressly delegated those powers by the City Manager.

b. Responsibility of Subdivider's Engineer

The registered professional engineer representing the subdivider is responsible for the accuracy, completeness and conformance of all plans to City standards and must certify (with seal) the construction plans as to accuracy and design and conformance with all applicable City requirements. The City assumes no project design or engineering responsibility. The subdivider's professional engineer certifying the plans is responsible for the accuracy and completeness of the documents and the soundness of the designs as submitted for review and actual construction.

c. Approval Criteria

The purpose of the City Engineer's review is to ensure conformance to City policies and standards. However, the City Engineer's review is limited to facts as presented on submitted plans.

- (i) The City Engineer will approve any Construction Plan that is submitted and sufficiently shows compliance with any city approved or adopted design or construction criteria manuals, or in the absence of city approved or adopted design requirements, standard engineering practices.
- (ii) The City reserves the right to require corrections to actual conditions in the field that are found to be contrary to or omitted from submitted plans.
- (iii) The City Engineer may not approve a Construction Plan that does not adequately represent construction of the approved infrastructure and

public improvements included in the approved administrative or preliminary plat, or that he knows does not comply with this Code or other applicable law.

d. Responsibility for Final Action

The City Engineer is responsible for final action on Construction Plans.

### **Section 3.9 Development Related Applications**

This section applies to general issues related to development within the City of Buda and within the City's ETJ.

- Letter of Regulatory Compliance
- Written Interpretation of the Unified Development Code
- Master or Common Sign Plan
- Temporary Use Permit
- Special Exception
- Site Plan Review and Site Development Permit
- Stormwater Permit
- Certificate of Design Compliance
- Appeal of an Administrative Decision
- Variance
- Sign Permit
- On-Site Wastewater Permit

(1) Letter of Regulatory Compliance (City Manager Approval)

a. Applicability

The subdivider may obtain a Letter of Regulatory Compliance from the City Manager prior to commencing work on any development, and may be required to do so by the City as part of an application for another procedure. The Letter of Regulatory Compliance certifies that specific uses of land and any new development is in compliance with the requirements of these development regulations.

b. Types of Letter of Regulatory Compliance

(i) Zoning Verification Letter

A Zoning Verification Letter is a letter that indicates to a property owner that a specified use, clearly identified in the application, is permitted within the zoning district. A Zoning Verification Letter does not vest the property owner with permission to proceed with a development; does not specify requirements that must be met for future development; and does not include a determination that a tract of land may be developed. The City Manager may include additional information about the uses and standards required for a development to proceed, however, and such additional information does not constitute permission to proceed with development.

(ii) Legal Lot Verification Letter

A Legal Lot Verification Letter is a letter in accordance with §212.0115 of the Texas Local Government Code that indicates whether or not a lot has been properly platted.

c. Responsibility for Final Action

The City Manager is responsible for final action.

- (2) Written Interpretation of the Unified Development Code (City Manager Approval)
- a. Applicability  
The City Manager shall have the authority to make all written interpretations of this Code. Whenever there appears to be an uncertainty, vagueness, or conflict in the terms of the Code, the Manager, in consultation with the staff, city engineer, or city attorney, as may be appropriate, shall make every effort to interpret the Code in such a way that it fulfills the goals of the Comprehensive Plan and the Code. The interpretation given by the Manager shall be final unless an appeal is made by the applicant to the Board of Adjustment to overturn his decision. In such a case the burden shall be on the applicant to prove that the Manager's interpretation is unreasonable and in clear conflict with the governing law and the goals of the Comprehensive Plan.
  - b. Specific Application Requirements for Written Interpretation  
Submission requirements for written interpretations will be developed by the City Manager.
  - c. Approval Criteria (Written Interpretation)  
In addition to the general criteria for consideration of administrative procedures in Section 2.3), the City Manager will determine, based on analysis of the requested interpretation, and considering this Code, the correct interpretation for whatever question is raised.
    - (i) The City Manager will first determine that the application does not request a written interpretation that is already clear in this Code or that the application could more appropriately be decided through another procedure in this Code. If this is the case, the City Manager shall reject the applicant's proposed written interpretation and refer the applicant to the appropriate section of the Code. This reference will serve as the written interpretation.
    - (ii) In making a written interpretation, the City Manager may consider, but is not limited to the following:
      - 1. Any previous written interpretations.
      - 2. Best practices in the planning and land development professions.
      - 3. Current practices of the City of Buda.
      - 4. Any other relevant source.
- (3) Master or Common Sign Plan (City Manager Approval)
- a. Applicability  
A master sign plan shall be required for all multiple-tenant buildings, PUDs, and all multi-building or multi-occupant commercial developments before any signs for such development may be erected on the property. All owners, tenants, subtenants and purchasers of individual units within the development shall comply with the approved master sign plan.
  - b. Criteria for Approval  
In addition to the general administrative review criteria in Section 2.3, the City Manager must determine the following in order to approve the Master Sign Plan:
    - (i) The plan provides that signs of a similar type and function within the development will have a consistent size, lettering style, color scheme and

- material construction.
  - (ii) The plan provides for signs that meet the size and height limitations, location requirements, and other applicable requirements of Chapter 10 of this Code.
  - c. Responsibility for Final Action  
The City Manager is responsible for final action.
- (4) Temporary Use Permit (City Manager Approval)
- a. Applicability  
Temporary uses, as identified in Section 4.11, are required to obtain a temporary use permit from the City Manager. The permit specifies the use, the period of time for which it is approved, and any special conditions attached to the approval.
  - b. Approval Criteria  
In addition to the general criteria for consideration of administrative procedures, the City Manager shall consider whether the application complies with the following standards:
    - (i) Land Use Compatibility  
The temporary use must be compatible with the purpose and intent of this Code and the zoning district in where it will be located. The temporary use shall not impair the normal, safe, and effective operation of a permanent use on the same site. The temporary use shall not endanger or be materially detrimental to the public health, safety or welfare, or injurious to property or improvements in the immediate vicinity of the temporary use, given the nature of the activity, its location on the site, and its relationship to parking and access points.
    - (ii) Compliance with Other Regulations  
A building permit or temporary certificate of occupancy may be required before any structure to be used in conjunction with the temporary use is constructed or modified. All structures and the site as a whole shall meet all applicable building Code, zoning district, and fire Code standards and shall be promptly removed upon the cessation of the use or event. Upon cessation of the event or use, the site shall be returned to its previous condition (including the removal of all trash, debris, signage, attention attracting devices or other evidence of the special event or use).
    - (iii) Duration  
The duration of the temporary use shall be consistent with the intent of the use and compatible with the surrounding land uses. The duration shall be established by the City Manager at the time of approval of the temporary use permit.
    - (iv) Traffic Circulation  
The temporary use shall not cause undue traffic congestion or safety concerns, as determined by the City Engineer, given anticipated attendance and the design of adjacent streets, intersections and traffic controls.
    - (v) Off-Street Parking  
Adequate off-street parking shall be provided for the temporary use, and it shall not create a parking shortage for any of the other existing uses on or near the site.
    - (vi) Appearance and Nuisances



The temporary use shall not cause any temporary or permanent nuisance. The temporary use shall be compatible in intensity, appearance and operation with surrounding land uses in the area, and it shall not impair the usefulness, enjoyment or value of adjacent property due to the generation of excessive noise, dust, smoke, glare, spillover lighting, or other forms of environmental or visual pollution.

(vii) Other Conditions

The City Manager shall consider any other conditions that may arise as a result of the temporary use.

(viii) Public Conveniences and Litter Control

Adequate on-site rest room facilities may be required. Adequate on-site solid waste containers may also be required. The applicant shall provide a written guarantee that all litter generated by the event or use shall be removed within a reasonable and appropriate timeframe at no expense to the City. The guarantee shall be in a form and substance approved by the City Manager, which may include the requirement of a fiscal posting.

(ix) Signs and Attention-Attracting Devices

The City Manager shall review all signage in conjunction with the issuance of the permit. The City Manager may approve the temporary use of attention attracting devices that generally conform to the requirements of this Code. The City Manager may establish any additional conditions deemed necessary to ensure land use compatibility and to minimize potential adverse impacts on nearby uses, including, but not limited to, time and frequency of operation, temporary arrangements for parking and traffic circulation, requirements for screening/buffering, and guarantees for site restoration and cleanup following the temporary use.

c. Responsibility for Final Action

The City Manager is responsible for final action.

(5) Special Exception (BOA Approval)

a. Applicability

(i) Upon written receipt of an application requesting a special exception, the City Manager may request the BOA to consider a special exception.

(ii) In order to provide a method by which human error (e.g., miscalculations) may be corrected, special exceptions may be permitted. Special exceptions are specified deviations from otherwise applicable development standards where development is proposed that would be:

1. Compatible with surrounding land uses.
2. Harmonious with the public interest.
3. Consistent with the purposes of this Code.

(iii) The BOA shall have the authority to authorize an adjustment of up to ten (10) percent of any numerical standard.

(iv) Special exceptions require compliance with all other elements of this Code not specifically excused or permitted by the special exception.

b. Application Requirements for Special Exceptions

Applications for special exceptions must be made in a format consistent with requirements established by the City Manager. Applications must include all materials determined necessary by the City Manager.

c. Approval Criteria

To approve an application for an special exception, the Board of Adjustment

must determine that the following criteria are met:

- (i) That granting the special exception serves an obvious and necessary purpose.
- (ii) That granting the special exception will ensure an equal or better level of land use compatibility than the otherwise applicable standards.
- (iii) That granting the special exception will not materially or adversely affect adjacent land uses or the physical character of uses in the immediate vicinity of the proposed development because of inadequate buffering, screening, setbacks or other land use considerations.
- (iv) That granting the special exception will not adversely affect adjoining property values in any material way.
- (v) That granting the special exception will be generally consistent with the purposes and intent of this Code.

d. Responsibility for Final Action

The Board of Adjustment is responsible for final action.

(6) Site Plan Review and Site Development Permit (City Manager Approval)

a. Applicability

Prior to any excavation, clearing, or other land alteration for the purpose of development within the City limits an applicant must submit a site plan for approval and issuance of a site development permit under this section. A development within the ETJ must submit a site plan for approval of drainage and water quality provisions. No such excavation or development shall be lawful or permitted to proceed without issuance of a site development permit. All improvements reflected on approved site plans must be constructed at the time of development. All terms and conditions of site development permit approval must be met at the time of development.

b. Criteria for Approval

A site plan will be approved and a site development permit issued if the development is in compliance with the general criteria for approval of administrative review procedures, the requirements of Chapters 6 and 7 of this Code and the following additional criteria:

- (i) Compliance with the general development plan and development agreement or ordinance governing the parcel of land to which the site plan is related.
- (ii) Compliance with any additional site plan approval criteria required under Chapter 7 of this code, or any additional approval criteria for overlay districts, or any site plan approval criteria adopted as part of a neighborhood or special area plan.
- (iii) Prior to final approval of any plan within the City Limits, the City Engineer must certify to the City Manager that all requirements for a Stormwater Permit are met by the site plan. Approval of the site plan constitutes approval of the Site Development Permit and Stormwater Permit.

c. Responsibility for Final Action

Chapter 2 specifies the entity responsible for issuance of a site development permit. The City Manager or his/her designee is responsible for final action on site development permits as required by this code.

(7) Stormwater Permit (City Engineer Approval)

- a. Applicability  
A stormwater permit is required prior to any land disturbance (as defined in Appendix), within the City limits or the City's extraterritorial jurisdiction to ensure conformance to the stormwater management provisions and other applicable requirements of this Code. Issuance of a site development permit or a final plat for a single family residential subdivision within the City Limits constitutes approval of a Stormwater Permit for that specific development.
  - b. Criteria for Approval
    - (i) The applicant must ensure that the application for a stormwater permit was prepared or reviewed and approved in writing by a licensed professional engineer prior to submission to the City.
    - (ii) A stormwater permit will be issued after the City Engineer has determined that the development meets the stormwater and pollution management requirements of Chapters 8 and 9 of this Code.
    - (iii) Prior to issuance of a stormwater permit, the City Manager or City Council must approve the site plan for projects in the City's ETJ to ensure any required compliance with this Code, as required in Section 2.3).
    - (iv) A stormwater permit approved by the City is condition upon approval of all applicable related permits required from the Texas Environmental Quality Commission (TCEQ), the U.S. Environmental Protection Agency (EPA) or any other state or federal agency being issued by that agency. Permits issued by entities such as the EPA, which may issue permits closer in time to construction, shall be made available to the City within seven (7) days after having received such permit(s).
  - c. Responsibility for Final Action  
The City Engineer is responsible for final action.
- (8) Certificate of Design Compliance (HPC Approval)
- a. Applicability
    - (i) A certificate of design compliance is required for development within the following areas of the City:
      - 1. Any Historic Overlay District
      - 2. The Central Business Overlay District
    - (ii) A certificate of design compliance from the HPC is required in the following circumstances before the commencement of development within or work upon any building or structure located within the above designated areas of the City:
      - 1. Whenever such work or development requires Site Plan Review or a building permit issued by the City (including sign-related building permits);
      - 2. Whenever such work includes the erection, movement, demolition, reconstruction, restoration or alteration of the exterior of any structure or site, except when such work satisfies all the requirements of ordinary maintenance and repair as defined in Appendix B Glossary.
    - (iii) No building permit shall be issued by the City for any structure or site located within a Historic Overlay District or other applicable Overlay District until the application for such permit has been reviewed by the HPC and a certificate of design compliance has been approved.

- (iv) Certificate of Design Compliance for Demolition  
No building or structure within any Historic or other applicable Overlay District shall be demolished or removed unless such demolition is reviewed and approved by the HPC and a certificate of design compliance for such demolition has been granted.
- b. Criteria for Approval - General  
The Historic Preservation Commission shall determine whether to issue a Certificate of Design Compliance based on the criteria set forth for Zoning Changes, Historic District Designation (Section 3.7(6)) and the following criteria:
  - (i) The development complies with any design standards of this Code.
  - (ii) The development complies with any adopted Design Guidelines specific to the applicable Historic or Overlay District.
  - (iii) The integrity of an individual historic structure is preserved.
  - (iv) New buildings or additions are designed to be compatible with surrounding historic properties.
  - (v) The overall character of the Historic or applicable Overlay District is protected.
  - (vi) Signs that are out of keeping with the character of the site or landmarks within the Historic or applicable Overlay District in question will not be permitted;
  - (vii) The value of the Historic or applicable Overlay District as an area of unique interest and character will not be impaired.
  - (viii) The following may also be considered by the Historic Preservation Commission when determining whether to recommend issuance of a certificate for design compliance:
    1. The effect of the proposed change upon the general historic, cultural and architectural nature of the site, landmark or district.
    2. The appropriateness of exterior features, including parking and loading spaces, which can be seen from a public street, alley or walkway.
    3. The exterior features of the building or structure and the relation of such factors to similar features of buildings or structures in the district, contrast or other relation of such factors to other landmarks built at or during the same period, as well as the uniqueness of such features, considering the remaining examples of architectural, historical and cultural values.
- c. Supplemental Demolition Criteria  
In determining whether to recommend issuance of a certificate of design compliance for demolition, the Historic Preservation Commission, and, on appeal, a court of competent jurisdiction, shall consider the following criteria, in addition to the criteria specified above.
  - (i) The uniqueness of the structure as a representative type of style of architecture, historic association or other element of the original designation criteria applicable to such structure or tract.
  - (ii) The condition of the structure from the standpoint of structural integrity and the extent of work necessary to stabilize the structure.
  - (iii) The economically viable alternatives available to the demolition applicant, including:
    1. Donation of a part of the value of the subject structure or site to a

- public or nonprofit agency, including the conveyance of development rights and facade easement.
  - 2. Possibility of the sale or relocation of the structure or sale of the site, or any part thereof, to a prospective purchaser capable of preserving such structure or site.
  - 3. The potential of such structure or site for renovation and its potential for continuing use.
  - 4. The potential of the subject structure or site for rezoning in an effort to render such property more compatible with the physical potential of the structure. The ability of the subject structure or site to produce a reasonable economic return on investment for its owner may also be considered, provided however, that it is specifically intended that this factor shall not have exclusive control and effect, but shall be considered along with all other criteria contained in this section.
  - (iv) Status of the structure under the City of Buda's Dangerous Building Code.
  - d. Responsibility for Final Action  
The Historic Preservation Commission is responsible for approval of a Certificate of Design Compliance based on the criteria specified in this Section
- (9) Appeal of an Administrative Decision
- Procedures including initiation of appeals of administrative decisions are explained in Chapter 2. Appeals of zoning related regulations shall be heard by the Zoning Board of Adjustments. All other appeals shall be heard by the City Council.
- a. Effect of Appeal  
All development activities permitted by the action being appealed, or any subsequent approval, must stop upon appeal, and remain inactive until the appeal is resolved. If the City Manager certifies in writing that such a cessation of activity would cause imminent peril to life and property, the development may proceed, unless a stop order is issued by the BOA, or a restraining order is issued by a competent court of record. The stop order or restraining order stopping development must indicate the reason for stopping the activity.
  - b. Alternative Dispute Resolution  
Prior to hearing or deciding an appeal of an administrative decision, the Chairperson of the Board of Adjustment (BOA) may request that the applicant and administrative official agree to mediation or other alternative form of resolution of the dispute prior to a public hearing.
    - (i) If the applicant refuses to accept alternative resolution of the dispute, the appeal will be heard and acted upon by the BOA no later than its next meeting.
    - (ii) If the applicant and administrative official can not agree on a format or mediator for the appeal within thirty (30) days, the Chairperson of the BOA may assign a mediator.
    - (iii) The mediator will coordinate the mediation or other alternative form of resolution with the parties, including the date, time, and place of meetings.
    - (iv) The mediator may invite any person, organization or governmental unit with relevant information to participate in the mediation. The parties

may suggest persons, organizations or governmental units that should be requested to participate.

- (v) Both parties will equally share any costs associated with the alternative dispute resolution process, unless they agree otherwise in writing.
- (vi) If no alternative resolution of the dispute can be agreed to by both parties, or if a party is not participating in good faith, the mediator may declare an impasse. The appeal will then be heard and decided at the next BOA meeting.
- (vii) The Board of Adjustment (and/or City Council) must approve, in a public hearing, any alternative resolution of the appeal that involves a minimal change in development standards of this Code and consistent with all legal requirements.

c. Approval Criteria

The Board of Adjustment considers whether the City Manager's or City Council's official action was appropriate considering the facts of the case and the requirements contained in this Code. The Board will make its decision based on this Code and the information presented to the BOA by the applicant and the City Manager or other administrative official.

(i) Basis for Appeal

An applicant may only appeal the specific reasons given for the administrative disapproval or denial. An applicant may not appeal the disapproval or denial without effectively establishing that the specific basis for the administrative disapproval or denial was incorrect.

(ii) Burden of Proof in Appeals

When an appeal is taken to the Board of Adjustment, the City Manager's or other administrative official's action is presumed to be valid. The applicant shall present sufficient evidence and have the burden to justify a reversal of the action being appealed. The City Manager may present evidence and argument to the contrary.

- (iii) All findings and conclusions necessary to the permit or appeal decision (crucial findings) shall be based upon reliable evidence. Competent evidence will be preferred whenever reasonably available, but in no case may crucial findings be based solely upon incompetent evidence unless competent evidence is not reasonably available, the evidence in question appears to be particularly reliable, and the matter at issue is not seriously disputed.

d. Responsibility for Final Action

The Board of Adjustment is responsible for final action.

(10) Variance (City Council or BOA Approval)

a. Applicability

(i) Judicial Variance

The Board of Adjustment shall have the authority to hear and grant requests for a variance from zoning related regulations of this Code.

(ii) Legislative Variance

The City Council shall have the authority to hear and grant requests for a variance from all other development standards (except use standards) of this Code upon the recommendation of the Planning and Zoning Commission.

- (iii) Waivers of the standards required for plat approval are not considered

- variances and must be requested from the Planning and Zoning Commission and then the City Council during the plat review process.
- (iv) Any variance request up to ten (10) percent of any minimum or maximum measurement required by this Code may be treated as a Special Exception if the City Manager agrees to recommend the Special Exception.
  - (v) A variance to the development standards of this Code will be considered an exception to the regulations contained herein. Granting of a variance in one case does not set a precedent for a subsequent case. Each variance request will be judged on its own merit based on subparagraph (b) below.
- b. Criteria for Review
- (i) Required Findings The City Council or BOA may authorize a variance from the requirements of this Code when an unnecessary hardship would result from the strict enforcement of this Code. In granting a variance, the authorizing body conditions that it deems not prejudicial to the public interest. In making the required findings, the authorizing body shall take into account the nature of the proposed use of the land involved, the existing use of land in the vicinity, the number of persons who will reside or work in the proposed development, the possibility that a nuisance may be created, and the probable effect of such variance upon traffic conditions and upon public health, convenience, and welfare of the vicinity. No variance shall be granted unless the authorizing body finds all of the following:
    1. Extraordinary Conditions  
That there are extraordinary or special conditions affecting the land involved such that strict application of the provisions of this Code will deprive the applicant of a reasonable use of its land. For example, a variance might be justified because of topographic, or other special conditions unique to the property and development involved, while it would not be justified due to inconvenience or financial disadvantage.
    2. Application of a Substantial Property Right  
That the variance is necessary for the preservation of a substantial property right of the applicant.
    3. Substantial Detriment  
That the granting of the variance will not be detrimental to the public health, safety, or welfare, or injurious to other property in the area, or to the City in administering this Code.
    4. Other Property  
That the conditions that create the need for the variance do not generally apply to other property in the vicinity.
    5. Applicant's Actions  
That the conditions that create the need for the variance are not the result of the applicant's own actions.
    6. Comprehensive Plan  
That the granting of the variance would not substantially conflict with the Comprehensive Plan and the purposes of this Code.
    7. Utilization  
That because of the conditions that create the need for the variance, the application of this Code to the particular piece of property would

- effectively prohibit or unreasonably restrict the utilization of the property.
- (ii) **Insufficient Findings**

The following types of possible findings do not constitute sufficient grounds for granting a variance:

    1. That the property cannot be used for its highest and best use.
    2. That there is a financial or economic hardship.
    3. That there is a self-created hardship by the property owner or its agent.
    4. That the development objectives of the property owner are or will be frustrated.
  - (iii) **Limitations**

The City Council or BOA may not grant a variance when the effect of the variance would be any of the following:

    1. To allow the establishment of a use not otherwise permitted in the applicable zoning district.
    2. To increase the density of a use above that permitted by the applicable district.
    3. To extend physically a nonconforming use of land.
    4. To change the zoning district boundaries shown on the Official Zoning Map.
  - (iv) **Profitability Not to Be Considered**

The fact that property may be utilized more profitably should a variance be granted may not be considered grounds for a variance.
  - (v) **Limitation on Variances for Signs**

No variance for a sign may increase the overall permitted area of a sign. Sign-related variances may only be granted, in accordance with this section, for height or other location restrictions.
  - (vi) **Variances from Water Quality, Floodplain, or Stormwater Management Regulations**

The City Council shall make a final decision on any variance request from water quality, floodplain, or stormwater management regulations.
- c. **Responsibility for Final Action**
- (i) **Legislative Variance requests shall be reviewed by the Planning and Zoning Commission.** The Planning and Zoning Commission shall forward its recommendation to the City Council, which is responsible for final action on the Variance request.
  - (ii) **Judicial Variance requests shall be reviewed by the Board of Adjustment,** which is responsible for final action on the request.
- (11) **Sign Permit (City Manager Approval)**
- a. **Applicability**

No sign may hereafter be erected, moved, added to, or structurally altered within the City or the ETJ without a permit issued by the City Manager in conformity with the provisions of this Section and Section 10.4 of this Code. No building permit issued under the provisions of this Code for signs shall be considered valid unless signed by the City Manager.
  - b. **Criteria for Approval**

In addition to the general criteria for approval of administrative procedures, the City Manager shall base the final action on the following criteria:



- (i) Whether the intended sign conforms in all respects with all applicable regulations and standards of this Code and any applicable construction or safety standards of the City's building Code.
    - (ii) If the subject property has a Master Sign Plan, development agreement or ordinance governing it, whether the plans, specifications and intended use of such building or structures or part thereof, including the proposed sign, conform in all respects to the development agreement or ordinance.
  - c. Responsibility for Final Action
    - (i) The City Manager is responsible for final action.
    - (ii) Appeals of City Manager actions regarding sign-related building permits shall be considered and decided by the City Council.
  
- (12) On-Site Wastewater Permit (Hays County Approval)
  - a. Applicability

On-site Wastewater permits shall be required from Hays County for any development that applies for a development permit and wishes to use a septic tank or similar type of on-site wastewater system.
  - b. Approval Criteria

Hays County has established its own criteria for review and approval for an on-site wastewater permit application. Consult Hays County Environmental Health Department for further information.
  - c. Responsibility for Final Action

Hays County is responsible for final action.

## **Chapter 4 Zoning Districts and Use Regulations**

### **Section 4.1 Purpose and Intent**

The purpose of this Chapter is to establish zoning districts within the City Limits of Buda, allowable uses within each district, and procedures for special and temporary uses within each district.

### **Section 4.2 Official Zoning Map**

(1) Creation of Official Zoning Map

The City is divided into zoning districts, shown on the Official Zoning Map (described in Sections 4.5 and 4.6), which, together with all explanatory matter thereon, is hereby adopted by reference and declared to be a part of this Code. The Official Zoning Map shall be identified by the signature of the Mayor, attested to by the City Secretary and bear the Seal of the City of Buda under the following words:

"This is to certify that this is the Official Zoning Map referred to in Section of the Unified Development Code, Ordinance No. \_\_\_\_ of the City of Buda, Texas."

(2) Changes to the Official Zoning Map

- a. If, in accordance with the provisions of this Code and §211.006 of the Texas Local Government Code, as amended, changes are made in the district boundaries or other matter portrayed on the Official Zoning Map, such changes shall be effective immediately. Twice a year the City shall update the Official Zoning Map by entering any changes approved by the City Council and the Mayor shall sign the map attesting the changes.
- b. Approved zoning changes shall be entered on the Official Zoning Map by the City Manager or a designated representative and each change shall be identified on the Map with the date and number of the Ordinance making the change.
- c. No change of any nature shall be made on the Official Zoning Map or matter shown thereon except in conformity with procedures set forth in this Code.

(3) Digital Mapping

Digital maps, created through the use of Geographical Information Systems (GIS) technology, containing registration points recorded on the Texas State Plane Coordinate System (USGS NAD 83, mean sea level) and Texas State Plane, measured in feet, as amended, may be used in the administration and enforcement of this Code, but will not replace the paper originals of official maps required by this Code.

(4) Interpreting Zoning District Boundaries

The City Manager shall provide clarification when uncertainty exists as to the current boundaries of districts as shown on the Official Zoning Map.

### **Section 4.3 Rezoning**

- (1) Any decision to amend the Official Zoning Map shall be made based on the criteria in Chapter 2 and 3. No rezoning action may specifically vary from the Permitted Uses Table 4.2 found in Section 4.8, or from the Future Land Use Map included in the Comprehensive Plan.
- (2) Newly Annexed Territory
  - a. Initial Default Zoning

If a land owner petitions the City for annexation, then the land owner will request the desired zoning for the parcel(s) of land being considered. All new undeveloped territory hereinafter annexed involuntarily to the City shall have the Agriculture (AG) zoning district classification. The procedure for establishing zoning on annexed territory shall conform to the procedure established by state law and this Code for the adoption of zoning regulations.
  - b. Rezoning from Default Zoning

If the land is being annexed by the City without the landowners consent, rezoning of newly annexed territory may begin upon completion of annexation of the area. Public hearings for rezoning may only be held after annexation is complete, yet the City reserves the right to change this procedure, while staying within guidelines set forth by the State.
  - c. Exception for lots already partially within City Limits

Newly annexed territory that is part of a lot already annexed or within City Limits will be zoned directly to the zoning designation of the portion of the lot already within the City.

### **Section 4.4 Lot Standards and Zoning**

- (1) Zoning Districts and their respective development standards are set forth below. Each zoning district also contains lot standards that apply to those lots within the zoning district. Information on Lot Standards (including a thorough description on calculating density) can be found in Chapter 5.
- (2) The Future Land Use Map should be consulted for areas located outside of the current City Limits of Buda in order to determine the recommended use(s) of land for a specific area. For example, in areas where the Future Land Use Map indicates Medium Density Residential Development, but also reflects Duplex Residential, Mixed Use and Neighborhood Commercial Districts, a developer is encouraged to consider utilizing Duplex Residential and Commercial development within proposed development in that area. Note Future Land Use Map for those areas that are designated as Mixed Use, Clustered Residential, or Duplex Residential. It is the intent of the Comprehensive Plan and this Code to encourage a mix of uses.

**Section 4.5 Zoning Districts**

The following Zoning Districts reflect the recommended future land use areas, planning sectors and corridors currently included in the City of Buda’s Comprehensive Plan. All of the planning sectors and corridors (except for the East Buda and Loop 4 Sectors) are identified in the following Zoning District Table as Overlay Districts. The East Buda and Loop 4 Sectors will continue to serve a purpose in other types of planning that the City may undertake, however, currently there are no separate development standards proposed for these areas, other than the Gateway Overlay standards for major roadways that are located through these two planning sectors. Portions of the City of Buda, as specified on the Official Zoning Map of the City, are hereby divided into the following zoning districts. (Refer to Table 4.2 for allowable uses within each Zoning District and Table 5.1 for Lot Standards per Zoning District):

**Table 4.1 Zoning Districts**

**RESIDENTIAL DISTRICTS**

Agricultural	AG
Low Density Residential	LR
Medium Density Residential	MR
High Density Residential	HR
Duplex Residential	DR
Multi-family Residential	MFR
Manufactured Housing	MHR

**NON-RESIDENTIAL DISTRICTS**

Neighborhood Retail	R1
Arterial Retail	R2
Interstate Retail	R3
Neighborhood Commercial/Office	C1
Arterial Commercial/Office	C2
Interstate-35 Commercial/Office	C3
Light Industrial/Warehousing	I1
Manufacturing	I2
Community Facility	P1
Public Infrastructure Facility	P2
Neighborhood Park	PR1
City Park	PR2
Regional Park	PR3
Private Park	PR4
Floating Zone – Cluster Development	FZ1
Floating Zone – Mixed Use	FZ2
Floating Zone – School Site	FZ3

**SPECIAL DISTRICTS**

Planned Unit Development	PUD
Central Business District	CBD
Gateway Overlay	O-G
Historic Overlay	O-H
Interstate Overlay	O-I35

## (1) Residential Districts

All residential development shall adhere to development standards found in Chapter 5, Lot Standards and Chapter 6, Residential Site Development Standards, as well as other applicable standards found in this Code.

## a. Agriculture District (AG)

The Agriculture District (AG) includes lands within the corporate limits of the City that are not subdivided and relatively undeveloped. This is also the initial Zoning Classification applied to an annexed tract that is newly annexed by the City without land owner consent. The Agriculture District is intended to retain a rural character while having the potential for urban growth and increased density; it is proposed as a reserved area where future growth is anticipated to occur. Agriculture uses are encouraged to be continued when at all possible.

## b. Low Density Residential District (LR)

The Low Density Residential District (LR) is a residential district that includes land subdivided for single-family residential purposes and associated uses. The lots are generally large (>1 acre), and are generally not served by urban infrastructure. This district is intended to retain a rural character while having the potential for urban growth and increased density. Residences in the LR district are appropriate for direct access to any classification of street except collectors, arterials and freeways.

## c. Medium Density Residential District (MR)

The Medium Density Residential District (MR) serves as the residential district for areas where denser development (one to four dwelling units per acre) is appropriate in Buda. The district accommodates most housing needs by allowing for housing types and contextual development standards. The MR district provides Buda with a variety of housing that ensures effective community development. MR developments should provide pedestrian-friendly, suitable residential neighborhoods, protected from incompatible uses and with necessary facilities and services. Residences in the MR district are appropriate for direct access to any street classification except collectors, arterials and freeways.

## d. High Density Residential District (HR)

The High Density Residential District (HR) is the residential district for areas where the densest development (up to eight dwelling units per acre) is appropriate in Buda, and where pedestrian-scale development shall occur. The district accommodates most housing needs by allowing for housing types and contextual development standards. The HR district provides Buda with a variety of housing that ensures effective community development. HR developments should provide pedestrian-friendly, suitable residential neighborhoods, protected from incompatible uses and with necessary facilities and services. Residences in the HR district are appropriate for direct access to any street classification except major collectors, arterials and freeways.

## e. Duplex Residential (DR)

The Duplex Residential District (DR) is a residential district that includes land subdivided for Duplex Residential development. Duplex

residential districts are appropriate in areas of the City where High-density and Medium Density residential developments are encouraged, and where Duplex Residential is proposed in the Future Land Use Map.

f. Multifamily District (MFR)

The Multifamily Residential District (MF) is a residential district that includes land subdivided for multifamily residential purposes and associated uses. The MF district is intended to allow occupation of smaller and more financially-accessible dwelling units than the other residential districts. The MFR district is appropriate adjacent to any nonindustrial district and along any street classification except freeways.

g. Manufactured Housing District (MH)

The Manufactured Housing District (MH) is a residential district intended to allow manufactured housing. The MH district is appropriate in the Loop 4 South Planning Sector and shall follow the standards for development and design found in this Code.

(2) Nonresidential Districts

All nonresidential development shall adhere to development standards found in Chapter 5, Lot Standards and Chapter 7, Non Residential Site Development Standards, as well as other applicable standards in this Code.

a. Neighborhood Retail District (R1)

The Neighborhood Retail District (R1) is intended to provide areas for retail activity that primarily serve residential areas located within one-quarter to one-half mile. No use that adversely affects the health, safety, welfare or residential character of the neighborhood is allowed. Neighborhood retail areas are generally located within neighborhoods and must have pedestrian access to adjacent residential areas. The R1 district shall not exist along freeways.

b. Arterial Retail District (R2)

The Arterial Retail District (R2) is intended to provide areas for retail activities that primarily serve residential areas within three (3) miles. R2 uses shall have pedestrian access to adjacent residential areas but shall not be permitted along residential streets or residential collectors.

c. Interstate-35 Retail District (R3)

The Interstate 35 Retail District (R3) is intended to provide a location for general retail activities that serve the entire community and its visitors. Uses may be large in scale and generate substantial traffic, making the R3 district only appropriate along Interstate-35.

d. Neighborhood Commercial (C1)

The Neighborhood Commercial District (C1) is intended to provide areas for commercial activity such as for the sale of convenience goods and personal service businesses that primarily serve residential areas located within one-quarter to one-half mile. No use that adversely affects the health, safety, welfare or residential character of the neighborhood is allowed. Neighborhood commercial areas are generally located within residential neighborhoods and must have pedestrian access to adjacent residential areas. The C1 district shall not exist along freeways.

- e. Arterial Commercial District (C2)  
The Arterial Commercial District (C2) is intended to provide areas for commercial activities that primarily serve residential areas within a three (3) mile radius. C2 uses shall have pedestrian access to adjacent residential areas but are not permitted along residential streets or residential collectors.
- f. Interstate-35 Commercial District (C3)  
The Interstate 35 Commercial District (C3) is intended to provide a location for general commercial activities that serve the entire community and its visitors. Uses may be large in scale and generate substantial traffic, making the C3 district only appropriate along the Interstate.
- g. Light Industrial/Warehousing (I-1)  
The Light Industrial/Warehousing District (I-1) is intended to provide an area for light industry and warehousing that will not generate nuisance-like activities such as noise, smoke, or heavy traffic volumes. I-1 facilities should not be adjacent to any residential district, and I-1 is more suited to either Local or Interstate Commercial activities.
- h. Manufacturing/Industrial (I-2)  
The Manufacturing Industrial District (I-2) is intended to provide a location for manufacturing and industrial activities that may generate some nuisances. Industrial uses are not appropriate adjacent to any residential uses. Traffic generation will likely include heavy vehicles, making access to a minor or major arterial or a freeway necessary. The I-2 district shall not be permitted adjacent to or within one thousand (1000) feet of any residential district, except the Agriculture (AG) district. Industrial uses inside an I-2 District will require special use permit for any industrial uses adjacent to any the Agriculture (AG) district.
- i. Community Facilities District (P1)  
The Community Facilities (P1) District is intended for locations at which facilities are provided for governmental, religious, educational, health care, social service, and special facilities.
- j. Public Infrastructure Facility (P2)  
Public Infrastructure Facilities (P2) indicate areas owned by the city, county, school district, state, or other entity that would own and/or operate utility infrastructure such as water plants, treatment facilities, lift stations, and other such public facilities.
- k. Neighborhood Park (PR1)  
A Neighborhood Park (PR1) is located within a residential subdivision to serve the immediate area and is owned and operated by a government entity such as the City of Buda, county, or state. Parkland Dedication requirements for subdivisions are found in Section 8.6.
- l. City Park (PR2)  
A City Park (PR2) serves several neighborhoods and is owned and operated by a government entity such as the City of Buda, county, or state. All park areas identified on the Future Land Use Map indicate general areas where the City would like to see parkland developed. Proposed development near these general locations should consider including parkland within the development.

- m. Regional Park (PR3)  
A Regional Park (PR3) serves the entire community and is owned and operated by a government entity such as the City of Buda, county, or state. All park areas identified on the Future Land Use Map indicate general areas where the City would like to see parkland developed. Proposed development near these general locations should consider including parkland within the development.
- n. Private Park (PR4)  
A Private Park (PR4) is variable in dimensions but is owned and operated by a private individual or entity. All park areas indicated on the Future Land Use Map indicate general areas where the City would like to see parkland developed. Proposed development near these general locations should consider including parkland within the development.
- o. Floating Zone – Cluster Development (FZ1)  
Floating zones for Cluster Development (FZ1) indicate areas within the City of Buda where the City encourages clustered development so as to preserve open space for passive recreation, water quality protection, and/or visual aesthetics.
- p. Floating Zone – Mixed Use (FZ2)  
Floating zones for Mixed Use Development (FZ2) indicates areas within the City of Buda where the City encourages a mixture of uses that should be compatible with and proportionate to each other and the surrounding uses.
- q. Floating Zone – School Site (FZ3)  
Floating zones for School Sites indicate areas within the City of Buda where schools should locate, based on the Future Land Use Map. A developer should utilize this information to enter into discussions with the Hays Consolidated Independent School District for specific school sitting plans.

#### **Section 4.6 Special Districts**

An overlay zoning district is a zoning district that establishes regulations that combine with the regulations of an underlying (base) zoning district. The purposes of an overlay district shall be to prohibit uses otherwise allowed in the base district, to establish additional or different conditions for such uses, or to authorize special uses, together with standards for such uses, not otherwise allowed in the base district. Adoption of the overlay district does not repeal the base zoning district and all regulations contained in the base zoning district shall remain applicable to the uses allowed in the overlay district, except as expressly varied in the regulations of the overlay zoning district. In addition, special standards set forth in the adopting ordinance shall apply to all development within the district.

- (1) Planned Unit Development (PUD)  
The purpose of the Planned Unit Development District (PUD) is to provide land for uses and developments that promote development that is more sensitive to the natural environment, creates a significantly enhanced natural setting and/or sense of place, or otherwise enhances the standard



pattern of development in Buda. Development is required to provide a higher level of amenities to its users or residents than what is usually required under the normal standards of this code. A PUD may be used to permit new or innovative concepts in land use not permitted by other zoning districts in this Code or to permit development projects that existing districts cannot easily accommodate. This district is appropriate in areas where the Comprehensive Plan reflects the specific uses proposed in the PUD or mixed use as a land category. Rezoning to the PUD district requires a specific PUD ordinance and a General Development Plan from the property owner. Applicants are responsible for developing the PUD Ordinance. Further information on PUD applications and applicability is found in Section 3.7(5).

- (2) Gateway Corridor Overlay District (O-G)
  - a. The purpose of the Gateway Corridor Overlay District (O-G) is to provide land development standards along major arterials that maintain and enhance the visual integrity of these corridors in order to make the community attractive.
  - b. Location:  
These arterials include Loop 4, FM 967, FM 2770, FM 2001 and FM 1626. (Future roads, or road expansions, may eventually fall within the guidelines of Gateway Corridors.) Development standards along Gateways apply to those parcels abutting the Gateway right-of-way, or to those parcels abutting a shallow parcel that does abut the right-of-way (for abutting parcels that are within two-hundred (200) feet in depth from the right-of-way).
- (3) Historic Overlay District (O-H)
  - a. The purpose of a Historic Overlay District (O-H) is to preserve areas of historical or cultural significance, including sites, structures, and landmarks. Each individual overlay will have specific standards, although development in any OH overlay requires a certificate of design compliance from the City Manager and the review of the Historic Preservation Commission.
  - b. Location:  
This overlay applies to the area commonly known as Old Town Buda, bounded by and adjacent to Onion Creek on the west; Cedar Street on the east; San Antonio Street and North Loop 4 to Cedar Street on the north; and on the south, Goforth Street from Cedar Street to Loop 4, then following Loop 4 to FM 2770, then following FM 2770 to Bartons Crossing. Also included are Old Black Colony Road from Cole Springs Road to FM 1626, the Antioch Cemetery, and individual properties designated as Historic by the City.
- (4) Central Business District (O-D)
  - a. The Central Business District (O-D) is intended to provide for the protection of the aesthetic and visual character of Main Street and downtown Buda, while continuing to make this area a thriving business district for commercial and retail activity.

- b. Location:  
This overlay applies to those properties adjacent to Main Street from the railroad crossing on the north to the railroad crossing on the south, as well as those properties adjacent to Railroad Street from Loop 4 on the north to its southern end.
  - c. Certificate of Design Compliance Required:  
All applications for new development and changes to existing development located in the Central Business District shall be reviewed by the Historical Preservation Commission and denied or approved by the City Manager. There shall be no alteration of existing condition of land, structures, signs, landscaping or lighting, including (but not limited to) demolition of any structure, application of new exterior siding material, creation of a new window or dormer, creation of a driveway or parking facility, addition of a satellite dish, construction of a deck, fence or garage, or enclosure of a porch within the Central Business District after the effective date of this Code, without written authorization of the City. Ordinary maintenance and repair that does not alter the original aesthetic of the structure shall not require a Certificate of Design Compliance or written approval by the City.
- (5) Interstate Overlay District (O-I35)
- a. The purpose of this District is to provide a Commercial district along I-35 that can take advantage of the economic opportunity that I-35 provides.
  - b. Location:  
This overlay applies to land within the City Limits and adjacent to Interstate-35 approximately one thousand two hundred and fifty (1,250 ft) from the outer boundary of the right-of-way on the frontage road of I-35 on both the east and west sides. The distance from the frontage road may be increased depending upon the aesthetic quality and approval of the development and its interdependence upon activity along Interstate-35.

#### **Section 4.7 Flexible Zoning**

- (1) Flexible Zoning in this Code can be achieved through Density Bonuses and Lot Standard Modifications (see Table 5.1 and Sections 5.4 and 5.8 for further details about Lot Standards).
- (2) The purpose of Flexible Zoning is to encourage development that enhances the traditional development standards provided in this Code. The Comprehensive Plan contains numerous provisions encouraging the protection of natural resources and the provision of parks and open space. The City can protect natural resources and require open space pursuant to its police powers. However, there are instances where it is in the best interests of the private landowner and the City for the landowner to enhance the traditional requirements of this Chapter. In such instances the benefits to the City in limiting density or imposing certain regulatory requirements may be offset by additional open space, the preservation of

natural resources, or the provision of affordable housing or certain amenities by the developer and/or landowner. This process also provides incentives to landowners while preserving the overall integrity of the Comprehensive Plan by providing uniform rules to govern increased density. Flexible Zoning may also be utilized to promote a variation in housing types within a development where the City deems it appropriate. These regulatory incentives ensure that regulatory modifications to the zoning standards benefit the general public welfare as well as the landowner.

- (3) Additional Open Space shall not allow for both a Density Bonus and a Lot Standards Modification. The applicant may apply for only one. Additional information is found in Section 5.8.
- (4) Flexible Zoning may also be utilized for developments utilizing single family attached residential dwellings, duplex residential dwellings, multi-family dwellings, condominium dwellings or any combination thereof to provide for flexibility and a variety of housing types within a single unified development. Additional regulations for residential Flexible Zoning may be found in Section 5.8 of this UDC.

#### **Section 4.8 Permitted Uses**

All of the land use categories listed in the following use table (Table 4.2, Permitted Uses by Zoning District) are defined and described in Appendix B.

- (1) A Use Permitted by right (P) is subject to all other applicable regulations of this Code.
- (2) Some uses require supplemental regulations in addition to all other applicable regulations of this Code. A Use indicated by P\* is permitted by right, provided that it meets the supplementary use standards found in Section 4.9. Such uses are subject to all other applicable regulations of this Code.
- (3) A Special Use (S) is allowed only if approved by a special use permit issued by the City Council in accordance with the procedures of Section 3.7. Special uses are subject to all other applicable regulations of this Code.
- (4) Uses Not Listed:  
The City Manager shall use the descriptions found in Appendix B to determine how an unlisted use should be treated. The City Manager shall produce an administrative policy for addressing unlisted uses, consistent with all other provisions of this Code, either allowing for administrative decisions by the City Manager or requiring legislative action by the City Council, or a combination of both the above, depending on the circumstance.

**Table 4.2: Use Table**

Use Category	Specific Use	AG	LR	MR	HR	DR	MF <sub>R</sub>	MH <sub>R</sub>	R1/ <sub>C</sub>	R2/ <sub>C</sub>	R3/ <sub>C</sub>	I1	I2	P1	P2	PR	Conditions	
<b>RESIDENTIAL USES</b>																		
Household Living	Single Family	P	P	P	P	P	P	P				U	U					
	Single Family, attached				P*	P	P	P				U	U				1	
	Duplex					P	P	P				U	U					
	Multifamily				P*	P*	P	P				U	U				2	
	Manufactured Home							P				U	U					
	Non-Residential Property								P*	P*	P*	U	U					3
Group Living	Group Home (5 or fewer)	P*	S	S	S	S	S	S	P*	P*	P*							4
	Group Home (6 or more)	P*				S	S	S	P*	P*	P*							4
	Nursing Home	P				P	P	P	P	P	P							
	Retirement Center	P				P	P	P	P	P	P							
	Other Group Living	P				P	P	P	P	P	P							
<b>COMMERCIAL USES</b>																		
Office	All Uses		S	S	S	S	S	S	P*	P*	P*	P*	P*					5
Retail	Sales Oriented								P*	P*	P*	P*	P*					5
	Personal Service Oriented								P*	P*	P*	P*	P*					5
	Repair Oriented								P*	P*	P*	P*	P*					5
	Home Sales										P*	P*	P*					6
Eating Establishment	All uses excluding bar		S	S	S	S	S	S	P*	P*	P*	P*						7
	Bar or Tavern		S	S	S	S	S	S	S	P*	P*					P*		8
Overnight Accommodation	Bed & Breakfast	S	S	S	S	S	S		P*	P*	P*							10
	Campground										P*					P*		9
	All other uses									P	P							
Entertainment	Outdoor Entertainment		S	S	S	S	P*	P*	P*	P*	P*	P*	P*			P*		11
	Indoor Entertainment		S	S	S	S	S	S	P	P	P					P		
	Adult Entertainment											P*	P*					11
Medical Uses	Hospital									P	P	P	P					
	All other uses									P	P	P	P					
Day Care	Family Home Care	P*	P*	P*	P*	P*	P*		P*	P*								12
	Group Home Care	P*	P*	P*	P*	P*	P*		P*	P*								12
	Daycare Center	P*	P*	P*	P*				P*	P*								12
Vehicle Related Uses	Vehicle sales, rental, leasing									P*	P*	P*	P*					13
	Limited vehicle service									P*	P*	P*	P*					14
	Fuel service									P*	P*	P*	P*					15
	Commercial Parking									P	P	P	P					
	All other uses									P	P	P	P					
Storage	Self Storage									P*	P*	P*	P*					16
Home Occupation	All uses	P*	P*	P*	P*	P*	P*	P*										4.10(2)

Use Category	Specific Use	AG	LR	MR	HR	DR	MFR	MHR	R1/C	R2/C	R3/C	I1	I2	P1	P2	PR	Conditions
	<b>PUBLIC AND CIVIC USES</b>																
Community Service	Place of Worship	P*	P*	P*	P*	P*	P*		P*	P*	P*	P*	P*	P*		P*	18
	All other uses	P*	P*	P*	P*	P*	P*		P*	P*				P*		P*	17
Education Facilities	All uses	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	S	S	P*	P*	P*	19
Parks & Open Areas	Golf Course, Country Club	P*	P*	P*	P*	P*	P*			P*	P*	P*	P*	P*		P*	21
	Cemetery	S								P*	P*	P*	P*		P*		22
	All other uses	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	20
Mass Transit	Passenger Terminal	S								P*	P*	P*	P*		P*		23
Government Facilities	Detention Center									S	S	P	P		S		
	All other uses, excluding utilities	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	
Utilities	Major Utilities	S	S	S	S	S	S	S	S	S	S	P*	P*	S	P*	S	24
	Minor Utilities	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	24
	Wireless Transmission Facilities	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	24
	<b>OTHER USES</b>																
Industrial	Heavy Industrial												P				
	Light Industrial											P	P				
	Warehousing & Freight Movement											S	P				
	Waste services											S	P				
	Wholesale Trade									P*	P*	P*	P*				25
Agriculture	Farm Stand	P														P*	26
	Kennel	P*								P*	P*	P*	P*				27
	Small Animal Vet. Clinic	P*								P*	P*						27
	All other uses	P															
Resource Extraction	All uses	S									S	S					

## Section 4.9 Conditional Uses

- (1) **Single Family, Attached**  
A single-family, attached dwelling is permitted in High Density single family residential districts provided that both dwelling units are situated on separate legally platted lots.
- (2) **Multifamily Residential**  
Multifamily residential development is permitted in accordance with Table 4.2 and subject to the following standards:
  - a. Multifamily developments in Duplex or High Density single family residential districts shall have no more than 4 units per building and a maximum lot size of 1 acre.
  - b. Multifamily development within a Historic District shall have a minimum lot area of three thousand (3,000) square feet per living unit.
- (3) **Residential Use of Non-residential Property**  
Residential dwelling on nonresidential property is permitted in accordance with Table 4.2 and Section 7.5(4), and subject to the following standards:
  - a. The residential use shall be clearly secondary to the primary commercial use. The gross floor area of the entire building shall include not more than fifty percent (50%) residential uses.
  - b. Separate designated parking spaces for use by the residential units are required. Shared parking calculations shall not be permitted.
  - c. Detached and attached (rear only) first floor residential may be allowed as a secondary use but only if the business owner is occupying the detached residence.
- (4) **Group Home**  
A group home, as defined and regulated by State agency, is permitted in accordance with Table 4.2 provided that the home is the only permitted use on a legally platted single lot.
- (5) **Commercial Office and Retail Uses**  
A commercial office or retail sales and service establishment is permitted in accordance with Table 4.2 and subject to the following standards:
  - a. The gross floor area of each use shall not exceed 8,000 square feet on lots zoned R1/C1.
  - b. The gross floor area of each use shall not exceed 100,000 square feet on lots zoned R2/C2, excluding those properties indicated on the zoning map.
- (6) **Retail Home Sales (without Lot Sales)**  
Retail Home Sales (without lot sales) is permitted in accordance with Table 4.2 and subject to the following standards:
  - a. "Build-on-your-lot," manufactured housing, and other home sales not associated with lot sales may display a maximum of six (6) model homes.
  - b. These model homes must be furnished, landscaped, hooked up to utilities, and otherwise satisfy all applicable requirements for model homes associated with lot sales stated elsewhere in this code.

- c. Inventory in excess of these allowable model homes shall be either stored off-site or comply with all screening requirements for Wholesale Trade establishments.

(7) Eating Establishments

An eating establishment is permitted in accordance with Table 4.2 and subject to the following standards:

- a. Eating establishments permitted in the R1/C1 District
  - (i) The gross floor area shall not exceed three thousand (3,000) square feet.
  - (ii) The hours of operation, including deliveries, shall be limited to 6 a.m. to 10 p.m.
- b. Eating establishments permitted in the R2/C2 District
  - (i) The maximum gross floor area shall not exceed six thousand (6,000) square feet.
  - (ii) All off-street parking shall be located behind the front yard setback line.
  - (iii) The hours of operation, including deliveries, shall be limited to 6 a.m. to midnight.
- c. Eating establishments permitted in the R3/C3 district
  - (i) The gross floor area shall not exceed twelve thousand (12,000) square feet.
  - (ii) All off-street parking shall be located behind the front yard setback line.
  - (iii) The hours of operation, including deliveries, shall not be limited.
- d. Eating establishments permitted in the PR districts must be approved by the City Manager.

(8) Bar or Tavern

A bar or tavern is permitted in accordance with Table 4.2 and subject to the following standards:

- a. A bar or tavern shall be located no less than 300 feet from any existing place of worship, public or private school, or public hospital.

(9) Overnight Accommodations

- a. Campgrounds, RV parks, and similar uses are permitted in PR districts with the approval of the City Manager.
- b. This use is only permitted in a facility where the primary use is for Recreational Vehicle Parks and Campgrounds. This use is prohibited on lots that are retail by primary use.

(10) Bed and Breakfast

A bed and breakfast establishment is permitted in accordance with Table 4.2 and subject to the following standards:

- a. A maximum of eight guest rooms may be provided in any one bed and breakfast establishment.
- b. No food preparation, except beverages, is allowed within individual guest rooms.
- c. Preparation and service of food for guests shall conform to all applicable regulations of the State of Texas, Hays County, and the City of Buda.
- d. The operator shall keep a current guest register including names, permanent addresses, dates of occupancy and motor vehicle license numbers for all guests.

- e. Parking standards for Bed and Breakfasts in Agricultural or Low Density Residential areas can be increased on a conditional approval by the City.
- f. Bed and breakfast establishments in any residential district shall be subject to the following additional standards:
  - (i) A maximum of four guest rooms shall be provided in any one bed and breakfast establishment.
  - (ii) The operator of the bed and breakfast must be a full-time resident of the dwelling in which the bed and breakfast establishment is housed.
  - (iii) No exterior evidence of the bed and breakfast shall be allowed, except for one attached sign which meets the requirements of Chapter 10. No additional outdoor advertising of any kind is allowed on site.
  - (iv) All parking areas on property (except driveways) shall be located behind any building lines and must be screened from the view of adjacent residences to a height of six (6) feet by a solid screening fence, or dense shrubs and vegetation. Additional parking requirements will apply.

(11) Entertainment

Entertainment uses are permitted in accordance with Table 4.2 and subject to the following standards:

- a. Outdoor entertainment uses adjacent to a residential district shall limit the hours of operation to 6 a.m. to midnight.
- b. An adult oriented entertainment use will only be permitted in industrial areas (I1 and I2) and only if greater than one thousand three hundred twenty (1,320) feet of a school or church location (or any area that is designated on the Future Land Use Map or Zoning Map as Public/P1) and greater than seven hundred fifty (750) feet from the property line of a residentially zoned district.

(12) Day Care

A Day Care use is permitted in accordance with Table 4.2 and subject to the following standards:

- a. General Requirements
  - (i) All day care facilities shall meet the minimum state requirements for such facilities and shall be registered with the State of Texas.
  - (ii) Day care facilities are permitted subject to state regulations and the restrictions in this section. The owner of a day care facility who is required to be registered with the state shall register the facility annually with the City. City registration shall also include evidence of current state registration and certification that all State and local requirements are being met at the facility.
  - (iii) City registration shall expire if regulated child care in conformance with these regulations is not conducted at the registered site within six (6) months of local registration.
  - (iv) All child care facilities shall provide at least as much outdoor play area and indoor activity space per child as required by the state for licensed day care centers. All outdoor play areas shall be located behind front building lines and a 6 ft. tall opaque screen shall be provided to screen abutting property that is zoned residential at the time the child care facility is established.
- b. Family Home Child Care



- (i) Number of children: A family home care facility shall provide regular care to no more than six (6) children under fourteen (14) years of age (as defined by State Regulations), excluding children who are related to the caretaker; may provide care after school hours for not more than six additional elementary school children; provided that the total number of children, including those related to the caretaker, shall not exceed twelve (12) at any given time.
  - (ii) Number of employees: A family home childcare facility may employ only residents of the premises, including all paid and unpaid care providers.
  - (iii) Signs: Signage shall be in accordance with the regulations specified in Section 10.4 of this Code and for the district in which the facility is located.
  - (iv) Separation: Family home care facilities located in residential districts shall be separated from other child care facilities in that district by not less than six hundred (600) feet. Upon the recommendation of the Planning and Zoning Commission, the Council may grant exceptions to this rule upon finding that such exceptions do not contribute to the proliferation of child care facilities within a neighborhood.
- c. Group Day Care Home
- (i) Number of Children: A group day care home shall provide regular care for seven to twelve (7-12) children under fourteen (14) years of age for less than twenty-four (24) hours a day.
  - (ii) Separation: Group day care centers may not be established within 200 feet of any parcel zoned residential.
  - (iii) Number of Employees: A maximum of two (2) non-resident employees may work at group day care home.
  - (iv) Signs: Signage shall be in accordance with the regulations for the district where the facility is located.
  - (v) Off-street parking and loading: Four (4) off-street parking spaces and a paved, off-street drive-through loading zone with a minimum width of ten (10) feet and a holding capacity of at least (3) eighteen (18) foot long vehicles, exclusive of parking spaces, shall be provided for each group child care facility.
- d. Day Care Center
- (i) Number of children: A day care center shall provide regular care to children under fourteen (14) years of age for less than twenty-four (24) hours a day.
  - (ii) Separation: Day care centers may not be established within two hundred (200) feet of any residential district.
  - (iii) Off-street parking and loading: Day care centers shall provide two off-street parking spaces plus one off-street parking space for every five hundred (500) square feet sq. ft. of the facility. Loading zones must be off-street, drive-through and paved to a minimum width of ten(10) feet and a maximum width of twenty (20) feet. Loading zones shall have a holding capacity of one vehicle per five hundred (500) square feet of the facility, exclusive of parking spaces, provided that no facility shall be required to have a loading zone with a capacity in excess of six (6) spaces for eighteen (18) foot long vehicles.

(13) Vehicle Sales, Rental, or Leasing Facilities

A vehicle sales, rental, or leasing facility is permitted in accordance with Table 4.2 and subject to the following standards:

- a. Fixed lighting shall be so arranged to prevent direct glare of beams onto any adjacent public or private property or street.
- b. Repairs shall be performed only within the principal building on the premises, unless it can be shown that a separate building containing parts or accessories can achieve the intended aesthetic purpose of this section.
- c. Screening shall be provided along all lot lines abutting or adjacent to residentially zoned or developed property, to block any view of the use, its operations and stored materials and equipment from all points on such residential property when viewed from ground level.
- d. Outdoor display of rental vehicles shall be set back a minimum of fifty (50) feet from all lot lines abutting residentially zoned or developed property.
- e. Setback areas shall be equipped to prevent access by rental vehicles.
- f. Open space along the perimeter of the required buffer yard shall be landscaped in accordance with the requirements of Section 7.6(3)e of this Code.
- g. Portable buildings on site are prohibited.

(14) Limited Vehicle Service

A limited vehicle service establishment is permitted in accordance with Table 4.2 and subject to the following standards:

- a. All automotive parts shall be stored within an enclosed building, and there shall be no open storage of dismantled vehicles visible at any point beyond the premises.
- b. All repair or service work requiring six or more consecutive hours (i.e. major repair) shall take place either within an enclosed structure or behind a suitable screening device.
- c. The bay doors to the garage shall not be oriented toward the public right-of-way.
- d. Portable buildings on site are prohibited.

(15) Fuel Service

A fuel service establishment is permitted in accordance with Table 4.2 and subject to the following standards:

- a. No signs shall be located on any canopy over the pumps except as those located in the I35 overlay.
- b. No open storage of any type, including the overnight storage of vehicles, shall occur in conjunction with the operation.
- c. An eight (8) foot high visual barrier or screen, not less than ninety-five percent (95%) opaque, shall be provided between the gas station and any adjacent residential district.

(16) Self-Storage

A self-storage establishment is permitted in accordance with Table 4.2 and subject to the following standards:

- a. The use of the facility and its individual storage units shall be limited to storage purposes only.
- b. No direct glare from any illumination on the site shall be visible from lots in any adjacent residential zoning district.

- c. Each individual unit shall be directly accessible from a paved apron that is improved to the same standards generally required for offstreet parking areas in that specific district, and the paved apron shall include a paved extension to the pavement on an adjoining street.

(17) Community Service Use

A community service use is permitted in accordance with Table 4.2 provided that any such use located in or adjacent to any residential district shall have its principal vehicular entrance and exit on a collector street greater than one hundred fifty (150) feet from an arterial street or on a local street within one hundred fifty (150) feet of its intersection with a arterial street.

(18) Place of Worship

A place of worship is permitted in accordance Table 4.2 and subject to the following standards:

- a. Every place of worship shall be set back at least thirty-five (35) feet from all property lines in residential districts provided, however, that any wall which is unbroken by doors, windows, or other openings shall be setback an additional fifteen (15) feet from the setback.
- b. A place of worship located in or adjacent to any residential district shall have its principal vehicular entrance and exit either on an arterial street or on a collector street at a site located within two hundred fifty (250) feet of its intersection with an arterial street.
- c. Places of worship shall meet development standards and supplementary use standards for any accessory uses.
- d. Height restrictions are directly related to the front setback. A ratio of 1:1 shall apply for places of worship (eg., for a 35 foot setback, a 35 foot height limit will apply).

(19) Educational Facilities

An educational facility is permitted in accordance with Table 4.2 and subject to the following standards:

- a. An elementary school established in a residential district shall have a front yard setback of not less than fifty (50) feet.
- b. All other schools established in the residential districts shall have a front yard setback of not less than seventy-five (75) feet.

(20) Parks and Open Areas

Parks and open areas are permitted in accordance with Table 4.2 provided that any structure established in connection with such uses shall be set back at least thirty (30) feet from any property line in a residential district.

(21) Golf Course/Country Club

A golf course/country club is permitted in accordance with Table 4.2 provided that:

- a. Any structure established in connection with such uses shall be set back at least one hundred (100) feet from any property line in a residential district.
- b. Developers shall submit a Water Quality, integrated pest management plan, and Water Conservation plan for City Manager review and approval.

(22) Cemetery

A cemetery is permitted in accordance with state law and Table 4.2 and provided that such use shall not be located within 50 feet of a residential district.

(23) Mass Transit Passenger Terminals

Mass transit facilities are permitted in accordance with Table 4.2 and subject to the following standards:

- a. An airport shall be separated from all residential districts and schools by a minimum of one thousand five hundred (1,500) feet.
- b. A heliport shall only be utilized as an accessory use to hospitals or government facilities.
- c. Bus terminals will be separated from all residential districts and schools by a minimum of 1,500 feet.
- d. Rail stops will be negotiated with the City Manager and forwarded to the City Council for approval.

(24) Utilities

A major or minor utility facility is permitted in accordance with Table 4.2 and subject to the following standards:

- a. Such uses must be accompanied by an eight-foot high masonry fence (or alternate material approved in writing by the City Manager) with landscaping in compliance with Chapter 9.
- b. The facility must be secured so as not to pose a threat to the health or safety of human life.
- c. Requirements for Wireless Transmission Facilities found in Chapter 11 are met.

(25) Wholesale Trade

A wholesale trade establishment is permitted in accordance with Table 4.2 provided that no open or visible storage of junk or salvage materials of any type shall occur in conjunction with the operation. Portable buildings on site are prohibited.

(26) Farm Stand

A farm stand is permitted in accordance with Table 4.2 and conditioned on the approval of the City Manager.

(27) Veterinary Clinic or Kennel

A Kennel or Veterinary Clinic is permitted in accordance with Table 4.2 and subject to the following standards:

- a. The facility shall be located not less than three hundred (300) feet from a residential structure that is located on any property in separate ownership.
- b. No outdoor kennel shall be permitted in the R1/C1 or R2/C2 District.

#### **Section 4.10 Accessory Uses**

(1) General

Any accessory use may be permitted provided there is association with a primary use that may be permitted in accordance with Table 4.2 of this Code. The establishment of such accessory uses shall be consistent with any or all of the following standards:

- a. The accessory use shall be subordinate to and support a primary use or principal;
- b. The accessory use shall be subordinate in area, extent or purpose to the primary use;
- c. The accessory use shall contribute to the comfort, convenience or necessity of the primary use;
- d. The accessory use shall be located within the same zoning district as the primary use; and/or
- e. Accessory uses located in residential districts shall not be used for commercial purposes other than authorized and legitimate Home Occupations.

(2) Home Occupations

a. General:

A home occupation is that accessory use of a dwelling that shall constitute all or some portion of the livelihood of a person or persons living in the dwelling. The home occupation shall be clearly incidental to the residential use of the dwelling and shall not change the essential residential character of the dwelling or adversely affect the uses permitted in the district of which it is a part.

b. Home occupations are permitted provided the occupation meets the following provisions:

- (i) Is conducted entirely within a dwelling or integral part thereof and has no outside storage of any kind related to the home occupation;
- (ii) Is clearly incidental and secondary to the principal use of the dwelling;
- (iii) Is conducted only by persons residing on the premises (nonresident employees are not permitted);
- (iv) Does not affect the residential character of the dwelling or cause the dwelling to be extended or altered, internally or externally;
- (v) No identification sign or advertising of the home occupation is placed or situated on the site or structures, as required in Chapter 10;
- (vi) Deliveries by commercial vehicle occur only between the hours of 8 a.m. and 6 p.m.;
- (vii) Does not generate traffic, parking, sewerage, or water use in excess of what is normal in the residential neighborhood;
- (viii) Do not create disturbing or offensive noise, vibration, smoke, dust, odor, heat, glare, unhealthy or unsightly condition, electrical interference, or other hazard to persons or property within the vicinity;
- (ix) Does not result in the off-street or on-street parking of more than two vehicles at any one time not owned by members of the occupant family; and
- (x) Does not involve any on-site retail sales or services.

c. Prohibited Home Occupations

The following are prohibited as Home Occupations:

- (i) Animal hospitals, stables, or kennels;
- (ii) Mortuaries;

- (iii) Private clubs;
  - (iv) Repair shops;
  - (v) Restaurants (excluding Bed and Breakfasts);
  - (vi) Automobile or mechanical paint or repair shops;
  - (vii) Doctor, dentist, veterinarian or other medically related office;
  - (viii) Rooming/Boarding House;
  - (ix) Barber shops and Beauticians.
- d. Home Day Care facilities will comply with the provisions found in Section 4.9(12).

### **Section 4.11 Temporary Uses**

(1) Purpose

Temporary uses, as set forth below, are declared to have characteristics which require certain controls in order to insure compatibility with other uses in the district within which they are proposed to be located. Permits for Temporary Uses must be submitted for review prior to its use.

(2) Temporary Concrete Products

Temporary facilities for manufacturing concrete or concrete products may be located in all zoning districts where they are directly associated with construction in the area. Retail sales of concrete products shall be prohibited in conjunction with temporary concrete plants. The production site must be returned to its pre-construction state following completion of the associated project. The City Manager may impose specific terms and conditions on the issuance of a temporary use permit for concrete products based on the need to control dust and concrete waste materials and other forms of pollution, noise and hours of operation, and obstruction or interference with automobile and other transportation.

(3) Temporary Sales Offices and Model Homes

The following conditions must be met before the Model Home use will be permitted in accordance with Section 3.9(4), Temporary Use Permit:

- a. A model home may be located within any zoning district provided it is located within the legal subdivision for which lots are being sold. In addition, the sales office occupying the Model Home shall only market homes within the legal subdivision in which the Model Home is located. (For example, a Model Home built in New Subdivision, Phase I cannot market homes located in New Subdivision, Phase II or in Other Subdivision, etc.)
- b. The following exceptions to Section 3.9(4) above may apply:
  - (i) The City may extend the permit for a model home which was constructed to market one phase of a phased development to market new phases of the same development when this results in no increase in the total number of model homes within all of the phases and is less intrusive to the developing neighborhood by maintaining the most direct access to the model home from outside of the neighborhood;
  - (ii) A permitted model home in one legal subdivision where a builder is actively marketing lots may be used to market lots in another legal subdivision if the builder has no model in the second subdivision and

when such sales are clearly secondary, as demonstrated through signs and advertisements, to the marketing of lots within the subdivision in which the model is located;

- (iii) A model home constructed to market one legal subdivision may be granted a temporary permit to market a new legal subdivision for the period during which a new model home is being constructed in the new legal subdivision. Such temporary permit shall be valid for a period not to exceed six months.
- c. A conditional certificate of occupancy permit to operate the model home as a sales office will expire after twelve (12) months unless it is renewed by the respective business, which shall have the burden to demonstrate that the conditions of approval still exist. The City Manager will then evaluate the renewal request and determine its status. An unlimited number of extensions can be applied for and considered.
- d. Construction of the model home must be consistent with the character of the subject neighborhood. Signs must comply with sign regulations in this Code, and the zoning district in which the model home is located.
- e. A conditional construction permit for the model home may be issued once the streets to the subdivision have been constructed to subgrade and water service and a fire hydrant has been located within five hundred (500) feet of the lot on which the model home is located. The Building Official shall note on the permit that the property owner accepts all responsibility for commencing construction prior to completion of the public improvements and City acceptance of the subdivision. The conditional certificate of occupancy for the model home will not be issued until the subdivision and all public improvements have been accepted by the City, a final plat has been filed with the County, and all utilities are connected to the home.
- f. The model home must be constructed in such a manner that it can be converted, without structural changes, and used as a single family or duplex (if applicable) residence after certificates of occupancy have been issued to eighty (80) percent of the associated residential units or when use as a sales office or model home has ceased. This includes the provision of adequate off-street parking outside the front building line.
- g. There is no restriction on the number of model homes permitted in each subdivision.
- h. A temporary building for use as a sales office is permitted on a twelve (12) month or shorter basis, subject to the renewal policy outlined for model homes, but only if a model home has not been constructed. Once a model home has been constructed, the temporary building must be removed.
- i. If the operation of the model home or temporary building used as a sales office violates any City ordinances including the provisions of this Code, the Certificate of Occupancy shall be revoked, unless satisfactory compliance is achieved.
- j. Temporary site storage or trash bins shall be located so as not to create a nuisance (see Chapters 6 and 7 for guidelines for concealment).

(4) Construction Oversight Offices

The following conditions must be met before the construction oversight office use will be permitted:

- a. A temporary building for use as a construction oversight office is permitted on a twelve- (12-) month or shorter basis, subject to the renewal policy outlined for model homes found in Section 3.9. One construction oversight temporary building shall be allowed for each builder in a subdivision in which that builder has the authority to construct structures.
  - b. If the operation of the temporary building used as a construction oversight office violates any City Ordinances, the Certificate of Occupancy shall be revoked, unless satisfactory compliance is achieved.
- (5) Temporary Parking Lots
- This section applies to development or redevelopment for uses other than single family, duplex or townhouse residential uses.
- a. When additional parking, in excess of what this Code requires and/or in excess of what was installed when a facility first opened, is necessary to accommodate business or patronage that was unanticipated when the facility first opened, this parking may be supplied using the standards below. All such parking lots must receive site plan approval from the City Council or City Manager following the site plan review procedures outlined in Section 3.10(1). If these standards are allowed, the parking lot may exist on a temporary basis, not to exceed twelve (12) months. The beginning date of the 12-month period shall be determined by the City Manager.
  - b. Standards  
Temporary parking lots are subject to the following standards:
    - (i) The surface of the parking lot may be gravel or some other temporary material approved by the City Engineer;
    - (ii) Curbs, gutters or other improvements may be required where necessary to comply with drainage regulations as approved by the City Engineer;
    - (iii) Entrance to the lot from any public right-of-way is at the discretion of the City Council based on recommendation of the City Engineer;
    - (iv) When entrance to the lot is allowed from a public right-of-way, that portion of the entrance located in the right-of-way must be paved with an all weather surface as approved by the City Engineer; and
    - (v) It must be shown that steps will be taken to prevent the blowing of dust onto adjacent properties and the tracking of mud or gravel onto public rights-of-way.
  - c. Future Compliance: At the end of the twelve-month period the lot must be brought up to full compliance with parking lot standards, as approved through the applicable site plan review process. If no site plan is approved within two (2) months of the expiration of the temporary parking lot approval, the lot, including all paving material, must be removed and the area no longer used for the parking of vehicles. If the lot is removed, the area must be sodded, seeded or hydro mulched with grass within ten (10) days of removal. Driveway access shall be removed and curb and gutter replaced.

#### **Section 4.12 Outdoor Display and Storage**

- (1) General  
Outdoor display and storage shall be allowed in nonresidential districts in accordance with this Section. Any merchandise, material or equipment situated



outdoors in nonresidential districts shall be subject to the requirements of this Section. For the purpose of this section, outdoor storage and display shall be classified into three categories.

(2) Categories of Outdoor Storage and Display

a. Outdoor Display

- (i) Outdoor display is a display of items actively for sale.
- (ii) Outdoor display shall be allowed adjacent to a principal building wall, may not extend into the right-of-way, and may only extend a distance of no greater than 5 feet from the wall. Such storage shall not be permitted to block windows, entrances or exits, and shall not impair the ability of pedestrians to use the building.
- (iii) Outdoor display may not occupy more than 30 percent of the linear distance along any principal building wall facing a public right-of-way.

b. Limited Outdoor Storage

- (i) Limited outdoor storage is temporary storage of goods in individual packaging and not in storage containers. Organic materials stored on pallets are considered limited outdoor storage.
- (ii) Limited outdoor storage shall be to the side or rear and not exceed 1,000 square feet or 10 percent of the total site area (whichever is greater), except in the C3 and I1/I2 districts where additional outdoor storage and display is allowed so long as it is completely screened from view from outside the site, by a solid opaque wall or fence at least six feet in height. Such area may extend from the primary building, but not for a distance greater than 50 feet, and not into a public right-of-way.
- (iii) Limited outdoor storage may not occupy more than 30 percent of the linear distance along any principal building wall facing a public right-of-way.
- (iv) Limited outdoor storage shall not be allowed in required off-street parking spaces.

c. General Outdoor Storage

- (i) General outdoor storage consists of all remaining forms of outdoor storage not classified as outdoor display or limited outdoor storage, including items stored in shipping containers, and semitrailers not attached to a truck.
- (ii) General outdoor storage shall be allowed in unlimited quantity, provided that the storage area is screened from any public right-of-way and meets the location restrictions below.
- (iii) No general outdoor storage shall be permitted within the following areas:
  - 1. A required front or side setback.
  - 2. Between a front setback and the building front.
  - 3. Between a side setback along a public right-of-way and any building or structure.
- (iv) General outdoor storage may not occupy more than 30 percent of the linear distance along any principal building wall facing a public right-of-way.
- (v) Areas intended for general outdoor storage must be paved and painted to distinguish them from required off-street parking areas. No general outdoor storage shall be allowed in required off-street parking areas.

- (3) Outdoor Display and Storage Requirements
  - a. Required in Site Plan: All outdoor display and storage areas must be clearly shown in the site plan submitted for the property.
  - b. Right-of-Way: Unless specifically authorized elsewhere in this Code, all outdoor storage and display shall be located outside the public right-of-way and/or at least 15 feet from the back edge of the adjacent curb or street pavement and outside of any required landscape area. Additionally, all outdoor display and storage shall only be on pavement, and still within the maximum impervious cover limitations set forth in Chapter 5, Lot Standards.
  - c. Side Yards: No form of outdoor display and storage shall be allowed in required side setbacks or buffer yards. Landscaping and Buffers shall be provided as set forth in Chapter 7, Nonresidential Site Design.
  
- (4) Exceptions
  - a. Vehicles for sale within part of a properly permitted vehicle sales use (including boats and recreational vehicles) shall not be considered outdoor display or storage.
  - b. Such vehicles must be located and displayed on a paved vehicle use area, clearly indicated on the site plan, and screened under the same requirements for a parking lot.
  - c. Waste generated on-site and properly deposited in ordinary refuse containers shall not be subject to the restrictions of this Section.

#### **Section 4.13 Nonconforming Uses**

- (1) Purpose

Nonconforming uses are lawful uses within a zoning district that do not conform to the requirements of this Code when it is adopted, or when any amendments thereto, take effect. The purpose of this section is to provide for recognition of such uses and procedures for bringing such uses into conformance.
  
- (2) Description
  - a. Any use of property existing at the time of the passage of this section of the Code or that exists when land is annexed into the city that does not conform with the regulations prescribed in the preceding sections of this Code shall be deemed a nonconforming use, except that any single-family, duplex, or apartment use existing at the time of passage of this Code shall be thereafter deemed a conforming use.
  - b. A nonconforming use of land may be continued, but if said nonconforming use is discontinued for a period of time in excess of six (6) consecutive months, any future use of said premises shall be in conformance with the provisions of this Code.
  - c. A nonconforming use of a building may be continued although such does not conform to the provisions hereof, and such use may be extended throughout the building provided no structural alterations except those required by law or ordinance are made therein. If no structural alterations are made, a nonconforming use of the building may be changed to another nonconforming use of the same or more restricted classification; provided, however, that in the event that a nonconforming use of a building is once changed to a

nonconforming use of a more restricted classification, it shall not later be reverted to the former lower or less restricted classification (eg., from C1 to MR).

- d. The right to maintain the nonconforming use shall be subject to such regulations as to maintenance of the premises and conditions of operation as may, in the judgment of the Board of Adjustment, be reasonably required for the protection of adjacent property.
- e. A nonconforming use shall not be extended or rebuilt in case of obsolescence or total destruction by fire or other cause. In cases of partial destruction by fire or other causes, not exceeding fifty (50) per cent of its value, the building inspector shall issue a permit for reconstruction. If greater than fifty (50) per cent and less than the total, the Board of Adjustment, may grant a permit for repair after public hearing and having due regard for the property rights of the persons affected when considered in the light of the public welfare and the character of the area surrounding the designated nonconforming use and of the conservation and preservation of property.
- f. A violation of this code provision and a request for a nonconforming designation or request for relief under this designation shall not create an estoppel of the trial of any lawsuit which may be filed in any court.
- g. Notwithstanding any other provisions of this chapter, any legal nonconforming use of property existing as of November 19, 2002, that does not conform to the regulations prescribed in the Code of the City of Buda, shall be deemed a non-conforming use, subject to the provisions contained in this section.
- h. Specific language contained in the Buda Manufactured Housing Ordinance shall apply to Mobile Homes and Manufactured Homes.
  - (i) If such conforming use is changed to a use otherwise authorized in said zoning district, then such premises may be used thereafter only for a use authorized in the zoning district where the premises are located.
  - (ii) The use authorized herein as a conforming use may not be changed to another use not authorized by the use regulations in the zoning district where the premises are located.

#### **Section 4.14 Vested Rights**

(1) Applicability

The provisions of this Section apply to any Application for Development Approval in which the Applicant claims an exemption from any provision of this Chapter based on common law or statutory vested rights.

(2) Criteria

- a. Common law vested rights shall be acknowledged by the City Manager after consultation with the City Attorney if the applicant for common law vested rights does not demonstrate entitlement to statutory vested rights as provided in subsection (2), below. A request for such an acknowledgement must include documents establishing the criteria listed below together with an application review fee to offset the City's costs. The City Manager may request additional relevant material prior to issuing the acknowledgement. The

applicant for common law vested rights must show compliance with the following criteria for the specific project to obtain such rights:

- (i) In reliance upon properly issued permits or approvals the applicant made substantial financial commitments or assumed substantial financial obligations within the purview of the activities authorized by said permit or approvals; and
- (ii) The applicant proceeded in good faith, and no approvals or permits have lapsed or been revoked; and
- (iii) The applicant has sufficiently and legally established any other factor that may demonstrate vested rights under State or Federal law.

b. Statutory Vested Rights.

- (i) No Vested Rights Determination that is requested as a basis for approval of an Application for Development Approval shall be issued unless the applicant demonstrates entitlement to common law vested rights as provided in subsection (1) above and demonstrates compliance with the following criteria for statutory vested rights:
- (ii) The applicant used its property or filed an application as provided in Texas Local Government Code § 43.002 prior to annexation by the City of Buda, and the regulations against which vested rights are claimed are not subject to an exemption as provided in Texas Local Government Code § 43.002(c).
- (iii) The applicant filed an application as provided in Texas Local Government Code chapter 245 prior to adoption of the regulations pursuant to which vested rights are claimed, that the regulations which are the basis for the claim of vested rights are not subject to an exemption as provided in Texas Local Government Code § 245.004 and that the project has not become dormant as defined in Texas Local Government Code §245.005 and this Chapter.

c. Consent Agreements:

Any Applicant for a Vested Rights Determination may apply for Consent Agreement Approval provided that the requirements of subsection (d) of this Section are satisfied or the required approval is for one (1) or more, but less than all phases of the proposed development. An application for Consent Agreement Approval may be approved subject to compliance with requirements of a Consent Agreement. An application for a Consent Agreement Approval may be filed concurrent with an Application for a Vested Rights Determination, or at any time prior to approval of a final decision relating to an Application for a Vested Rights Determination by the City Attorney or the City Council.

d. Terms and Conditions

Consent Agreement shall be signed by the City Attorney, the City Manager, and the Applicant and shall include the following terms and conditions:

- (i) A legal description of the subject property and the names of the legal and equitable owners;
- (ii) The duration of the consent agreement and the conditions that will result in revocation;
- (iii) The uses permitted on the property, including population densities and/or building intensities and height;
- (iv) A description of the public facilities that will service the proposed development, including who shall provide such facilities; the date any

- new facilities, if needed, will be constructed; and a schedule to assure that public facilities are available concurrent with the impacts of the development;
- (v) A description of any preservation or dedication of land for public purposes;
  - (vi) A description of all development approvals, permits, or other local or State approvals needed for the proposed development;
  - (vii) A finding that the proposed development is consistent with the Master Plan and the relevant provisions of this Chapter;
  - (viii) A description of any conditions, terms, restrictions, or other requirements determined to be necessary for the preservation and protection of the public health, safety, or welfare;
  - (ix) A statement indicating that the omission of a limitation or restriction shall not relieve the Applicant of the necessity of complying with all applicable local, state and federal laws;
  - (x) A phasing plan indicating the anticipated commencement and completion date of all phases of the proposed development; and
  - (xi) A statement that the City Attorney and City Manager shall review progress pursuant to the consent agreement at least once every twelve (12) months to determine if there has been demonstrated good faith compliance with the terms of the consent agreement.
- e. Failure to comply with Consent Agreement
- If the City Council finds, on the basis of substantial competent evidence, that the applicant has failed to comply with the terms of the Consent Agreement, the Consent Agreement may be revoked or modified by the City Council after a public hearing which has been noticed by publication, and for which written notice has been expressly provided to the Applicant.

#### **Section 4.15 Recognition of Vested Rights Derived From Texas Local Government Code Chapter 245**

(1) Purpose.

This section provides a methodology for the registration of permits, and permit applications, with the City Manager so that a determination can be made as to whether the permit, or permit application is one that would afford a project with the “vested rights” as provided in Chapter 245 and §43.002 of the Texas Local Government Code. The purpose for such registration and determination is to assist City Staff in their review of the applicability of Chapter 245 or § 43.002 to a particular project. This section shall not apply to a claim of right under common law, a federal or state statute, other than Chapter 245 or § 43.002, or the state or federal constitutions. Any claim of right made under any law or authority, other than Chapter 245 or § 43.002, shall be made to the City Manager in writing. The City Manager shall advise the City Attorney of the claim, and the City Attorney shall make a determination of the validity of the claim within twenty (20) days of its receipt by the City; provided, however, that the twenty (20) day period shall not begin to run until all requisite information to support the claim has been submitted. Additionally, as provided in subsection (g) of this section, this section shall not apply to the types of ordinances, or other governmental action,

enumerated in VTCA Local Government Code § 245.004 or exempt from the requirements of Local Government Code § 43.002.

(2) Vested rights recognition process.

a. Initiation

An application may be made to the City Manager for recognition of vested rights for a particular project by completion of a form provided by the City Manager that indicates which permit or permits are being relied upon by the applicant for establishment of vested rights. The applicant shall provide the City Manager with a completed application together with a permit application review fee required by the City and two (2) copies of any documents applicant is relying upon to establish vested rights.

b. Review and Approval

(i) After receiving an application for recognition of vested rights, the City Manager shall review the application and approve, deny or request additional information to be provided by the applicant for consideration within twenty (20) working days.

(ii) Should the permit, which is the basis for vested rights recognition, have been issued by a governmental agency other than the City, the City Manager shall request the City Attorney to determine whether the permit establishes rights under Chapter 245 of the Texas Local Government Code.

(iii) In the event the City Manager does not respond to an application for vested rights within twenty (20) working days, the application will be considered denied. Provided, however, the time period may be extended upon the written request of the applicant.

(iv) Upon review of the application, if the City Manager finds that the applicant has provided sufficient information to establish that one (1) or more legally sufficient and applicable permit(s) exists on a project, the City Manager shall issue a certificate to the applicant recognizing vested rights for the project which shall be dated and signed by the City Manager.

(v) The City Manager shall review all certificates prior to issuance to ensure it clearly indicates the term and conditions (indicated above) required for the continuation of the recognition of the vested rights.

(vi) In the event the City Manager requests additional information for consideration of an application, the applicant shall be notified in writing within the required time period of specifically what information must be submitted in order to complete the review of the application.

(vii) Should the application be denied, the City Manager may enumerate in writing any and all reasons for such denial, which shall be delivered to the applicant within the time period allowed for review.

c. Recordation

The City Manager shall create a file of all certificates issued pursuant to this Section of the Code that will be available for the public's review during regular business hours. At a minimum the file should contain all certificates issued for a three-calendar year period and should be reviewed annually to remove certificates more than three (3) years old. Certificates more than three (3) years old may be made available in conformance with the Public Information Act.

- d. Vested rights recognition process appeal.  
In the event an applicant for recognition of vested rights is denied recognition of a vested right by the City Manager and is aggrieved by such action or by the application of the above requirements, the applicant may appeal the decision of the City Manager to the City Council by filing a request for appeal with the City Manager within fifteen (15) calendar days from the date the applicant is notified of the adverse decision or action taken. The application for appeal shall be made in writing and shall contain the applicant's factual and/or legal rationale for the appeal. The City Manager shall place the appeal on the next agenda of the City Council and the City Council shall hold a hearing on the appeal and make its ruling within thirty (30) days from the date the hearing is held by the City Council. The city clerk shall schedule the hearing of the final appeal at the earliest regularly scheduled meeting of the City Council and comply with the requirements of the Texas Open Meetings Act. The decision of the City Council shall be final.
- e. Variance.
- (i) An individual, or business entity, that has applied for a vested rights determination may request a variance from the time limit, required action, or term that would otherwise cause the vested rights to expire. An individual requesting a variance shall make written application to the City Manager and pay the required fee. A request for variance shall identify the specific provisions for which a variance is being requested and the reasons that justify granting the variance. The City Manager shall review the application for variance and provide a written recommendation with regard to whether the variance should be granted, conditionally granted or denied to the City Council within thirty (30) days from the date the application for variance is filed. In the event the City Council fails to make a ruling on the variance within sixty (60) days from the date the application for variance is filed, the application for variance shall be deemed denied. Provided, however, the time period may be extended upon the written request of the applicant. In order to grant a variance from the provisions of this section, the City Council must find, that:
    - (ii) The applicant would suffer a hardship in the absence of a variance that is not the result of the applicant's own negligence; and
    - (iii) The applicant has been actively and diligently attempting to pursue and complete development of the project that is the subject of the vested rights; and
    - (iv) Compliance with rules and regulations that were enacted after the application for recognition of vested rights would cause a substantial economic hardship to the developer/property owner that would preclude the capability of completing the project in a reasonable and prudent manner.
    - (v) The City Manager shall schedule the hearing of the appeal at the earliest regularly scheduled meeting of the City Council that will allow compliance with the requirements of the Texas Open Meetings Act. The decision of the city council shall be final.
- f. Exemption from vested rights
- (i) The types of ordinances enumerated in Local Government Code § 245.004 are exempt from this section and will apply to a project or

development regardless of the effective date of the ordinance or the existence of vested rights for the project.

- (ii) Future ordinances: Any ordinance that concerns the development of real property and is adopted after the adoption of this Code, which incorporates this section into the Code, may specifically state whether it is the type of ordinance that is exempted by § 245.004. However, the absence of such a statement shall not be determinative as to whether the ordinance is or is not exempted.
  - (iii) Existing ordinances: This section shall not be applicable to any ordinance that concerns the development of real property; as adopted prior to the adoption of this chapter and is exempted by § 245.004 from the protection provided by Chapter 245.
  - (iv) Determination by City Attorney: Should a question arises as to whether an Ordinance is exempted from Local Government Code Chapter 245 the City Manager shall request an opinion from the City Attorney and the City Attorney shall render a decision.
- g. Duration  
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.
- h. Voluntary Compliance  
Nothing herein would prohibit any applicant from the voluntary compliance with any future ordinance, regulation or incentive.
- i. Chapter 245 of Texas Local Government Code adopted.  
Chapter 245 of the Texas Local Government Code, as adopted in 2001 by the 77th Legislature, Regular session is hereby adopted and incorporated by reference herein. Should Chapter 245 be repealed by the Legislature it shall remain effective as part of this Code for one year from the date of such repeal. During said period City Council shall take action it deems necessary to provide municipal protection for ongoing projects from the adverse impact of unanticipated subsequent regulations.

#### **Section 4.16 Dormant Projects**

- (1) Purpose  
The purpose of this Section is to provide an expiration date for Permits, approved prior to this adoption of this Section, which lack an expiration date, as provided in Texas Local Government Code § 245.005.
- (2) Applicability  
The provisions of this section apply to any Permit if as of the first anniversary of the effective date of Chapter 245 of the Texas Local Government Code:
  - a. The permit does not have an expiration date; and
  - b. No progress has been made towards completion of the project, as defined in Texas Local Government Code § 245.005.
- (3) Expiration of Dormant Projects



A dormant project, as defined in subsection (2), above, shall expire on one of the following dates, whichever comes later:

- a. May 11, 2004 (the fifth anniversary of the effective date of Chapter 245 of the Local Government Code); or
- b. The expiration date established by applying the subsection discussing regulations pertaining to the permit as established in Table 3.2 or
- c. The expiration date for a permit subject to Section 4.14 of this Chapter for any eligible permit as set forth in Section 4.14(1).

## **Chapter 5 Lot Design Standards**

### **Section 5.1 Purpose**

The purpose of this Chapter is to describe lot development standards for both residential and non-residential lots. Chapter 5 contains standards on lot size, minimum setback requirements, and maximum building heights in order to provide for a variety of housing and land development patterns and to meet the diverse needs of the current and future residents of Buda, all in a manner consistent with the goals and objectives set forth in the Comprehensive Plan. This Chapter also contains standards on maximum impervious cover, both for entire subdivisions as they are developed and for individual lots as they are built upon. The impervious cover standards are essential in order to manage or avoid the adverse problems of excessive quantity and degraded quality of urban storm water runoff, increased erosion of downstream channels and waterways, reduced interception and absorption of rainfall and runoff by the soil and vegetative cover, increased reradiating of excessive heat from large pavement surfaces, and other related problems that can arise as a result of intensive urban development. Chapters 6 and 7 have additional standards that pertain to both residential and non-residential lots. Collectively, these standards exist in order to achieve a variety of housing and building types, as well as achieve the goals and policies identified in the City of Buda's Comprehensive Plan.

### **Section 5.2 Applicability**

- (1) This Chapter identifies minimum standards for areas both within the City limits and the ETJ. Lot design standards within the Buda City limits are categorized by Zoning District. Because zoning only applies to areas within the City limits, these standards are not applicable to development in the ETJ. However, these lot standards shall apply to areas previously outside the City limits after they are incorporated and then zoned through annexation and zoning procedures.
- (2) Lot sizes outside the City limits are restricted by on-site wastewater treatment standards. See Table 5.1 for clarification. Hays County is the responsible entity for review and approval of applications for on-site wastewater treatment. For developments planning to utilize on-site treatment systems, please consult the Hays County rules for On-site treatment standards.

### **Section 5.3 Minimum Requirements**

Every building erected or moved and every lot platted for development must conform to the following minimum requirements:

- (1) Meet the minimum lot requirements of at least one type of lot described in this Chapter;
- (2) Have direct access to an approved public or private street or street right of way, as specified in this Code; except as provided in Section 7.4(1) of this Code;
- (3) Provide safe parking and fire and police access; and
- (4) Meet the minimum dimensional, environmental, parking, landscaping, and water conservation requirements of this Code.

**Section 5.4 Lot Standards**

Table 5.1 identifies the standards for lots within each zoning district that have been identified in Chapter 4. These standards apply to all developments but may be adjusted based on usage conditions and zoning overlays found in this Chapter.

**Table 5-1 Lot Standards**

Zoning District	Allowable Density (units/ac)	Min. Lot Area (ft <sup>2</sup> )	Min Lot Width	Setbacks			Max. Building Height	Max. Lot Cover. (%)	Maximum Impervious Cover (%)* <sup>1</sup>	
				Min. Front Yard	Min. Back Yard	Min. Side Yard			Central Waste Water	On-Site Sewage
<b>RESIDENTIAL</b>										
<b>Agricultural</b>	0.10	120,000	200	35	30	20	35	25	25	20
<b>Low Density Residential</b>	0.25	30,000	100	30	25	15	35	25	30	25
<b>Medium Density Residential</b>	4.00	7,500	55	20	10	5	35	45	45	30
<b>High Density Residential</b>	8.00	5,063	45	15	5	5	35	50	50	30
<b>Duplex Residential</b>	16.00	7,500	35	15	5	5	35	55	55	40
<b>Multifamily</b>	20.00	20,000	75	25	20	15	35	65	55	40
<b>Manufactured Housing</b>	4.00	7,500	55	20	10	5	35	40	35	30
<b>NON-RESIDENTIAL</b> <sup>*2</sup>										
<b>Neighborhood Retail</b>	-	-	65	20	20	10	25	-	70	50
<b>Arterial Retail</b>	-	-	100	40	35	20	45	-	70	50
<b>Interstate Retail</b>	-	-	180	50	40	25	75	-	75	55
<b>Neighborhood Commercial/Office</b>	-	-	65	20	20	10	25	-	70	50
<b>Arterial Commercial/Office</b>	-	-	100	40	35	20	45	-	70	50
<b>Interstate Commercial/Office</b>	-	-	180	50	40	25	45	-	75	55
<b>Light Industrial/Warehousing</b>	-	-	100	40	35	20	45	-	75	55
<b>Manufacturing</b>	-	-	180	50	30	15	35	-	65	55
<b>Community Facility</b>	-	-	70	15	15	15	35	-	65	50
<b>Public Infrastructure Facility</b>	-	-	70	15	15	15	35	-	70	65

\*1 Maximum Impervious Coverage shall be calculated for every developed lot.

\*2 This chart is not applicable to neighborhood parks, city parks, regional parks and private parks.

Sections 5.5 – 5.7 contain additional development regulations applicable to certain residential, non-residential, and overlay districts.

(1) Allowable Density

Each Zoning District has a maximum number of dwelling units per acre that can be placed on a tract. Generally, the total number of units that can be placed on a site, after considering the land area needed to accommodate infrastructure and

environmental factors (right-of-way, drainage, floodplains, steep slopes, impervious cover limitations, minimum lot size standards, yard setbacks, and maximum lot coverage) will be less than the amount based simply on the allowable density.

(2) Maximum Impervious Cover

Each development has a Maximum Impervious Cover standard based on zoning district that limits the intensity of development over the entire tract or proposed subdivision. The formula for computing Maximum Impervious Cover is a two-step process, as follows:

- a. The Net Site Area is calculated by summing those portions of the tract or subdivision that are readily developable—lands outside of floodplain areas and having a flat or moderately sloping surface. It is defined as follows:
  - (i) One hundred (100) percent of land with a gradient of fifteen (15) percent or less and located outside of the one hundred (100) year floodplain; and
  - (ii) Fifty (50) percent of the land with a slope of more than fifteen (15) percent and not more than twenty five (25) percent and located outside the one hundred (100) year floodplain; and
  - (iii) Land with a slope of more than twenty-five (25) percent of the land percent and located outside the one hundred (100) year floodplain.
  - (iv) Put another way: Net Site Area = Gross Site Area – (100-year floodplains +100% at 25% slope or greater outside of floodplain +50% of land area with 15%-25% slopes outside of floodplain) + dedicated parkland within floodplains.
- b. The Maximum Impervious Cover standard is applied to the Net Site Area.
  - (i) The maximum impervious cover, measured as a percent, is multiplied by the Net Site Area to calculate the Total Allowable Impervious Cover for the entire tract or proposed subdivision.
  - (ii) Put another way: Maximum Impervious Cover (%) X Net Site Area (sq. ft.) = Total Allowable Impervious Cover (sq. ft.)
- c. Impervious cover includes the infrastructure for the development (streets, sidewalks, parking areas, walkways, etc.) plus specific improvements on each lot (buildings, driveways, patios) and any other constructed surfaces that are impenetrable to stormwater.
- d. The part of a subdivision within the Edwards Aquifer Recharge Zone, either within the city limits or the ETJ, must comply with the impervious cover limitations contained within Buda's Water Quality Protection Ordinance.

(3) Maximum Lot Coverage

- a. Each buildable residential lot has a Maximum Lot Cover, expressed as a percentage, which represents the maximum percent of impervious surface area allowed on a lot within each particular Zoning District.
- b. Maximum Lot Coverage is computed as the total amount of impervious surface on the lot divided by the total lot area.
- c. Impervious surfaces on a lot include buildings, driveways, garages, porches, patios, private walks, accessory buildings, and any other impervious surfaces constructed on the lot. Building coverage is measured from the faces of the walls, not the eaves of the roof.

(4) Minimum Lot Area

- a. Minimum Lot Area is the minimum amount of square footage allowed within a lot, based on its zoning district classification. These standards can be decreased based on Flexible Zoning standards found in Section 5.8.
  - b. The Minimum Lot Area in the ETJ shall be based on the requirements for treatment of wastewater.
- (5) Minimum Lot Width
- a. The Minimum Lot Width is the minimum width of a lot (in feet), measured parallel to and along the front property line. These standards can be decreased based on Flexible Zoning standards found in Section 5.8.
  - b. Residential lots on cul-de-sacs and eyebrows may have a reduced minimum lot width at the front property line, as follows:

**Table 5-2**

<b>Zoning District</b>	<b>Cul-de-Sac and Eyebrow Minimum Lot Frontage (ft)</b>
Agriculture	NA
Low Density Residential	50
Medium Density Residential	35
High Density Residential	35
Duplex Residential	40
Multi-Family Residential	NA
Manufactured Housing Residential	35

- (6) Setback Measurements
- a. A setback is the minimum distance, extending across the full width of the lot, between the property line and the nearest exterior wall or structure.
  - b. Side yard setbacks are measured from the side lot line to the foundation
  - c. Front and rear yard setbacks are measured to the foundation from the front and rear lot lines, respectively.
  - d. For corner lots, the side yard setback on side facing public right-a-way shall be the same as the front yard setback.
- (7) Maximum Building Height
- Maximum building height is the maximum allowed distance measured from finished grade to the highest point on a flat roof or the midpoint between the cornice and the eave on a pitched roof.
- (8) Width to Depth Ratio
- The average depth of any lot shall not exceed four times the average width of the lot.
- (9) Accessory Building Standards
- a. Accessory buildings on residential lots shall meet all front and side yard requirements for primary structures.
  - b. However when the accessory building is located behind the rear facade of the

primary structure, then it may meet the following setback:

- (i) If the accessory building is two hundred (200) square feet or less in area and eight (8) feet or less in height, then it shall be setback a minimum of three (3) feet from the property line.
- (ii) If the accessory structure is greater than two hundred (200) square feet in area or eight (8) feet in height, then it shall be set back one (1) additional foot from the property line for each one (1) foot in height up to the minimum setback for a primary structure.
- (iii) Notwithstanding the above, any garage or carport shall be setback a minimum of ten (10) feet from a right-of-way.

(10) Portable Building Standards

No portable storage building shall be erected in any required setback area; provided, however, that a portable storage building on a single-family residential lot may be excluded from this requirement if the City Manager or his designee determines that the portable building does not require a building permit and that a minimum unobstructed setback distance of five (5) feet is maintained between the primary residential building and the portable building. In such cases, the portable building must be located a minimum of three (3) feet from the property line.

(11) Residential Frontage

Residential lots with frontage on an arterial street shall not have access from the arterial street. Residential lots with frontage on an arterial street shall also have frontage on a local street so that such lot(s) have vehicular access to a local street and not to an arterial.

(12) Lot Numbering

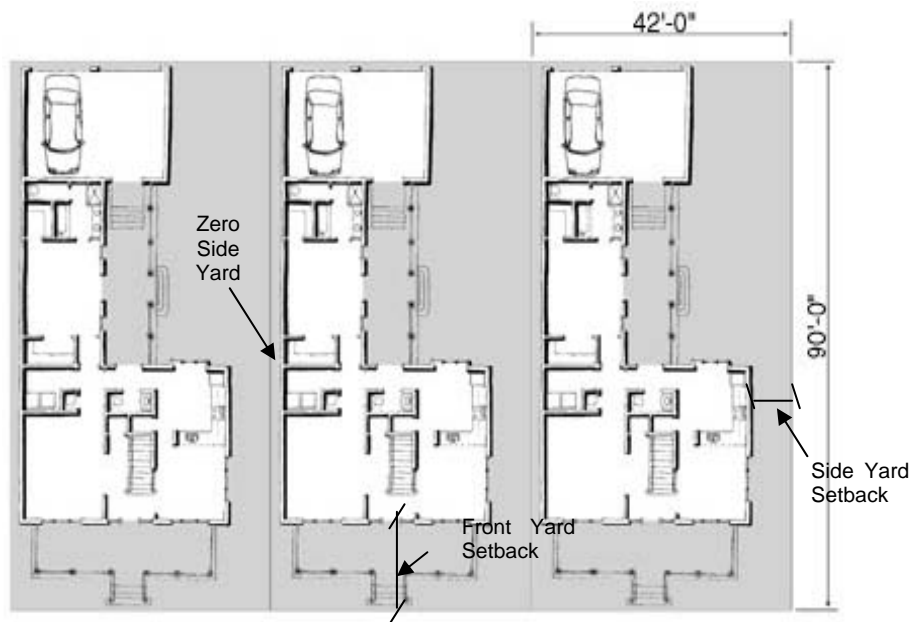
All lots must be numbered consecutively within each block.

(13) Blocks

- a. Blocks shall be laid out to provide effective connectivity within and among existing and future subdivisions and neighborhoods. Adequate provisions shall be made to provide for future access, such as by stubbing streets for future extension.
- b. The maximum number of lots on any block face is twelve (12) lots, unless a pedestrian path or alley, as specified in Chapter 9 of this Code, is constructed approximately through the mid-section of the block, in which case the maximum number of lots may be increased to eighteen (18) lots per block face.
- c. The total block length in any case shall not exceed one thousand three hundred twenty (1,320) feet except in Non-residential, Multifamily, and Agricultural Residential Zoning Districts, where the block length may not exceed ten (10) times the minimum lot width permitted in the district as provided in Table 5.1.
- d. If residential lots back up to a commercial use or to an arterial highway then there is no restriction on the block length or the maximum number of lots. However, there shall be pedestrian walkways to connect the Commercial lots when determined they are necessary by the City Engineer.

**Section 5.5 Special Considerations for Residential Development****(1) Zero lot line buildings <sup>1</sup>**

Zero lot line development allows single-family residential buildings (including town homes and garden homes) as part of a subdivision to be built to the side property line. For this type of development, only one of the side yard setbacks may be waived for areas between housing units. However, the minimum setbacks shall remain for at least one side of the lot. If there are two separate residential developments, side yard setbacks between the two developments shall still apply.

**Figure 5.1 Zero Lot Line Development****(2) Cluster development**

- a. For residential subdivisions using a cluster development, minimum lot standards and lot coverage may be adjusted based on the Flexible Zoning standards found in Section 5.8.
- b. Cluster developments are intended to increase the amount of open space not the density of the development.

### **Section 5.6 Special Consideration for Nonresidential Development**

- (1) “Build-to” Development  
"Build-to" refers to a building that is set at the front lot line, or built to the front lot line. This type of development is permitted in certain Overlay Districts described in Section 4.6, including the Central Business District.
- (2) PUD Development  
Minimum side yard and back yard and lot area requirements may be modified using PUD in a mixed-use development.
- (3) Building Facade and Material Usage  
All building facades within two-hundred (200) feet of the property line along the roadway shall be clad in masonry, decorative metal, or wood. At least thirty (30) percent of the facade facing the arterial roadway, except I-1 or I-2 which will be fifteen (15) percent, shall be comprised of apertures (doors, windows, and other openings).

### **Section 5.7 Overlay District Standards**

- (1) Gateway Corridor Overlay District Development Standards
  - a. Building Setbacks:
    - (i) All buildings that contain one (1) story and are less than twenty (20) feet in height shall be set back at least thirty (30) feet from the property line along the arterial roadway.
    - (ii) One (1) story buildings up to twenty-five (25 feet) in height may be setback thirty (30) feet from the property line along the arterial roadway if they have gabled roofs with a 5/12 pitch or greater.
    - (iii) All other buildings that contain more than one (1) story or are more than twenty (20) feet and less than forty five (45) feet in height shall be set back at least forty-five (45) feet from the property line along the arterial roadway.
    - (iv) For industrial zoned areas and for any industrial use, all buildings must be set back at least two hundred (200) feet from the arterial street right-of-way.
  - b. Height Restrictions:
    - (i) No roof height shall be in excess of forty five (45) feet within one-hundred (100) feet of the property line abutting the arterial roadway.
    - (ii) No building beyond one hundred (100) feet and up to five hundred (500) feet from the arterial right-of-way shall be greater than seventy-five (75) feet in height. This standard shall not apply beyond five hundred (500) feet of the right-of-way of any Gateway Corridor.
  - c. Alternative Setbacks:  
Closer setbacks are allowed under the following circumstances:
    - (i) The forty (40) foot setback from the property line along an arterial



- roadway may be reduced to twenty (20) feet for buildings with parking yards located entirely behind the rear of the building.
- (ii) The forty (40) foot setback from the property line along the arterial roadway may be reduced to thirty (30) feet for buildings with parking yards located entirely behind the front of the building.
- d. Site Orientation:  
The front sides of all buildings located within the Gateway Corridor District shall be oriented parallel either to the arterial roadway or to an intersecting public access street.
  - e. Landscaping:  
At least fifty percent (50%) of all land not containing a building and located within one hundred (100) feet of the property line along an arterial roadway shall be landscaped and maintained with suitable vegetation. Surface parking is strongly discouraged within one hundred (100) feet of the property line along the arterial roadway.
  - f. Parking:  
Parking may be located in front of, behind or to the side of the building. However, parking is strongly encouraged to be located to the side of or behind the building. If parking is located to the side of the building, the minimum side setback on the parking lot side may be waived depending upon the setbacks of adjoining lots. If parking is provided in the front of the building, buffer requirements specified in Section 7.7(3)d will be increased by 15% in terms of width and tree and shrub plantings.
- (2) Historic Overlay District Development Standards
- a. Application  
The requirements set forth in this section shall be applicable only to officially designated historic landmark properties or structures; and to historic district(s) as indicated on the City of Buda zoning map of record maintained at the City Hall.
  - b. Certificate of Design Compliance Required
    - (i) In addition to any other permit required by other sections of the Code for the City of Buda, any work that affects the exterior appearance and nature of any historic landmark property or structure within a Historic District shall require a Certificate of Design Compliance. The procedures and criteria for obtaining a Certificate of Historic Design Compliance are specified in Section 3.9(8) of this Code.
    - (ii) Any proposed new construction located in a designated historic district requiring the issuance of a building permit(s) shall require the issuance of a Certificate of Design Compliance prior to the issuance of said building permit(s).
  - c. Routine Maintenance and Repair; Emergency Repair
    - (i) This section shall not be interpreted to prevent the ordinary maintenance and/or repair of properties or structures; nor shall a Certificate of Design Compliance be required for such activities.
    - (ii) Emergency maintenance and temporary repair may be authorized by the City, provided said maintenance does not permanently alter the unique features of the historic landmark or district in which it is located, and that, within thirty (30) days time, the owner of record applies for the appropriate permits, including the Certificate of Design Compliance, to

- make permanent repairs.
  - d. Building Setbacks
    - (i) Building setbacks shall be set in accordance with other buildings in the Historic District on a case-by-case basis. The intent is to require conformity with existing structures.
    - (ii) Building setbacks adjacent to public rights-of-way in the Central Business District shall generally be assumed to be zero (0) feet minimum, or “built to” the right-of-way line.
    - (iii) The setback requirements specified in Section 5.4 shall apply; provided, however, that the minimum lot width and rear yard and side yard setbacks in the Medium Density Residential zoning district shall be reduced to the following:
      - 1. Minimum lot width: fifty (50) feet
      - 2. Rear yard setback: ten (10) feet
      - 3. Side yard setback: five (5) feet
    - (iv) In all areas outside the Central Business District, appropriate front setback distance shall be calculated by averaging the front setbacks of all other primary buildings on the subject block. These measurements will be made on the same side of the block as the proposed improvement.
    - (v) For side and rear setbacks, the requirements of the underlying zoning district shall apply.
  - e. Building Height Restriction

No building in a Historic District shall be higher than thirty-five (35) feet. Excluded from this requirement are structures on Main Street, which may extend to a height of forty-five (45) feet. Church steeples, bell towers, and other distinctive architectural features may exceed this height upon recommendation by the Historic Preservation Commission and approval by the City Council.
  - f. Site Orientation

All structures in a Historic District shall be oriented to face a street. The Historic Preservation Commission may waive this requirement if compliance would significantly compromise the historic integrity of the building or property, or the district.
  - g. Building Facade and Material Usage

Building facades and materials used shall be in compliance with the criteria developed by the Historic Preservation Commission. All modifications to existing landmark properties and structures and modifications of structures or new construction in a designated historic district must be performed to compliment and enhance the overall aesthetic of the landmark structure and/or historic district.
  - h. Landscaping

All landscaping shall be installed and maintained in compliance with the site development and design requirements for landscaping and water conservation sections of this Code.
  - i. Parking

For new construction or changes of use, off street parking must be provided in compliance with the requirements found in Chapter 9 of this Code.
- (3) Central Business District Development Standards
- a. Building Setbacks

Building setbacks adjacent to public rights-of-way in the Central Business District shall generally be assumed to be zero (0) feet, or “built to” the right-of-way line and allow for sidewalk widths, if the sidewalk is not part of the existing right-of-way. The Historic Preservation Commission (HPC) shall review such setbacks on a case-by-case basis in accordance with other provisions of this Code. Setbacks from the right-of-way may be allowed if outdoor café-style seating is to be provided and is approved by the City.

b. Building Height Restriction

In no case shall building height exceed 45 feet in the Central Business District.

c. Site Orientation

Buildings in the Central Business Overlay District shall be oriented such that the front façade of the building faces Main Street, or another collector street within the downtown district, in such a way as to be parallel to the street. Courtyards may exist between buildings, and buildings may open up to the courtyard; however, the front façade of the building must face the street as described above.

(4) Interstate Overlay District Development Standards

a. Building Setbacks

All buildings shall be set back at least fifty (50) feet from the property line along the frontage road of I-35. For all other streets and roads within this district, the setback requirements specified in Table 5.1 shall apply.

b. Building Height Restriction

- (i) Building height shall not exceed forty five (45) feet within one hundred (100) feet of a dwelling or single-family residential zoning district.
- (ii) Buildings more than one hundred (100) feet from a dwelling or single-family residential zoning district shall not be greater than seventy-five (75) feet in height.

c. Site Orientation

Buildings shall be oriented such that the front façade of the building faces I35 or another street within the District, in such a way so as to be parallel to the street. Courtyards may exist between buildings, and buildings may open up to the courtyard; however, the front façade of the building must face the street as described above.

d. Landscaping

All landscaping shall be installed and maintained in compliance with the site development and design requirements for landscaping and water conservation sections of this Code and shall not obstruct pedestrian, bicycle or vehicular traffic.

e. Parking

For new developments or remodels of existing developments, off-street parking shall be provided according to the parking requirements found in Chapter 9 of this Code.

## **Section 5.8 Flexible Zoning Modifications**

The purpose of this section is to provide incentives to developers for incorporating

specific additional features beneficial to the community as indicated in Section 4.7 of this UDC.

(1) Density Bonus

a. Applicability

The provisions of this subsection shall apply to density and intensity on the parcel subject to an application for subdivision plat or site development permit. Density bonuses may be granted if the applicant complies with the criteria described in this section.

b. Bonus Awards

An applicant may be granted a density bonus by establishing any of the incentive items as described below. The total density bonus (Maximum Development Density) shall not exceed one hundred twenty percent (120%) of the allowable density of the underlying zoning district or of the applicable future land use classification in the Comprehensive Plan. (i.e., in a Medium Density District, no more than 4.8 units, or 120% of 4 units per acre would be allowed). This Density limitation is based on Gross Site Area.

c. Affordable Housing

(i) For purposes of this section, the following definitions will apply:

1. HAMFI - HUD-Adjusted Median Family Income
2. Very Low Income - Between thirty-one percent (31%) and fifty percent (50%) of HAMFI
3. Low Income - Between fifty-one percent (51%) and eighty percent (80%) of HAMFI
4. Senior Households - Above 55 years of age and below fifty percent (50%) of HAMFI

(ii) A housing development must consist of five or more dwelling units and meet at least one of the following criteria:

1. At least ten (10) percent of the total affordable housing units are designated as restricted units for very low income households (one bonus unit shall be granted per restricted affordable unit); or
2. At least twenty (20) percent of the total affordable housing units are designated as restricted for low income households (one bonus unit shall be granted per two restricted affordable housing units); or
3. Fifty (50) percent of the total affordable housing units are designated as restricted units for senior households (one bonus unit shall be granted per four restricted affordable housing units).

d. Open Space

(i) For each whole acre dedicated to and accepted by the City as useable parkland, and in excess of the required Parkland Dedication, a Density bonus equal to one half of the allowable density (units/acre) that would have been permitted on the area may be granted. See Parkland Dedication requirements and standards in Chapter 7.

(ii) To calculate the number of permitted units, the City shall consider any environmental, safety, or health constraints that density bonuses may result in. In such cases, dedication of lands would result in a smaller bonus.

(2) Cluster Development

a. Applicability.

The purpose of this lot standard modification is to encourage clustered subdivisions in conjunction with the preservation of open space, rather than to increase the overall density of the subdivision. All areas within the City are eligible for consideration and approval for this flexible benefit so long as the requisite criteria are met.

b. Criteria.

The following modifications may be made based on the amount of open space that is accepted as dedicated parkland or open space in addition to the Parkland Dedication requirements:

**Table 5.3: Lot Standard Modifications for Open Space Preservation**

<b>Open Space Preservation (% of Gross Site Area)</b>	<b>Reduction in Minimum Lot Size</b>	<b>Increase in Maximum Lot Coverage</b>
25-30%	Up to 15%	Up to 10%
>30%	Up to 20%	Up to 20%

- (i) Open space dedication is based on the Gross Site Area (i.e., twenty-five percent (25%) of the Gross Site Area).
- (ii) Open space dedications may only be accomplished with a conservation restriction approved by the City in the form of a legal covenant prohibiting future development in a particular area, and separate from any utility easements, drainage easements, rights-of-way, or other essential improvements that directly support the associated development.

(3) Flexible Zoning Modifications for Single Family Attached Residential

a. Applicability

The provisions of this subsection shall apply to any residential development providing for single family attached residential dwellings, duplex residential dwellings, multifamily residential dwellings, or any combination thereof within a single subdivision and where an option for condominium residential dwellings will be provided. These Flexible Zoning Modifications for Single Family Residential may be utilized in any base zoning district permitting single family attached residential dwellings, duplex residential dwellings, multifamily residential dwellings.

b. Definitions

The following definitions shall be applicable only to this section of the UDC and when used in connection with the Flexible Zoning Modifications for Single Family Residential developments:

- (i) **Condominium Residential Dwelling:** The ownership of an individual dwelling unit in a multiple unit dwelling or structure located on a lot or lots that are owned in common by the individual dwelling unit owners, or any division of the interests in real property that have the effect of permitting more than one dwelling unit on a lot without the division of the fee simple interest in said lot. A development may not be considered as containing condominium residential dwellings unless the undivided interests in the common elements are vested with the owners of the dwelling units.

- (ii) Primary Lot: A legally platted lot containing a structure or building having multiple dwelling units with each owner having an undivided interest in the lot.
  - (iii) Secondary Lot: A legally platted lot created from the subdivision of a Primary Lot and containing a single dwelling unit attached to one or more dwelling units on legally platted lots where the fee simple interest in the Primary Lot has been divided among the owners of the individual dwellings units.
- c. Lot Standard Modifications  
 The following Lot Standards may be utilized for developments under this section:

Maximum Allowable Density	12 units/acre
Minimum Primary Lot Area	7,000 square feet
Minimum Secondary Lot Area	3,000 square feet
Minimum Primary Lot Width	60 feet
Minimum Secondary Lot Width	25 feet
Minimum Front Yard Setback	15 feet
Minimum Back Yard Setback	5 feet
Minimum Side Yard Setback	5 feet*
Maximum Building Height	35 feet
Maximum Impervious Cover	55%
* Interior Side Yard Setbacks may be 0 feet where two dwelling units share a common wall	

These Lot Standards may be utilized in lieu of the Lot Standards identified for the Base Zoning District in Table 5-1 of this UDC.

- d. Supplemental Lot Design Standards
- (i) Each dwelling unit within a building or structure shall be required to have individual inspections.
  - (ii) A separate Certificate of Occupancy shall be granted for each dwelling unit within a building or structure.
  - (iii) Nothing within this section shall be construed to require the granting of a Certificate of Occupancy for a dwelling unit within a building or structure when, in the opinion of the Building Official, the remaining portions of the building or structure are deemed to be unsafe for occupancy or may pose a threat to public health, safety and welfare.
  - (iv) Each Secondary Lot created under this section shall have a separate address and shall be provided with separate utility services.
  - (v) The designation of a subdivision as utilizing the Flexible Zoning standards of this section shall be noted on the final plat of the subdivision.
  - (vi) All requirements of the base zoning district shall be applicable except as otherwise amended, modified or supplemented within this section.

## **Chapter 6 Residential Site Development and Design Standards**

### **Section 6.1 Purpose and Intent**

The purpose of this Chapter is to set forth site development and design standards for residential developments applicable to all land development and standards applicable only to residential development. The purpose of these standards exist in order is to achieve a minimum level of quality, compatibility and environmental protection in new and existing developments while maintaining significant flexibility in site layout and design. The standards also serve to implement selected goals and policies identified in the City of Buda's Comprehensive Plan.

### **Section 6.2 Relation to Comprehensive Plan Policies and Guidelines**

Design and construction of sub-divisions in the City and ETJ should be consistent with the policies and guidelines established in the most recent version of the Buda Comprehensive Plan. Any interpretation of the requirements of this Section should be made shall be interpreted in a manner consistent with the Comprehensive Plan. Specific site and land-use design policies and guidelines from the Comprehensive Plan that shall apply to site development and design include, but are not limited by, those contained in the Future Land Use Plan (Exhibit A).

### **Section 6.3 Applicability**

- (1) General
  - a. The minimum sub-division standards apply to areas both within the City limits and the ETJ. Certain general design standards apply to all residential development, while other standards apply to specific land uses such as single-family or multi-family residential. In certain specified circumstances, some of these standards also apply to the expansion or conversion of existing buildings and sites.
  - b. Standards within base zoning districts and overlay districts may be slightly different than those standards found within this Chapter. When in conflict, the more restrictive standard shall apply.
- (2) Thresholds of Development Requiring Site Development Permit
  - a. Construction on single-family or duplex lots in subdivisions with average lot sizes greater than one-half (1/2) acre or twenty-one thousand seven hundred and eighty (21,780) square feet do not require a site development permit.
  - b. Conversion or expansion of a residential structure to a non-residential use must apply for and receive a site development permit prior to commencement of construction.

### **Section 6.4 General Standards and Guidelines**

- (1) All buildings shall front on public streets unless they front on a plaza or a courtyard.
- (2) Buildings within a particular development shall reflect a continuity of treatment in the following:
  - a. Building scale
  - b. Maintaining a front yard build-to line
  - c. Maintaining the cornice line in buildings of the same height
  - d. Extending horizontal lines of windows and doors
  - e. By echoing architectural styles and details, design themes, building materials, and colors of the local context (in particular neighboring buildings)
- (3) Sidewalks shall be constructed along all streets in subdivisions and site developments, in accordance with the standards specified in Section 9.5 of this Code.
- (4) All A/C units, HVAC systems, exhaust pipes and stacks, elevator housing, satellite dishes (greater than 24" in diameter) and other such devices shall be located so as to be screened from view from the public rights-of-way by walls, fencing, roof elements, penthouse-type screening devices, or landscaping.

### **Section 6.5 Residential Site Development and Design**

- (1) General Standards and Guidelines.
  - a. Accessory Structures.
    - (i) The combined floor area of all accessory structures on any residential lot shall not exceed ten percent (10%) of the total lot area.
    - (ii) There shall be no more than one (1) accessory structure used for, or intended to be used for, living quarters on any residential lot.
    - (iii) No accessory structure shall be erected in any required setback area, except as provided in Section 5.4.
    - (iv) There shall be no more than two (2) accessory structures located on a single-family residential lot in high density and medium density residential zoning districts.
  - b. Zero-lot line subdivisions are allowed in Urban Medium Density and High Density Residential zoning districts. In such cases, the minimum combined side yard setback requirement for both side yards shall be six (6) feet.
  - c. Garages and Driveways.
    - (i) For garages with entries located at or in front of the front building line of the house, the width of the front portion of the garage face shall not exceed more than forty (40) percent of the width of the front face of the house.
    - (ii) The width of driveways shall not exceed more than forty percent (40%) of the width of the front face of the house.
  - d. Portable Storage Buildings.

No portable storage building shall be erected in any required setback area; provided, however, that a portable storage building on a single-family residential lot may be excluded from this requirement if the City Manager or his designee determines that the portable building does not require a building



permit and that a minimum unobstructed setback distance of five (5) feet is maintained between the primary residential building and the portable building. In such cases, the portable building must be located a minimum distance of three (3) feet from the property line.

e. Fences and Walls.

Fences, fence posts, and freestanding walls within or bordering residential lots shall not exceed six (6) feet in height as measured from the ground level at the base of the fence or wall. The maximum height may be increased to eight (8) feet for a semitransparent fence where the open and unobstructed area in proportion to the total fence area (measured perpendicular to the fence) is four-to-one (4/1) or greater.

f. Outdoor Lighting.

(i) Covered porch lighting on residences is permitted provided that each external light fixture does not exceed one-hundred and fifty (150) watts (2220 lumens).

(ii) Security lights of any output that are controlled by a motion sensor switch are permitted provided they do not remain illuminated for a duration not to exceed ten to twelve (10-12) minutes after activation.

(iii) Seasonal decorations with lights in place no longer than sixty (60) days are permitted.

(iv) Other outdoor lighting must comply with Section 7.10.

(2) Multifamily Residential Buildings

a. A multifamily building is any residential development containing more than two (2) dwelling units.

b. Building Size

(i) The maximum building height shall be thirty-five (35) feet or two and one-half (2.5) stories, whichever is shorter.

(ii) The maximum height for a multifamily residential building in the Interstate Overlay District may exceed thirty-five (35) feet if it is greater than one hundred (100) feet from a single-family dwelling or single-family residential zoning district.

(iii) Townhouse buildings shall have a minimum of four (4) dwelling units and a maximum of eight (8) dwelling units in a row along a block face.

c. Façade

(i) The first floor of the front façade shall have as a minimum thirty percent (30%) of the surface area constructed in windows, doors, or other openings to facilitate compatibility with single-family uses.

(ii) Apartment buildings may reduce such minimum to fifteen (15) percent of the façade surface area.

(iii) Townhouse and apartment buildings shall comply with design standards in 7.5(1) and buffering requirements in 7.6.

d. Parking

Rear yard parking and alley access, side yard parking, or contained internal courtyard parking is required. Front yard parking is prohibited.

## Section 6.6 Environmental Conservation and Protection

(1) Landscaping and Water Resources Protection for Residential Single Family and

Duplex Developments.

Residential preliminary plans and final plats should conform to the site topography to minimize the amount of grading necessary to achieve a viable street network.

- (2) Landscaping and Irrigation Standards for Common Areas within a Subdivision. Common areas are defined as those locations that are not maintained by the homeowner such as but not limited to parks, medians, greenbelts, drainage areas, etc.
- a. Landscape Design Plan
- Landscaping and irrigation plans shall be designed with the objective of minimizing potable water use. If non-potable water is available to the area, then the developer will provide internal transmission lines for the non-potable water supply. A landscape design plan meeting the following requirements shall be submitted as part of the landscape documentation package.
- (i) Plant Selection and Grouping
- Plants and Trees to be included in any landscape plan for a site development shall be selected from native species that require little irrigation. Recommended species can be found at City Hall, City of Austin web page or through the Lady Bird Johnson Wildflower Center.
- (ii) Mulch
- After completion of all planting, all irrigated non-turf areas shall be covered with a minimum layer of three (3) inches of mulch to retain water, inhibit weed growth, and moderate soil temperature. Mulch types appropriate to Central Texas low water-use plants and trees should be considered.
- (iii) Water Features
- Recirculation water shall be used for any decorative water features. Pool and spa covers are encouraged to reduce evaporation.
- b. Landscape Design Plan Specifications - The landscape design plan shall be drawn on project base sheets at a scale that accurately and clearly identifies:
- (i) Designation of hydrazones.
- (ii) Landscape materials, trees, shrubs, groundcover, turf, and other vegetation. Planting symbols shall be clearly drawn and plants labeled by botanical name, common name, container size, spacing, and quantities of each group of plants indicated.
- (iii) Property lines and street names.
- (iv) Streets, driveways, walkways, and all other paved areas.
- (v) Pools, ponds, channels, other water features, fences, and retaining walls.
- (vi) Existing and proposed buildings and structures including elevation if applicable.
- (vii) Natural features including but not limited to topography, rock outcroppings, existing trees, shrubs that will remain.
- (viii) Tree staking, plant installation, soil preparation details, and any other applicable planting and installation details.
- (ix) A calculation of the total landscaped area.
- (x) Designation of recreational areas.
- c. Irrigation Design Plan
- An irrigation design plan meeting the following conditions shall be submitted as part of the Landscape Documentation Package.

- (i) **Runoff and Overspray.** Soil types and infiltration rate shall be considered when designing irrigation systems. All irrigation systems shall be designed to avoid runoff, low head drainage, overspray, or other similar conditions where water flows onto adjacent property, non-irrigated areas, walks, roadways, or structures. Proper irrigation equipment and schedules, including features such as repeat cycles, shall be used to closely match application rates to infiltration rates therefore minimizing runoff.
  - (ii) Special attention shall be given to avoid runoff on slopes and to avoid overspray in planting areas with a width less than ten (10) feet, and in median strips.
  - (iii) No overhead sprinkler irrigation systems shall be installed in median strips less than ten (10) feet wide.
  - (iv) **Irrigation Efficiency.** For the purpose of determining the maximum applied water allowance, irrigation efficiency is assumed to be sixty-two and one-half percent (62.5%). Irrigation systems shall be designed, maintained, and managed to meet or exceed sixty-two and one-half percent (62.5%) efficiency.
  - (v) **Irrigation Equipment.**
    - 1. Water meters. Separate landscape water meters shall be installed for all projects.
    - 2. Controllers. Automatic control systems shall be required for all irrigation systems and must be able to accommodate all aspects of the design.
    - 3. Valves. Plants that require different amounts of water shall be irrigated by separate valves. If one valve is used for a given area, only plants with similar water use shall be used in that area. Anti-drain (check) valves shall be installed in strategic points to minimize or prevent low-head drainage.
    - 4. Back-flow prevention valves shall be required on the irrigation system to prevent contamination of the potable water supply.
    - 5. Rain Sensing Override Devices. Rain sensing override devices shall be required on all irrigation systems used in common areas. (This does not apply to irrigation systems installed at each home).
  - (vi) **Recycled Water**
    - 1. The installation of recycled water irrigation systems (dual distribution systems) is required if the recycled water is within 500 feet of the subdivision or the City has a project to bring to the site.
    - 2. Recycled water irrigation systems shall be designed and operated in accordance with all local and state codes. to the City Engineer will determine if the systems need to be one hundred percent (100%) underground drip irrigation systems or if human contact is permitted by TCEQ.
- d. **Irrigation Design Plan Specifications**
- (i) Irrigation systems shall be designed to be consistent and appropriate for the hydrozone.
  - (ii) The irrigation design plan shall be drawn on project base sheets. It shall be separate from, but use the same format as, the landscape design plan. The scale shall be the same as that used for the landscape design plan described above.

- (iii) The irrigation design plan shall accurately and clearly identify the following fixtures and conditions, as applicable:
    - 1. Location and size of separate water meters for the landscape.
    - 2. Location, type, and size of all components of the irrigation system, including automatic controllers, main and lateral lines, valves, sprinkler heads, moisture sensing devices, rain switches, quick couplers, and backflow prevention devices.
    - 3. Static water pressure at the point of connection to the public water supply.
    - 4. Flow rate (gallons per minute), application rate (inches per hour), and design operating pressure (psi) for each station.
    - 5. Recycled water irrigation systems as specified herein.
  - (iv) Irrigation schedules satisfying the conditions of this section shall be submitted as part of the Landscape Documentation Package.
  - (v) An annual irrigation program with monthly irrigation schedules shall be required for the plant establishment period, for the established landscape, and for any temporarily irrigated areas. The irrigation schedule shall:
    - 1. Include run time (in minutes per cycle), suggested number of cycles per day, and frequency of irrigation for each station; and
    - 2. Provide the amount of applied water (in gallons) recommended on a monthly and annual basis.
  - (vi) The total amount of water for the project shall include water designated in the Estimated Total Water Use calculation plus water needed for any water features, which shall be considered as a high water using hydro zone.
  - (vii) Landscape irrigation shall be scheduled during the early morning or late evening hours (not between 9:00am and 12:00m). Irrigation schedules shall also follow the Drought Contingency Measures adopted by the City of Buda.
- e. Maintenance
- (i) A regular maintenance schedule satisfying the following conditions shall be submitted as part of the Landscape Documentation Package.
  - (ii) Landscapes shall be maintained to ensure water efficiency. A regular maintenance schedule shall include but not be limited to checking, adjusting, and repairing irrigation equipment; resetting the automatic controller; aerating and dethatching turf areas; replenishing mulch; fertilizing; pruning, and weeding in all landscaped areas.
  - (iii) Whenever possible, repair of irrigation equipment shall be done with the originally specified materials or their equivalents.
  - (iv) Other than the area accepted by the City as Parkland, the developer must ensure that the Homeowners Association accepts responsibility for the operation and maintenance of the irrigation system. Until such time the developer is responsible for the operation and maintenance of the system. A one year warranty must be established for the irrigations system turned over to the City to support the new parkland.
- f. Certification
- A licensed landscape architect or contractor, certified irrigation designer, or other licensed or certified professional in a related field shall conduct a final field observation and shall provide a certificate of substantial completion to

the City. The certificate shall specifically indicate that plants were installed as specified, that the irrigation system was installed as designed, and that an irrigation audit has been performed, along with a list of any observed deficiencies.

- g. As a general guideline, existing lakes, ponds, creeks, wetlands, pristine native trees of twelve (12) inches or greater diameter at four (4) feet height, and other natural features should be retained in the site design and development process.
- h. Erosion/Sedimentation Control  
Construction plans must contain an erosion and sedimentation control plan that is acceptable to the City Engineer.
- i. Storm water Runoff Management  
All site development projects that will contain twenty percent (20%) or more of impervious cover when completed shall comply with the requirements and standards of Chapters 7 and 8 of this Code.

(3) Landscape and Tree Requirements for Residential Lots

- a. Minimum Landscape Standards
  - (i) A minimum percentage of the total lot area of property on which development, construction or reconstruction occurs shall be devoted to landscape and tree coverage per Table 6.1.
  - (ii) Existing natural features are encouraged to be used to satisfy the minimum landscape requirements.

**Table 6.1 Minimum Landscape and Tree Canopy Requirements**

Land Use	Landscaping Required (% of total lot)	Tree Canopy Required (% of total lot)
1-, 2-, 3- and 4-family Residential	35	35
Multifamily Residential	25	25

- (iii) No tree shall be planted in the right-of-way of a public street without prior authorization

- b. Postponement of Landscape Installation  
Required landscaping shall be installed prior to issuance of a certificate of occupancy. The City Manager shall have the authority to grant a postponement to the installation of required landscaping during periods of drought. In the event installation of required landscaping is postponed, the developer shall be required to maintain appropriate erosion control measures for water quality.

**Section 6.7 Access, Circulation and Parking**

- (1) Purpose  
The purpose of this Section is to require that the parking and circulation aspects

of all developments are well designed with regard to safety, efficiency and convenience for vehicles, bicycles, and pedestrians, both within the development and to and from surrounding areas. The on-site pedestrian and bicycle system must provide adequate directness, continuity, street crossings, and security as defined by the standards in this Section. Sidewalk or bikeway extensions off-site may be required based on needs created by the proposed development. This Section sets forth parking requirements, landscaping and shared parking requirements.

(2) General Standards

- a. All new roadways shall be built in accordance with the Transportation Plan Element of the City of Buda Comprehensive Plan and the City's thoroughfare plan as may be adopted by the City Council.
- b. Safety Considerations.
  - (i) Pedestrian Separation. To the maximum extent feasible, pedestrians shall be separated from vehicles and bicycles. Where complete separation of pedestrians and vehicles and bicycles is not possible, potential hazards shall be minimized by the use of techniques such as special paving, grade separations, pavement marking, signs or striping, bollards, median refuge areas, traffic calming features, landscaping, lighting or other means to clearly delineate pedestrian areas, for both day and night use.
  - (ii) Corner Lot View Lines. On a corner lot in any district, nothing shall be erected, placed, or planted or allowed to grow in such a manner so as to materially impair vehicle drivers' vision at intersections, within a triangle defined by the property lines and a line joining two points located twenty-five (25) feet back from the property lines intersection; except that fences, walls, and /or hedges may be permitted provided that such fences, walls, and/or hedges do not impair vision from three (3) feet to six (6) feet above the curb line elevation.

(3) Access and Parking Requirements.

- a. All vehicular use areas in any site development shall be designed to be safe, efficient, convenient and attractive, considering use by all modes of transportation that will access the site including, without limitation, cars, trucks, buses, bicycles, pedestrian, and emergency vehicles.
- b. Pedestrian/Vehicle Separation. To the maximum extent feasible, pedestrians and vehicles shall be separated through provision of a separate sidewalk or walkway for pedestrians. Where complete separation of pedestrian and vehicles is not feasible, potential hazards shall be minimized by using landscaping, bollards, special paving, lighting and other similar means to clearly delineate pedestrian areas.
- c. Access. Unobstructed vehicular access to and from a public street shall be provided for all off-street parking spaces. Vehicular access shall be provided in such manner as to protect the safety of persons using such access or traveling in the public street from which such access is obtained.
- d. Location.
  - (i) Required off-street parking spaces shall be located on the same lot or premises as the building or use for which they are required unless:
    1. such spaces are provided collectively by two (2) or more buildings or

- uses on adjacent lots in a single parking area located within the boundaries of those adjacent lots, and the total number of parking spaces supplied collectively is equal to the number of spaces required in Chapter 7 of this Code for each use considered separately; or
2. an alternative location is approved by the City Manager.
- (ii) Parking of any vehicle in the front yard of a single-family or two-family dwelling lot shall be prohibited unless such vehicle is parked on an improved area having a surface of asphalt, concrete, rock, gravel or other similar inorganic material, and such improved area has a permanent border.
- e. Pavement.  
All open, off-street parking, and vehicular use areas shall be surfaced with asphalt, concrete or other material in conformance with the specifications in Chapter 9 of this Code.
  - f. Maintenance.  
The property owner shall be responsible for maintaining any vehicular use area in good condition and free of refuse, debris, and vehicles that have not been driven for two weeks or longer, and all landscaping in a healthy and growing condition, replacing it when necessary as specified in the approved site development permit.

### **Section 6.8 Assessment and Improvement of Transportation Network**

- (1) Purpose and General Policy.
  - a. The purpose of this section is to require that development within the Buda jurisdictional area is supported by an adequate roadway network, including collector-level and higher capacity streets, as may be necessary to accommodate the continuing growth and development of the City and its jurisdictional area. Acquisition of new rights-of-way for off-site, abutting and internal streets to support new development is necessary and desirable. The city requires that:
    - (i) Development impacts are mitigated through contributions of street rights-of way and/or improvements to existing and new roadways; or
    - (ii) New developments contribute their fair share of the costs of needed transportation improvements.
  - b. There must be a rough proportionality between the traffic impacts created by a new development and requirements placed on the property owner or applicant for new development to dedicate and improve offsite, abutting and internal street rights-of-way to City standards. The City desires to assure both that development impacts are mitigated through contributions of street rights-of-way and transportation system improvements and those new developments contribute their fair share of the costs of transportation improvements. It is the City's intent to institute a procedure to assure that mandatory dedications of street rights-of-way and street construction requirements are proportional to the traffic demands created by a new development.
  - c. If the traffic impact will affect a state controlled highway then the developer must coordinate the necessary improvements with the Regional Texas Department of Transportation. When a Final Plat is submitted the developer must have obtained an agreement on the necessary road improvements and

submitted an agreement between the City of Buda and the Developer to meet the requirements established by TXDOT. This will require the developer to coordinate with TXDOT and request TXDOT to submit the necessary contract documents between TXDOT and the City of Buda to use as a basis for the transportation agreement between the City of Buda and the Developer. A Final Plat cannot be recorded until the agreement has been finalized and the necessary funds are deposited with the City of Buda.

- d. The City Manager or his designee shall be the primary point of contact with the landowner or developer or his agents, and has considerable authority and responsibility for administering the provisions of this section of the Code. However, all final decisions concerning participation in costs and completion of improvements affecting City streets and any County Roads that will be annexed into the City as part of the development must be specified in a traffic impact analysis, capital improvements plan, or mitigation plan as required in this section and shall be presented to the Planning and Zoning Commission and ultimately approved by the City Council.

(2) Applicability

- a. The regulations in this section apply to existing and future transportation networks associated with land development activities, within the City limits and within the City's extraterritorial jurisdiction. Any application for subdivision approval or subdivision improvements, zoning or zoning change, or site development in accordance with this Code must comply with these standards.
- b. When a developer submits a General Development Plan, the applicant shall complete and submit a Traffic Impact Analysis Worksheet. As part of the approval process the Planning and Zoning Commission and the City Council shall determine, based upon the City Engineers recommendation, if a TIA is required. The threshold requirement for a TIA shall be a development or combination of developments that would result in trip generation of more than an average of five thousand (5,000) trips per day based upon the latest edition of the Institute of Transportation Engineers (ITE) Trip Generation Manual. If the proposed development does not exceed the threshold, a TIA waiver shall be noted on the TIA Determination Worksheet. If the TIA threshold is exceeded, the applicant shall be so advised on the TIA Determination Worksheet and referred to the City Manager or his designee for consultation concerning the preparation of a TIA.
- c. Phased Developments.  
An initial TIA shall be submitted with the preliminary plan. If the City Engineer determines that a follow-up TIA is needed the updated TIA shall be submitted with each preliminary plan or future phase of a development submitted for approval and shall be generally consistent with the initial TIA. The initial TIA shall be updated whenever the preliminary plan or final plat is modified to authorize more intensive development. The initial TIA and updated TIAs shall consider the cumulative impacts of all future phases of the development and not segment the impacts into smaller amounts that would avoid identification of and participation in any needed capital improvements.

(3) Traffic Impact Analysis, Study Scope

When a TIA is required, the type and scope of the study shall be determined



during a scoping meeting with the City Manager or his designee. The scoping meeting will follow the approval of the General Development Plan approval. No application requiring a TIA may be made until the scope of the required study has been determined. The City Manager or his designee may involve representatives of or request assessments from other agencies, departments, and consultants. The elements to be determined during the scoping session shall include the following:

a. Type of Study.

The possible types of reports include: a letter report, full TIA report or special report (e.g., sight distance survey). The TIA shall be certified by a registered professional engineer with a specialty in the field of transportation engineering.

b. Definition of Impact Area.

The points of access and key streets and intersections that may be affected by development of the subject tract constitute the impact area. Traffic recorder and turning movement assessment locations shall also be determined.

c. Period of Analysis.

Periods of analysis may include: daily traffic, AM, PM or weekend peak hour.

d. Analysis Scenarios.

Scenarios for analysis shall include: existing conditions, opening year conditions with and without development, and ten (10) years after opening with and without development, unless the City Manager or his designee specifies a different scenario based on unusual circumstances. In the event that specific land uses for the development are not specified at the time of subdivision or plat application, the daily trip generation rate for the most intensive land use from the ITE Manual for the land use classification of the application shall be used to compute the estimated average daily trips.

e. Growth Rate Assumption.

The rate of growth assumed in background traffic assumptions.

f. Pipeline Development.

Planned pipeline developments in the area that have been approved or are under review.

(4) Process

The TIA shall follow standard transportation engineering practices processes for determining trip generation and distribution including trip generation category, diversion assumptions, distribution assumptions, and the adequacy of the road network to serve the proposed development, and whether off-site road dedication and improvements should be made to mitigate the effects of the development proposed in the application. The data and methods used in the TIA shall be based upon the latest editions of ITE manuals.

(5) Submittal Requirements

a. Following approval of the TIA scope, copies of the document shall be sent to the City Manager or his designee. The City Manager shall determine the number of copies of the TIA that the applicant will be required to submit.

b. If Hays County and/or the Texas Department of Transportation roads are affected and they have reached agreement with the Developer then the developer shall submit a copy of the letter from Hays County and/or the Texas Department of Transportation (TxDOT) that outlines any agreements

between the developer and Hays County and/or TxDOT for planned improvements to County and/or State roads abutting subdivisions or sites and the trigger for such improvements. The agreement must be submitted prior to Final Plat approval as provided in paragraph 6.8 (1) c.

(6) Traffic Study Elements

A letter report or special report shall only include those elements agreed upon in the scoping meeting. A full TIA shall include the following elements:

a. Existing Condition Survey

b. Street System Description

The street system shall be described including geometric features, lane usage, traffic control, signage, sight distances and adjacent uses and curb cuts.

c. Traffic Volumes

Existing traffic volumes shall be provided for the impact area including both AADT (Average Annual Daily Traffic) and "Design" peak hour volumes. AADT may be derived from current counts of the City or TxDOT (if available) and peak hour volumes shall be based on field counts. Data shall be adjusted for daily and seasonal variations. Turning movement counts for the peak hour shall be provided for critical intersections. Peak hour periods shall be as determined at the scoping meeting.

d. Capacity Analysis

Existing capacity of signalized and unsignalized intersections.

e. Other Other items may be required at the discretion of the City Manager or his designee depending upon the type and scale of the project. These may include but are not limited to: queue length analysis, pedestrian counts, accident data, traffic speeds (both 50th and 85th percentile), and stopping sight distances.

f. Future Without Development

Capacity analysis is to be provided for opening year and plus 10-year conditions for key intersections (and roadway segments where appropriate) without the development but including any planned developments. The analysis shall be based upon methodologies approved in advance by the City Manager or his designee.

g. Future With Development

(i) The TIA shall include a detailed description of the area street network, a description of proposed land uses, the anticipated stages of construction, the anticipated completion date of the various phases of land development, and the trigger points requiring implementation of all described improvements.

(ii) Projections of the daily and peak hour traffic generation of the project shall be made using the latest edition of the ITE Trip Generation Manual unless the City Manager or his designee determines that locally derived data will provide more accurate forecasts. Data from similar facilities may be used where the information is not available from ITE.

(iii) The projected trips shall be distributed onto the road network as agreed in the scoping meeting.

(iv) Capacity analysis for opening year and plus 10-year conditions for key intersections (and roadway segments where appropriate).

(v) Special analysis as may be required to determine warrants for signalization, minimum safe sight distances, turning radius

requirements, turning lane or acceleration/deceleration lane length analysis, curb cut locations or similar requirements.

h. Mitigation Plan

The TIA shall identify the need and timing for transportation improvements, if any, needed to maintain the same or higher level of service than exists prior to development during each phase of development. Where the analysis indicates that the project will create transportation system deficiencies in the impact area, improvements shall be recommended which shall include projected cost estimates. Costs estimates shall include right-of-way acquisition, utility relocation, and transportation facility design and construction. All cost estimates shall be approved by the City Engineer or the City Manager or his designee prior to acceptance of the TIA. The design of improvements shall be in accordance with specifications of this Code and other standards as may be adopted by the City and, where appropriate, TxDOT. The mitigation plan shall also include provisions in the future for any dedications necessary to comply with the Minimum Road Standards described below. Where the final approval authority for any procedure determines that a mitigation plan is not adequate to address the traffic impacts of the project, it may serve as a basis for denial of the permit or subdivision plat.

(7) Consultants

The City may require that an independent consultant be hired by the applicant to perform required TIA studies or to review all or part of a study prepared by the applicant's consultants.

(8) Minimum Road Standards

All applications for plat approval, site plan approval, zoning change or PUD zoning shall provide for adequate roads to support proposed development through compliance with the following minimum standards governing dedication and improvement of internal and adjacent thoroughfares. For purposes of this section "adjacent thoroughfares" shall include thoroughfares abutting the proposed subdivision or site development, whether located within the boundaries of the subdivision or within public rights-of-way.

(9) Standards and Specifications

The property owner shall dedicate and improve all required rights-of-way for internal and adjacent thoroughfares required by these regulations in accordance with the classification of streets contained in this Code.

(10) Dedication and Improvement of Internal and Adjacent Thoroughfares

For thoroughfares that currently are or will in the future be located alongside a property boundary, the property owner shall dedicate and improve, as a minimum, one-half of the right-of-way necessary to meet the specification of future thoroughfares contained in the Comprehensive Plan or the City or County Thoroughfare Plan as adopted or amended by the City Council from time to time. The City may require additional land and improvements for rights-of-way for adjacent thoroughfares where necessary to achieve adequacy of the road network and where such additional land and improvements are proportional to the traffic impacts generated by the proposed development, depending on factors such as the impact of the development on the thoroughfare, the timing of development in

relation to need for the thoroughfare, and the likelihood that adjoining property will develop in a timely manner. In the case of adjacent frontage or service roads for state and federally designated highways, the property owner shall dedicate sufficient right-of-way and make authorized improvements in order to provide an adequate road network to serve the development.

(11) Substandard Street Improvements

Where an existing thoroughfare that does not meet the City's right-of-way or design standards abuts a proposed new development, the City may require the property owner to dedicate the right-of-way for a standard thoroughfare width, and to improve the street according to the dimensions and specifications in this Code, depending on factors such as the impact of the development on the thoroughfare, the timing of development in relation to need for the thoroughfare, and the likelihood that adjoining property will develop in a timely manner.

(12) Capital Improvements Plan for Roads

A road improvement may be considered adequate for an application if the City Manager determines that the required improvement is included, funded, and approved in the City's, County's or State's capital improvements plan for roads, provided that the applicant agrees to phase development to conform to the date of completion of such scheduled improvement. This section shall not be construed to prevent the City from requiring dedication of rights-of-way for such roads, or from assigning trips to such roads in a TIA in order to determine a development project's proportionate costs of improvements.

(13) Proportionality Requirements and City Participation in Costs and Completion of Improvements

- a. The Developer's portion of the costs of improvements (costs include dedication, fees and construction costs) shall not exceed the amount required for infrastructure improvements that are roughly proportionate to the proposed development as approved by a professional engineer retained by the City, the holder of a license issued under Chapter 1001, Occupation Code.
- b. The City may participate in the costs of improvements required by this section in order to achieve proportionality between the traffic impacts created by the proposed development and the obligation to provide adequate roadways. In such cases, the property owner shall be responsible for the entire initial costs of road improvements, including design costs. Reimbursement of the City's agreed share of the costs shall be made as funds become available. The construction of improvements and the provisions for participation in costs by the City shall be included in a subdivision improvement agreement.
- c. During the course of providing for improvements, the City shall cooperate with the developer in the use of its governmental powers to assist in the timely and cost effective implementation of improvements. Assistance shall not mean financial aid in actual easement acquisition, construction or engineering costs. Specifically, the City agrees to:
  - (i) Assist in the acquisition of necessary right-of-way and easements;
  - (ii) Assist in the relocation of utilities;
  - (iii) Assist in obtaining approvals from Hays and Travis County;
  - (iv) Assist in obtaining approvals from TxDOT;
  - (v) Assist in securing financial participation for major thoroughfare

improvements from Hays County, TxDOT or the Capital Area Metropolitan Planning Organization (CAMPO) or other area wide transportation planning and management entities as may be established in the future.

- d. A Developer who disputes the determination made under Subsection (13)a above may appeal to the City Council and present testimony and evidence pursuant to procedures adopted by the City Council. The City Council shall make its determination within 30 days of the final submission of any testimony or evidence by the Developer.
- e. A Developer may appeal the determination of the City Council to a County or District Court of the County in which the development project is located by filing the appeal within 30 days of the final determination of the City Council.

(14) City Evaluation and Action

- a. The City shall evaluate the adequacy of the TIA prepared by the applicant. Based upon such evaluation, the City shall determine:
  - (i) whether the application may be approved in the absence of dedication of rights-of-way or construction of improvements to each affected thoroughfare and
  - (ii) the extent of the applicant's obligations to make such dedications or improvements.
- b. The application for which a TIA is being conducted shall not be approved until the City has received all required payments or is otherwise satisfied with the financial arrangements related to required transportation improvements.
- c. The City shall condition the approval of the development application on one or more of the following acts by the applicant:
  - (i) delay or phasing of development until thoroughfares with adequate capacity or intersection improvements are constructed;
  - (ii) reduction in the density or intensity of the proposed development sufficient to assure that the road network has adequate capacity to accommodate the additional traffic to be generated by the development;
  - (iii) dedication or construction of thoroughfares or traffic control improvements needed to mitigate the traffic impacts generated by the proposed development.

(15) Deferral of Obligation

Upon request of the applicant or property owner, the obligation to dedicate or improve thoroughfare rights-of-way or to make intersection improvements imposed on an application may be deferred to a later stage of the development process. As a condition of deferring the obligation to dedicate rights-of-way for or to improve thoroughfares, which deferral shall be in the sole discretion of the City, the City shall require the developer to execute a subdivision or site development improvement agreement specifying the amount and timing of the rights-of-way dedication or improvements to thoroughfares, including the posting or depositing of a letter of credit or other fiscal surety, in a form and under terms acceptable to the City, in advance of approval of the development application.

(16) Cash Contributions

In lieu of the obligation to dedicate or improve thoroughfares or make traffic control improvements or post fiscal surety for subsequent construction to achieve

road adequacy, the applicant may propose to make equivalent cash contributions based upon the development project's proportionate share of the costs of improvements, which the City in its sole discretion may accept in satisfaction of road adequacy standards in this section. Any funds accepted by the City shall be earmarked for construction of the improvements for which the contribution was made.

(17) Options

Whenever the proposed development's share of the costs of a thoroughfare or traffic control improvement needed to mitigate traffic generated by the development is less than one hundred percent (100%), the City in its sole discretion may do the following:

- a. participate in the excess costs; or
- b. aggregate the costs of improving multiple thoroughfares or intersections identified in the TIA, and require improvements to only some of the thoroughfares or intersections affected by the development.

(18) Advance Funding

If the landowners determine to either fund in advance or fund more than their pro-rata share, the City shall credit the developer's future fiscal posting. For those contributions and improvements beyond the developer's pro-rata participation, the City may either credit the developer's future fiscal posting or reimburse the developer out of City funds or funds allocated from other area landowners' contributions for those specific improvements.

(19) Appeal of Road Adequacy Conditions

- a. An applicant may appeal a disapproved or denied final action resulting, in full or in part, from a determination that the Mitigation Plan was insufficient. The appeal shall first be presented to the City Council and, if a satisfactory resolution is not attained, the City Council shall refer the appeal to the Board of Adjustment to consider the appeal and make a finding and recommendation to the City Council, such recommendation to be binding upon the City and the applicant as it pertains to the Mitigation Plan and the development for which the Mitigation Plan was prepared.
- b. Basis for Appeal
  - (i) The appeal shall allege and demonstrate that recommended conditions requiring dedication or construction of thoroughfares or traffic control improvements are not roughly proportional to the nature and extent of the traffic impacts on the road network created by the development being proposed.
  - (ii) The appeal may also allege and demonstrate that the imposition of the conditions deprives the owner of the economically viable use of the land, or of a vested property right.
- c. The appeal hearing body shall consider the appeal and determine whether the street or traffic control dedication and construction requirements are roughly proportional to the nature and extent of the impacts on the road network created by the development proposed. If the petition also alleges that the proposed dedication or construction requirements constitute a deprivation of economically viable use or of a vested property right, the hearing body also shall consider such issues. Following such determinations, the appeal hearing

body may take any of the following actions regarding the road adequacy portion of the appeal only:

- (i) Deny the appeal, upon determining that the required dedications of rights-of-way for or improvements to thoroughfares or traffic control improvements are roughly proportional to the nature and extent of the impacts created by the development, and order that such dedication or improvements be made as a condition of approval of the subdivision or site development application.
- (ii) Deny the appeal, finding that the dedication or improvement requirements are inadequate to achieve road adequacy, and either deny the subdivision or site development application or require that additional dedications of rights-of-way dedication for or improvements to thoroughfares, or traffic control improvements, be made as a condition of approval of the application.
- (iii) Grant the appeal and waive in whole or in part any dedication or construction requirement that is not roughly proportional; or
- (iv) Grant the appeal, and direct that the City participate in the costs of acquiring rights-of-way or constructing improvements sufficient to achieve proportionality.

## **Chapter 7 Non Residential Site Development and Design Standards**

### **Section 7.1 Purpose and Intent**

The purpose of this Chapter is to set forth site development and design standards for non-residential development and building construction. Chapter 7 contains general standards applicable to all nonresidential developments within the City limits. Where applicable, these standards may be applied to the ETJ in accordance with Section 212.003, Texas Local Government Code. The purpose of these standards exist in order is to achieve a minimum level of quality, compatibility and environmental protection in new and existing developments while maintaining significant flexibility in site layout and design. The standards also serve to implement selected goals and policies identified in the City of Buda's Comprehensive Plan.

### **Section 7.2 Relation to Comprehensive Plan Policies and Guidelines**

Design and construction of site developments in the City and ETJ should be consistent with the policies and guidelines established in the most recent version of the Buda Comprehensive Plan. Any interpretation of the requirements of this Section should be made shall be interpreted in a manner consistent with the Comprehensive Plan. Specific site and land-use design policies and guidelines from the Comprehensive Plan that shall apply to site development and design include, but are not limited by, those contained in the Future Land Use Plan.

### **Section 7.3 Applicability**

- (1) General
  - a. The minimum site development and site design standards apply to areas both within the City limits and the ETJ.
  - b. Standards within base zoning districts and overlay districts may be slightly different than those standards found within this Chapter. When in conflict, the more restrictive standard shall apply.
  - c. Also included in certain sections of this Chapter are recommended "guidelines" that are not mandatory and not legally enforceable outside of the city limits of Buda. Standards are mandatory when they are only enforceable within the city limits of Buda. In some cases, the words "should" or "may" are used instead of "shall" or "must" to connote this legal distinction. Applicants requesting a variance or anticipating voluntary annexation or any discretionary decision by the City are advised that compliance with these guidelines may be a factor in receiving a favorable recommendation from the Planning and Zoning Commission and City Council.
- (2) Thresholds of Development Requiring Site Development Permit



A site development permit shall be required for all site developments unless they are smaller than the following sizes of development:

- a. Construction that involves paving or other impervious surface alteration totaling seventy five hundred (7,500) square feet, including existing improvements; or modifications to a drainage channel or pipe or other storm drainage feature with a catchment's area, whether on-site or off-site, less than or equal to five (5) acres, may be reviewed and permitted by the City Manager, without requiring City Council approval.
- b. Construction or expansion of a building other than a single-family or duplex residential building, with a floor area of two thousand (2,000) square feet.
- c. Construction or expansion of a parking lot or any other impervious surface of two thousand (2,000) square feet.
- d. Conversion of a residential or nonresidential structure to a nonresidential use in which the floor area of the building is one thousand (1,000) square feet.

#### **Section 7.4 General Standards and Guidelines**

- (1) All buildings shall front on public streets unless they front on a plaza or a courtyard. In an effort to reduce the congestion created by a number of drives along streets while maintaining adequate access to developments, the City may allow Access Easements to be dedicated within and across developments of similar use. These easements will typically be 24 feet in width but may vary upon approval by the City's Engineer or his/her designee.
- (2) Buildings within a particular development shall reflect a continuity of treatment in the following:
  - a. Building scale
  - b. Maintaining a front yard build-to line
  - c. Maintaining the cornice line in buildings of the same height
  - d. Extending horizontal lines of windows and doors
  - e. By echoing architectural styles and details, design themes, building materials, and colors of the local context (in particular neighboring buildings)
- (3) Sidewalks shall be constructed along all streets in site developments, in accordance with the standards specified in Section 9.5 of this Code.
- (4) All A/C units, HVAC systems, exhaust pipes and stacks, elevator housing, satellite dishes and other such devices shall be screened from view at from the public street by walls, fencing, roof elements, penthouse-type screening devices, or landscaping.

#### **Section 7.5 Nonresidential Site Development and Design**

- (1) General Standards and Guidelines.
  - a. Front Façade Addressing the Street.

- (i) At least thirty percent (30%) of the facade facing the primary adjoining street shall provide, on the ground level floor, windows and doors that allow for visibility into the commercial building or store. Industrial buildings facades in the industrial zone is relaxed to 15% of the facade facing the public right-of-way.
  - (ii) Buildings shall be designed to face the street, rather than internal drives and parking yards; provided, however, that courtyards may exist within or between buildings, and buildings may open up to the courtyard. In such cases, the front facade of the building must nonetheless address the street as described above. All entrances and exits shall have a continuous pedestrian walkway that is connected to a public sidewalk on the primary street and intersecting secondary streets.
- b. Walls
- (i) No building facade shall extend for a distance greater than three (3) times its average height without an offset. The offset shall be perpendicular to the building facade, with a length of at least fifteen percent (15%) of such height. This offset shall extend laterally along the facade for a distance equal to at least twenty-five percent (25%) of the maximum length of either adjacent wall.
  - (ii) No building facade shall extend horizontally for a distance greater than three (3) times its height without a change in elevation of at least fifteen percent (15%) of such height. This height change shall continue for a minimum distance equal to at least twenty-five percent (25%) of the maximum length of either adjacent plane.
  - (iii) All sides of a building shall be architecturally consistent with regard to style, colors, and details.
  - (iv) Blank wall or service area treatment of side and/or rear elevations visible from the public right-of way is not allowed. If the building code necessitates such walls, the walls shall be articulated as specified above and/or textured, and landscaped.
- c. Roofs and Other Coverings.
- (i) All building entrances shall be defined and articulated by architectural elements such as lintels, pediments, columns, porticos, porches, overhangs, railings, and others such elements as appropriate. All these elements, as well as the doors, should be compatible with the style, materials, colors, and details of the building as a whole.
  - (ii) Canvas and other water-proofed fabrics are acceptable,; however, steel and aluminum awnings are not allowed on building facades facing a public street.
  - (iii) The following types of roofing materials and designs are prohibited:
    - 1. Mansard roofs and canopies without a minimum vertical distance of eight (8) feet and at an angle not less than twenty-five (25) degrees, and not greater than seventy (70) degrees;
    - 2. Roofs less than or equal to a two-to-twelve (2/12) pitch unless they utilize full parapet coverage; and
    - 3. Back-lit awning used as a mansard or canopy roof.
- d. Water Conservation and Landscaping
- Water conservation measures such as xeriscape as specified in Chapter 8 of this Code, are mandatory.

- e. Buffering and screening
  - (i) Parking lot layout, landscaping, buffering, and screening shall prevent direct views of parked vehicles from streets and sidewalks, and avoid spill-over light, glare, noise, storm water runoff, or exhaust fumes onto adjacent properties, in particular residential properties.
  - (ii) Specific standards are presented in Section 9.5 of this Code. Parking lots containing more than four (4) parking stalls, where exposed to view from the primary or secondary access street or the sidewalk along such street or from adjoining residential buildings, shall be buffered from the street view or the residential building location by a minimum of a three-foot high, year-round, visually impervious screen, hedge, or wall.
  - (iii) Rooftop and ground floor mechanical equipment and ground floor solid waste storage and disposal equipment and containers shall be screened from public view with the use of landscaping or appropriate fencing.
  - (iv) Transformers, HVAC equipment, lift stations, utility meters, (including other similar equipment or machinery), and garbage collection points, shall be located at the rear of the building and shall be buffered by landscape screening or fencing.
  - (v) Screening and landscaping shall prevent direct views of loading docks, outdoor storage areas, solid waste storage and transfer facilities, recycling facilities, and other service areas and their driveways from adjacent properties and from the public right-of-way. It shall also prevent spillover glare, noise, or exhaust fumes.
  - (vi) Screening and buffering shall be achieved through walls, fences and landscaping which that should be a minimum of five (5) feet tall and visually impervious. Recesses in the buildings and depressed access ramps may be used.
- f. Industrial development and building construction in areas in which the principal land use is designated as “Industrial” in the Comprehensive Plan—Future Land Use Map are not required to comply with Section 7.5(1) of this Code.

(2) Commercial Developments — Neighborhood and Local

a. Service Area and Space Requirement.

The land use categories, Neighborhood-Commercial and Local-Commercial, which are more fully described in the Comprehensive Plan, are intended to serve localized service areas of approximately one-half to one (1 / 2-1) mile radius; and one to two (1-2) miles radius, respectively, in suburban and rural areas of the City limits and ETJ. As a general guide, the amount of land that should be reserved for a Commercial Development within a suburban development area should be one hundred (100) to two hundred (200) square feet of commercial land area per residential dwelling unit, counting all residential units at build-out.

b. Access to Streets.

The Neighborhood-Commercial Center, as described in the Comprehensive Plan, shall front onto one or more of the streets of the neighborhood in or next to which it is situated. If the Commercial Center fronts onto an arterial street, it shall provide for direct pedestrian and vehicular access from the

adjacent neighborhood so that vehicles and pedestrians can access the retail site without the utilization of the arterial street.

c. Relation to Other Buildings and Spaces.

- (i) Commercial Centers containing multiple leaseable or owner-occupant spaces with a gross leaseable area in excess of twenty thousand (20,000) square feet shall include or be adjacent to a community green, plaza or a square. This area shall be at least ten percent (10%) of the size of the gross leaseable area and shall contribute to the required non-impervious area. The Commercial Center and the community green or plaza or square shall be combined and developed to create a neighborhood focus.
- (ii) Restaurants may be permitted to operate outdoor cafes on sidewalks (including areas in the public right-of-way) and in courtyards, provided that pedestrian circulation and access to store entrances are not impaired, and so long as public health, safety and welfare are maintained. The City Manager shall have the right to require a license agreement between the building owner or proprietor and the City for the use of sidewalks to address location, maintenance, public health and safety, and other requirements. The following guidelines are applicable:
  1. A minimum walk able zone of four (4) feet of sidewalk leading to the entrance of an establishment shall be maintained free of tables and other encumbrances.
  2. Extended canopies, awnings, and umbrellas may be permitted, provided that they are found not to adversely impact public safety or visibility or cause a physical obstruction in the site development review process.
  3. Cafes are required to provide and maintain outdoor trash receptacles, as approved by the City Manager.

(3) Shopping Centers and Superstores

In addition to the other standards in this Chapter that apply to commercial and retail site developments, the following standards and guidelines shall apply to large stores and shopping centers that contain more than fifty thousand (50,000) square feet in one building or more than eighty thousand (80,000) square feet in one shopping center site development.

- a. Developments shall create a continuous public edge and streetscape on all frontages using, among other techniques, active building faces (windows and doors and covered entries for viewing into and entering the building), landscaping on the sides of buildings, sidewalks and street furniture, and low walls, canopies and decorative fencing for screening.
- b. Pedestrian walkways shall be protected from vehicular intrusions with elements integrated into the overall streetscape design, including curbs, landscaping, bollards or other elements.
- c. Large building facades shall be articulated (broken into smaller components; avoiding facade flatness) with projections or indentations; and with clearly marked and well designed entry signs (as required in Section 7.5(1)b above).
- d. Buildings with long facades shall be massed and articulated by design elements including texture, canopies, transparency, and the vertical expression of structural bays so that the scale of the building does not overwhelm the streetscape (see 7.5(1)b above). The building design shall

- provide differentiation between bottom floor, top floor, and any floors in between. Blank facades shall not be exposed to public streets.
- e. Buildings shall incorporate horizontal design elements to add interest and reduce the massive scale of the building and to complement the character of adjacent buildings including, for example, building bases, sills, cornices and rooflines.
  - f. Vehicular and pedestrian access to adjacent current and future uses shall be incorporated in the initial site planning stages. Driving aisles and vehicular access routes shall be designed with connections to adjacent existing as well as future roads, sidewalks connecting to public sidewalks, curbs, street furniture and protective landscaping.
- (4) Mixed-use and Commercial Buildings.
- a. Commercial uses may be contained in multi-story, mixed-use structures with commercial/retail uses on the ground level and apartment dwellings or offices on the upper levels. Commercial uses may only be integrated with dwelling units on the first floor if the dwelling is occupied by the owner or principal commercial tenant for the building.
  - b. Building shall have a separate and direct entry into residential area.
  - c. In order to maintain an integrated overall character of the building façade, storefronts and other commercial facades on the first floor of a building shall be integrally designed with the upper floors. Any large pane display windows on ground floor retail, service, and restaurant uses shall not exceed seventy-five percent (75%) of the ground level facade area. Large panes shall rest on a base of at least eighteen (18) inches at the ground level. Any building design with multiple storefronts shall be coordinated through the use of architecturally compatible materials, colors, details, awnings, signage, and lighting fixtures.
  - d. Buildings on a development site shall be situated in a manner that allows pedestrians to directly reach their destinations within the site, or to directly reach continuous pedestrian walkways linking destinations outside the development. Site design shall provide direct access into the buildings from the public sidewalk.

## **Section 7.6 Environmental Conservation and Protection**

- (1) Landscaping and Water Resources Protection for Non-residential and Multifamily Development
  - a. All non-residential site developments with a total irrigated landscape area exceeding five thousand (5,000) square feet shall comply with the standards specified in this Section.
  - b. Site development plans should conform to the site topography to minimize the amount of grading necessary to achieve a viable street network.
- (2) Landscaping and Irrigation Standards for Non-residential and Multifamily Development
  - a. Landscape Design Plan

Landscaping and irrigation plans shall be designed with the objective of minimizing potable water use. A landscape design plan meeting the

following requirements shall be submitted as part of the landscape documentation package.

- (i) Plant Selection and Grouping - Plants and Trees to be included in any landscape plan for a site development shall be selected from native species that require little irrigation. Recommended species can be found at City Hall, City of Austin web site, and is available at the Lady Bird Johnson Wildflower Center.
  - (ii) Mulch. After completion of all planting, all irrigated non-turf areas shall be covered with a minimum layer of three (3) inches of mulch to retain water, inhibit weed growth, and moderate soil temperature. Mulch types appropriate to Central Texas low water-use plants and trees shall be used.
  - (iii) Water Features - Recirculation water shall be used for any decorative water features. Pool and spa covers are encouraged to reduce evaporation.
- b. Landscape Design Plan Specifications
- The landscape design plan shall be drawn on project base sheets at a scale that accurately and clearly identifies:
- (i) Designation of hydrazones.
  - (ii) Landscape materials, trees, shrubs, groundcover, turf, and other vegetation. Planting symbols shall be clearly drawn and plants labeled by botanical name, common name, container size, spacing, and quantities of each group of plants indicated.
  - (iii) Property lines and street names.
  - (iv) Streets, driveways, walkways, and all other paved areas.
  - (v) Pools, ponds, channels, other water features, fences, and retaining walls.
  - (vi) Existing and proposed buildings and structures including elevation if applicable.
  - (vii) Natural features including but not limited to topography, rock outcroppings, existing trees, and shrubs that will remain.
  - (viii) Tree staking, plant installation, soil preparation details, and any other applicable planting and installation details.
  - (ix) A calculation of the total landscaped area.
  - (x) Designation of recreational areas.
- c. Irrigation Design Plan
- An irrigation design plan meeting the following conditions shall be submitted as part of the Landscape Documentation Package.
- (i) Runoff and Overspray. Soil types and infiltration rate shall be considered when designing irrigation systems. All irrigation systems shall be designed to avoid runoff, low head drainage, overspray, or other similar conditions where water flows onto adjacent property, non-irrigated areas, walks, roadways, or structures. Proper irrigation equipment and schedules, including features such as repeat cycles, shall be used to closely match application rates to infiltration rates therefore minimizing runoff.
  - (ii) Special attention shall be given to avoid runoff on slopes and to avoid overspray in planting areas with a width less than ten (10) feet, and in median strips.
  - (iii) No overhead sprinkler irrigation systems shall be installed in median

- strips less than ten (10) feet wide.
- (iv) Irrigation Efficiency. For the purpose of determining the maximum applied water allowance, irrigation efficiency is assumed to be sixty-two and one-half percent (62.5%). Irrigation systems shall be designed, maintained, and managed to meet or exceed sixty-two and one-half percent (62.5%) efficiency.
  - (v) Irrigation Equipment.
    - 1. Water meters. Separate landscape water meters shall be installed for all projects with an irrigated landscaped area of greater than five thousand (5,000) square feet.
    - 2. Controllers. Automatic control systems shall be required for all irrigation systems and must be able to accommodate all aspects of the design.
    - 3. Valves. Plants that require different amounts of water shall be irrigated by separate valves. If one valve is used for a given area, only plants with similar water use shall be used in that area. Anti-drain (check) valves shall be installed in strategic points to minimize or prevent low-head drainage.
    - 4. Back-flow prevention valves shall be required on the irrigation system to prevent contamination of the potable water supply.
    - 5. Rain Sensing Override Devices. Rain sensing override devices shall be required on all irrigation systems.
  - (vi) Recycled Water
    - 1. To allow for the current and future use of recycled water (e.g. effluent) the installation of recycled water irrigation systems (dual distribution systems) is required if the City's effluent distribution line is within 500 ft of the site or if the City plans to build the line within a three year period.
    - 2. Recycled water irrigation systems shall be designed and operated in accordance with all local and state codes. These systems may need to be one hundred percent (100%) underground drip irrigation systems unless the recycled water has been approved for human contact.
- d. Irrigation Design Plan Specifications
- (i) Irrigation systems shall be designed to be consistent and appropriate for the hydrazone.
  - (ii) The irrigation design plan shall be drawn on project base sheets. It shall be separate from, but use the same format as, the landscape design plan. The scale shall be the same as that used for the landscape design plan described above.
  - (iii) The irrigation design plan shall accurately and clearly identify the following fixtures and conditions, as applicable:
    - 1. Location and size of separate water meters for the landscape.
    - 2. Location, type, and size of all components of the irrigation system, including automatic controllers, main and lateral lines, valves, sprinkler heads, moisture sensing devices, rain switches, quick couplers, and backflow prevention devices.
    - 3. Static water pressure at the point of connection to the public water supply.
    - 4. Flow rate (gallons per minute), application rate (inches per hour), and design operating pressure (psi) for each station.

5. Recycled water irrigation systems as specified herein.
- (iv) Irrigation schedules satisfying the following conditions shall be submitted as part of the Landscape Documentation Package.
- (v) An annual irrigation program with monthly irrigation schedules shall be required for the plant establishment period, for the established landscape, and for any temporarily irrigated areas. The irrigation schedule shall:
  1. include run time (in minutes per cycle), suggested number of cycles per day, and frequency of irrigation for each station; and
  2. provide the amount of applied water (in gallons) recommended on a monthly and annual basis.
- (vi) The total amount of water for the project shall include water designated in the Estimated Total Water Use calculation plus water needed for any water features, which shall be considered as a high water using hydro zone.
- (vii) Landscape irrigation shall be scheduled during the early morning or late evening hours (not between 9:00am and 12:00m). Irrigation schedules shall also follow the Drought Contingency Measures adopted by the City of Buda.
- e. Maintenance Schedules
  - (i) A regular maintenance schedule satisfying the conditions of this section shall be submitted as part of the Landscape Documentation Package
  - (ii) Landscapes shall be maintained to ensure water efficiency. A regular maintenance schedule shall include but not be limited to checking, adjusting, and repairing irrigation equipment; resetting the automatic controller; aerating and de-thatching turf areas; replenishing mulch; fertilizing; pruning, and weeding in all landscaped areas.
  - (iii) Whenever possible, repair of irrigation equipment shall be done with the originally specified materials or their equivalents.
- f. Landscape Irrigation Audit Schedules

A schedule of landscape irrigation audits satisfying conditions for certification shall be submitted to the City as part of the Landscape Documentation Package.
- g. Certification

A licensed landscape architect or contractor, certified irrigation designer, or other licensed or certified professional in a related field shall conduct a final field observation and shall provide a certificate of substantial completion to the City. The certificate shall specifically indicate that plants were installed as specified, that the irrigation system was installed as designed, and that an irrigation audit has been performed, along with a list of any observed deficiencies.
- h. Erosion/Sedimentation Control

All site development projects that will contain two thousand (2,000) square feet or more of impervious cover when completed shall comply with the requirements and standards in Chapter 9.
- i. Storm water Runoff Management

All site development projects that will contain twenty percent (20%) or more of impervious cover when completed shall comply with the requirements and standards of Chapters 8 and 9 of this Code.



- (3) Landscape and Tree Requirements for Non Residential Lots
  - a. Minimum Landscape Standards
    - (i) A minimum percentage of the total lot area of property on which development, construction or reconstruction occurs shall be devoted to landscape and tree coverage per Table 7.1.
    - (ii) Existing natural features are encouraged to be used to satisfy the minimum landscape requirements.

**Table 7.1 Minimum Landscape and Tree Canopy Requirements**

Land Use	Landscaping Required (% of total lot)	Tree Canopy Required (% of total lot)
Neighborhood Commercial	20	20
Office	25	25
Commercial	15	15
Industrial	10	10

- (iii) No tree shall be planted in the right-of-way of a public street without prior authorization
- b. Postponement of Landscaping Installation
 

Required landscaping shall be installed prior to issuance of a certificate of occupancy. The City Manager shall have the authority to grant a postponement to the installation of required landscaping during periods of drought. In the event installation of required landscaping is postponed, the developer shall be required to maintain appropriate erosion control measures for water quality.
- c. Buffering
  - (i) Purpose - Buffering provides visual screening and spatial separation of two adjoining buildings and areas of intense activity. Buffering is intended to protect the character and stability of residential areas, to conserve the value of land and buildings of the properties and neighborhoods adjacent to non-residential developments, and to enhance the visual and aesthetic image of the City of Buda.
  - (ii) Buffering applies to all nonresidential and multifamily development according to Table 7.2.
  - (iii) Buffer yards shall be located on the side and rear lot lines of a parcel extending to the lot or parcel boundary line. Buffer yards shall not be located within existing streets or public rights of way.
  - (iv) Required Buffer Width is based on the following Buffer Intensity Classifications:
    1. *Class 1:* Cemeteries, golf courses, passive recreational areas, wholesale nurseries, day care homes
    2. *Class 2:* Offices, churches, schools, public facilities including playgrounds, ball fields, community swimming pools, and similar facilities, day care facilities.
    3. *Class 3:* Neighborhood and other local commercial and service

activities, including but not limited to retail operations, restaurants (without drive-up windows), banks (without drive-up windows), convenience stores (without gasoline sales), apartment buildings and manufactured housing.

- 4. *Class 4:* Commercial activities with higher vehicle activities, including but not limited to vehicle repair, service stations, drive-up window restaurants and banks, car washes, hotels and motels, shopping centers, funeral homes, schools, and child care centers. Also, light manufacturing activities and research facilities.
  - 5. *Class 5:* Heavy industrial uses, heavy manufacturing, truck terminals, mobile home sales, vehicle sales, vehicle storage and salvage, heavy equipment sales, facilities involving outdoor storage and outdoor commercial recreation establishments.
- (v) The buffer width identified in Table 7.2 shall be doubled for any building exceeding 25 feet or two (2) stories in height.
  - (vi) The City Manager, at time of site plan approval, may reduce buffer widths and required plantings by up to fifty percent (50%) if the site plan indicates berming, alternate landscaping, walls, opaque fence or topographic features, which will meet or exceed the buffer yard objectives of this section and are designed to complement adjacent properties. The City Council may also reduce the buffer width along a property line by an amount not to exceed fifty percent (50%) of the width of a public utility easement if the easement is located on the property line and in the same location or orientation as the buffer yard. Berms may not have a slope greater than four-to-one (4/1) and must have a crown width of at least three (3) feet. Reductions of buffer width more than fifty percent (50%) shall not be considered without written approval from the adjoining property owners, and only upon written approval by the City Council.

**Table 7.2. Required Buffer Width for Development Adjoining Residential Properties (in Feet)**

Buffer Intensity Class (BIC)	Adjoining Single Family Zone	Adjoining Multifamily Zone	Residential Use in a Nonresidential Zone
BIC 1	10'	10'	5'
BIC 2	20'	20'	10'
BIC 3	30'	20'	15'
BIC 4	50'	40'	25'
BIC 5	80'	80'	40'

- (vii) Buffer requirements can be applied within the required setback. The landscaping methods shall be in conformance with other applicable sections of this Code.
- (viii) Buffer Tree Standards

Trees are required in buffer areas according to Table 7.3.

1. Large trees, with a minimum size of two (2) inch diameter measured four (4) feet above the ground at planting, are required to fill 60% to 80% of the buffer requirement.
2. Small trees or large shrubs are required to fulfill from no less than twenty percent (20%) to no more than forty percent (40%) of the required number of trees.
3. Evergreen trees are required to fulfill at least fifty percent (50%) of required trees planted in Buffer Intensity Classes 3, 4 and 5 in one of two ways:
  - i. Evergreen trees and small trees/large shrubs, each with a minimum height of eight (8) feet, are to be planted at the same rates as the large trees; or,
  - ii. Two (2) evergreen or small trees/large shrubs, with a minimum height of four (4) feet at planting, may be substituted for each one (1) required above.
4. Trees shall be distributed along the entire length of the buffer. Due to unique characteristics of a site, or design objectives, alternative plant mixes may be approved as a part of the site development plan.
5. Existing trees may be substituted for required trees (buffer) if they are shown on the site development plan to be in healthy condition and in compliance with the tree type and location requirements of this Code.

**Table 7.3. Required Tree Standards (Buffer)**

Required Buffer Width	One Tree Required Per
20 ft or less	500 sq ft of buffer
21 to 30 ft	600 sq ft of buffer
31 to 50 ft	700 sq ft of buffer
More than 50 ft	800 sq ft of buffer

(ix) Buffer Shrub Standards

1. Evergreen shrubs, a minimum of eighteen (18) inches in height, of a variety that can be expected to reach four to five (4-5) feet in height within three to five (3 to 5) years of planting, shall be provided according to Table 7.4.
2. Shrubs shall not normally be planted closer than six (6) feet on center. Additionally, shrubs shall not normally be planted closer than six (6) feet to planted trees, nor within the drip line of existing, protected trees. Shrubs shall be distributed along the entire length of the buffer.
3. Variations in quantities may be approved as part of the site development plan when larger plants are provided.

**Table 7.4 Required Shrub Standards (Buffer)**

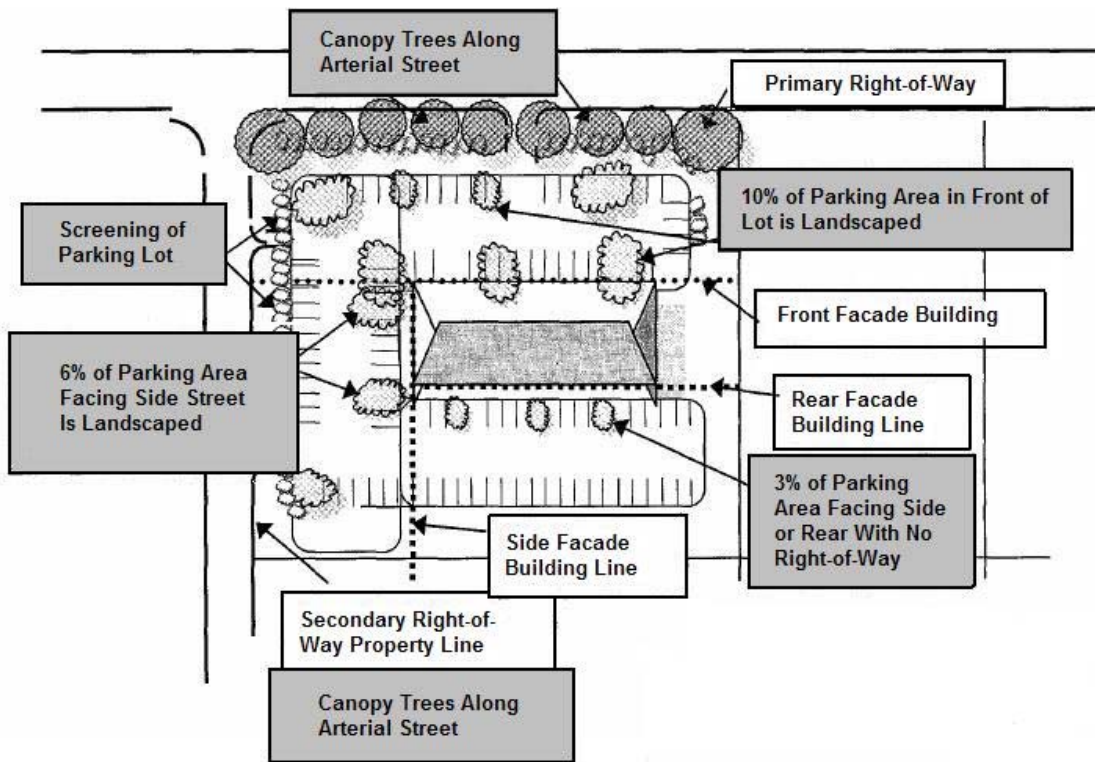
Required Buffer Width	One Shrub Per
10 ft. or less	50 sq. ft. of buffer
11ft to 20 ft.	100 sq. ft. of buffer
21 ft. to 30 ft.	150 sq. ft. of buffer
31 ft. to 50 ft.	200 sq. ft. of buffer
More than 50 ft.	300 sq. ft. of buffer

d. Landscape and Tree Requirements in Parking Lots

- (i) Landscape and tree requirements shall adhere to safety/visibility requirements found within this Code and Technical Criteria Manuals used by the City of Buda, as specified in other sections of this Code.
- (ii) Parking lot landscape and tree requirements are based on the amount of parking located on various sides of the building, as follows:
  - 1. Front: The landscaped area within the parking lot shall be at least ten percent (10%) of that portion of the parking lot and circulation area that is located between the front façade building line and the primary right-of-way property line. The landscaped areas within these parking lots shall contain at least one shade tree per twelve (12) parking spaces
  - 2. Side: At least six percent (6%) of that portion of the parking lot and circulation area located between the building and a secondary right-of-way property line shall be landscaped. The landscaped areas within these parking lots shall contain one shade tree per twenty (20) parking spaces
  - 3. Side (without right-of-way): At least three percent (3%) of the parking lot and circulation area located between the side facade building line and the side property line where there is no right-of-way shall be landscaped. The landscaped areas within parking lots shall contain one shade tree per thirty (30) parking spaces
  - 4. Rear: There is no requirement to landscape the parking and circulation area located between the rear façade building line and the rear property line.
- (iii) The landscaped areas within parking lots shall comply with the following requirements:
  - 1. Each area shall measure at least one (1) parking space in size, with no single landscaped area less than fifty (50) square feet in area.
  - 2. Landscaped areas shall be located to define parking areas and to assist in clarifying appropriate circulation patterns.
  - 3. Twenty-five percent (25%) of the total landscape requirement may be located within the landscaped edge of the parking lot.
  - 4. When calculating the tree requirement, any remaining fraction of a tree greater than or equal to zero point five (0.5) shall constitute one (1) tree; any remaining fraction less than zero point five (0.5) shall not require an additional tree.
  - 5. All newly planted trees shall be planted in a pervious area no less than four (4) feet wide in any direction.
  - 6. All newly planted trees shall be at least two (2) inches diameter measured four (4) feet above ground level.



**Figure 7.1 Landscape and Screening Requirements for Parking Areas and Streetscapes**



- e. Streetscape Requirements shall adhere to safety/visibility requirements found within this Code and Technical Criteria Manuals used by the City of Buda, as well as any applicable Texas Department of Transportation requirements.
  - (i) Along all arterials and freeways at least one (1) canopy tree for every forty feet (40) of frontage shall be installed. One existing tree may be substituted for each new tree provided the existing tree is in good health and form. New trees should be planted within five (5) feet of the front lot line along the street and in line with other trees but not in conflict with utilities. The City Manager or his designee may permit additional minor setbacks or other adjustments to the planting strip to accommodate future right-of-way expansions, sidewalks, and utility lines.
  - (ii) Parking areas adjacent to a public right-of-way shall be screened from any existing or potential buildings on adjoining property if parking is located between a building and a street right-of-way. Screening shall be accomplished using plantings, berms, structural elements, or a combination thereof, and must be a minimum of three (3) feet above the parking lot pavement elevation at maturity or within three (3) years from the planting date, whichever is less.

**Section 7.7 Access, Circulation and Parking**

## (1) Purpose

The purpose of this Section is to require that the parking and circulation aspects of all developments are well designed with regard to safety, efficiency and convenience for vehicles, bicycles, and pedestrians, both within the development and to and from surrounding areas. The on-site pedestrian and bicycle system must provide adequate directness, continuity, street crossings, and security as defined by the standards in this Section. Sidewalk or bikeway extensions off-site may be required based on needs created by the proposed development. This Section sets forth parking requirements and addresses the placement of drive-in facilities and loading zones.

## (2) General Standards

a. All new roadways shall be built in accordance with Section 9.5 of this Code, the Transportation Plan Element of the City of Buda Comprehensive Plan and the City's thoroughfare plan as may be adopted by the City Council.

b. Safety Considerations.

## (i) Pedestrian Separation.

To the maximum extent feasible, pedestrians shall be separated from vehicles and bicycles. Where complete separation of pedestrians and vehicles and bicycles is not possible, potential hazards shall be minimized by the use of techniques such as special paving, grade separations, pavement marking, signs or striping, bollards, median refuge areas, traffic calming features, landscaping, lighting or other means to clearly delineate pedestrian areas, for both day and night use.

## (ii) Added Width for Bicycles.

Where pedestrians and bicyclists share walkways, the pedestrian/bicycle system shall be designed to be wide enough to easily accommodate the amount of anticipated pedestrian and bicycle traffic volumes. A minimum width of six (6) feet and maximum width of twelve (12) feet shall be required for all walkways and sidewalks in the following planning sectors and zoning districts, as defined and specified in Chapter 4 of this Code:

1. Interstate Overlay District
2. Gateway Corridor Overlay District
3. Downtown Overlay District
4. Community Facilities Zoning District
5. Office Zoning District
6. All Commercial Zoning Districts
7. Multi-family Residential Zoning District

## (iii) Curb Cuts and Ramps.

Curb cuts and ramps shall be located at convenient, safe locations for the physically disabled, for bicyclists and for pedestrians pushing strollers or carts. The location and design of curb cuts and ramps shall meet

the requirements of the Uniform Building Code and the Americans with Disabilities Act ramp standards and shall avoid crossing or funneling traffic through loading areas, drive-in lanes and outdoor trash storage/collection areas.

(iv) Corner Lot View Lines.

On a corner lot in any district, nothing shall be erected, placed, planted, or allowed to grow in such a manner so as to materially impair vehicle drivers' vision at intersections, within a triangle defined by the property lines and a line joining two points located twenty-five (25) feet back from the intersection of the property lines; except that fences, walls, and /or hedges may be permitted provided that such fences, walls, and/or hedges do not impair vision from three (3) feet to six (6) feet above the curb line elevation.

(3) Parking Lot Requirements.

- a. All vehicular use areas in any site development shall be designed to be safe, efficient, convenient and attractive, considering use by all modes of transportation that will access the site including, without limitation, cars, trucks, buses, bicycles, pedestrian, and emergency vehicles.
- b. Parking Lots shall be designed and constructed in accordance with Section 7.8.

(4) Drive-in Facilities.

Any drive-in facility for a bank, food service, or other such building, if permitted by the zoning district regulations set forth in Chapter 4, shall be secondary in emphasis to any other building entry or access facility. Such facilities shall be located in side or rear locations that do not interrupt direct pedestrian access along connecting pedestrian frontage. The design and layout of drive-in facilities for restaurants, banks, or other uses shall:

- a. avoid potential pedestrian/vehicle conflicts;
- b. provide adequate stacking spaces for automobiles before and after use of the facility;
- c. provide adequate directional signage to enhance a free-flow through the facility;
- d. provide a walk-up service option as well as drive-in; and
- e. provide an additional or middle turning lane on the adjoining roadway to facilitate safe left turns into the facility from the roadway.

(5) Truck Traffic.

All developments that generate truck traffic that is anticipated to adversely affect a neighborhood by creating noise, dust, odor, or traffic safety problems shall avoid or mitigate those impacts through physical design and/or operational procedures, for example, by containment of such impacts within an enclosed building.

### **Section 7.8 Parking (Non-Residential Development)**

(1) Purpose and Intent

Adequate parking facility design and construction contributes to improved



pedestrian and vehicular mobility and safety.

a. All vehicular use areas in any site development shall be designed to be safe, efficient, convenient and attractive, considering use by all modes of transportation that will access the site including, without limitation, cars, trucks, buses, bicycles, pedestrian, and emergency vehicles.

b. All parking lots and other facilities shall be designed with the pedestrian user in mind to ensure safe and comfortable pedestrian mobility.

(2) Parking Requirements

a. Off-street parking and loading space shall be provided any time a structure is erected or significantly altered in accordance with the requirements set forth in Table 7.6. Parking in the Central Business District will coordinated with the City Manager to allow for off-site parking or fee in-lieu of.

b. Parking requirements for uses not specifically listed in this Chapter shall be the same as required for a similar use. When a fractional number of spaces are calculated, the required number of parking spaces shall be the next whole number.

c. Whenever the use of an existing building is changed, the spaces provided shall comply with the requirements associated with the new use as listed herein.

d. Unobstructed vehicular access to and from a public street shall be provided for all off-street parking spaces. Vehicular access shall be provided in such manner as to protect the safety of persons using such access or traveling in the public street from which such access is obtained.

**Table 7.6 Parking Space Requirements**

<b>Use</b>	<b>Minimum Parking</b>	<b>Minimum Loading</b>
<b>Residential Uses</b>		
Single Family	2 per dwelling	None
Duplex	2 per dwelling	None
Townhouse	2 per dwelling	None
Apartment	1 per dwelling plus 0.5 space per bedroom	None
Upper Story Residential	1.5 per bedroom	None
Group Homes of More than 6 people	1 per 2 bedrooms	None
All Other Group Living	1 per 2 bedrooms	1 Small
<b>Public and Civic Uses</b>		
Community Service	1 per 250 Gross Floor Area	None
Day Care, In-home of Six or Fewer Children	2 spaces	None
Day Care, Other	1 per 8 students	None
Education, Elementary School	3 per classroom	See Table 7.9
Education, Middle School	3 per classroom	See Table 7.9
Education, High School	10 per classroom	See Table 7.9
Education, Other	20 per classroom	See Table 7.9

Funeral Home	1 per 100 Gross Floor Area; 20 Minimum	See Table 7.10
Government Facilities	1 per 250 Gross Floor Area plus 1 per fleet vehicle	See Table 7.9
Hospitals	1 per 3 beds plus 1 per 2 employees	See Table 7.9
Institutions	1 per 250 Gross Floor Area plus 1 per 2 employees	See Table 7.9
Nursing Home	1 per 4 Beds plus 1 per 2 employees	See Table 7.9
Park, Amenity Center	1.5 per 250 Gross Floor Area	See Table 7.10
Park, Cemeteries, Columbaria	1 per 50 Internment Plots	None
Park, Community Center	1.5 per 250 Gross Floor Area	See Table 7.10
Park, Community Park	Administrative Decision Based on Facilities Provided	None
Park, Golf Course and Country Club	4 per Hole plus 1 per 250 Gross Floor Area	See Table 7.9
Park, Linear Park	Administrative Decision Based on Facilities Provided	None
Park, Mausoleums, Crematoria	1 per 350 Gross Floor Area	None
Park and Ride Facility	Administrative Decision Based on Facilities Provided	None
Passenger Terminals	2 per 250 Gross Floor Area	None
Place of Worship	1 per 3 seats	See Table 7.10
Place of Worship with Accessory uses over 2,500 square feet	1 per 3 seats plus spaces for accessory uses	See Table 7.10
Utility, Major	2 per facility plus 1 per 250 Gross Floor Area	See Table 7.9
Utility, Minor	None	None
<b>Commercial Uses</b>		
Commercial Services, Auto Service facilities	2 per Bay plus 2 queuing spaces	See Table 7.10
Commercial Services, Car Wash, Full Service	1 per 150 Gross Floor Area plus 4 queuing spaces	See Table 7.10
Commercial Services, Car Wash, Self Service	1 per Bay plus 4 queuing spaces	See Table 7.10
Commercial Services, Self- Service Storage	1 per 50 Storage Units	See Table 7.10
Commercial Services, Vehicle Repair and Body Shop	2 per Bay plus 2 queuing spaces	See Table 7.10
Commercial Services, Vehicle Sales, Rental or Leasing	1 per 500 Gross Floor Area of Indoor Facility	See Table 7.10
Commercial Services, Other Vehicle Sales and Service	1 per 250 Gross Floor Area	See Table 7.10
Commercial Services, Other	1 per 250 Gross Floor Area plus 3 queuing spaces per window	See Table 7.10
Conference Center	1 per 150 Gross Floor Area	See Table 7.9

Eating Establishments	1 per 100 Gross Floor Area including outdoor seating and waiting areas plus 6 queuing spaces before the Order Box	See Table 7.10
Entertainment, Indoor	1 per 250 Gross Floor Area; plus 1 per 500 Gross Floor Area up to 50,000 sq ft and 1 per 1,000 Gross Floor Area over 50,000 sq ft	See Table 7.9
Entertainment, Outdoor	1 per 250 Gross Floor Area; plus 1 per 3 seats	See Table 7.9
Entertainment, Theater	1 per 4 Seats	See Table 7.10
Office, Bank	1 per 250 Gross Floor Area plus 4 queuing spaces per Bank Teller or Automated Teller	See Table 7.10
Office, Medical	1 per 150 Gross Floor Area	See Table 7.10
Office, Veterinary	1 per 200 Gross Floor Area	See Table 7.10
Office, Other	1 per 250 Gross Floor Area	See Table 7.10
Overnight Accommodations, Bed and Breakfast	1 per bedroom plus 2 per 3 employees plus 1 per fleet vehicle	See Table 7.10
Overnight Accommodations, Camping	1.5 per Campsite (1 space must be at the campsite)	See Table 7.10
Overnight Accommodations, Other	1.2 per Bedroom	See Table 7.10
Research Facilities	1 per 275 Gross Floor Area	See Table 7.9
Sales, Convenience Store	1 per 275 Gross Floor Area plus 1 per pump and 0.5 queuing space per pump	See Table 7.10
Sales, Equipment sales and leasing	1 per 250 Gross Floor Area; plus 1 per 500 Gross Floor Area up to 50,000 sq ft and 1 per 1,000 Gross Floor Area over 50,000 sq ft	See Table 7.9
Sales, Shopping Centers Larger than 100,000 square feet	1 per 225 Gross Floor Area	See Table 7.9
Sales, Other Retail Sales and Service	1 per 250 Gross Floor Area	See Table 7.9
<b>Industrial Uses</b>		
Assembly	1 per 500 Gross Floor Area of Indoor Facility except Indoor Storage	See Table 7.9
Freight	1 per 500 Gross Floor Area of Indoor Facility except Indoor Storage	See Table 7.9
Light Industrial Service	1 per 500 Gross Floor Area of Indoor Facility except Indoor Storage	See Table 7.9
Manufacturing	1 per 500 Gross Floor Area of Indoor Facility except Indoor Storage	See Table 7.9
Mineral Extraction	1 per 300 Gross Floor Area of Indoor Facility except Indoor Storage	See Table 7.9

Warehouse	1 per 500 Gross Floor Area of Indoor Facility except Indoor Storage	See Table 7.9
Waste-Related Service	1 per 250 Gross Floor Area	See Table 7.9
Wholesale Trade	1 per 300 Gross Floor Area of Indoor Facility except Indoor Storage	See Table 7.9

(3) Parking Lot Location

- a. Required off-street parking spaces shall be located on the same lot or premises as the building or use for which they are required unless:
  - (i) such spaces are provided collectively by two (2) or more buildings or uses on adjacent lots in a single parking area located within the boundaries of those adjacent lots, and the total number of parking spaces supplied collectively is equal to the number of spaces required in Chapter 7 of this Code for each use considered separately, or
  - (ii) an alternative location is approved by the City Manager.
- b. Setbacks.
 

Any vehicular use area containing six (6) or more parking spaces or two thousand (2,000) or more square feet shall be set back from the street right-of-way a minimum of ten (10) feet if located along a non-arterial street and a minimum of fifteen (15) feet if located along an arterial street.
- c. All parking stalls, loading spaces, and internal drives, excepting entrance and exit drives, shall be located within the side or front setback lines as required by the zoning district in which the parking facility is located. Up to fifty (50) percent of rear setback area may, with City Council approval, be used for parking and circulation provided that enhanced buffering as described in Section 7.6 is installed per the requirements. More specific requirements concerning parking yards are contained in Chapter 7 of this Code and in case of conflict the more restrictive shall apply.

(4) Parking Lot Layout.

- a. Future Development Parking lots shall be laid out to continue the street/block pattern of the area so that the lots can easily be redeveloped with buildings consistent with the design of the surrounding development.
- b. Size and Scale
  - (i) Large surface parking lots shall be visually and functionally segmented into several smaller lots by landscaped areas.
  - (ii) Each lot shall contain a maximum of fifty (50) parking spaces, unless the developer designs and constructs a parking lot system that exceeds the minimum landscaping area and stocking requirements for parking lots as specified in Section 6.7 (2) of this Code by at least two (2) percent for each additional fifty (50) parking spaces per parking lot or proportion thereof, up to a maximum of two hundred (200) parking spaces per parking lot.
- c. Circulation Routes.
  - (i) Parking lots shall provide well-defined circulation routes for vehicles, bicycles and pedestrians.
  - (ii) All parking spaces shall open directly upon an aisle or driveway with

- such width and design to provide safe and efficient access and egress for the vehicle.
- (iii) To the maximum extent feasible, pedestrians and vehicles shall be separated through provision of a separate sidewalk or walkway for pedestrians. Where complete separation of pedestrian and vehicles is not feasible, potential hazards shall be minimized by using landscaping, bollards, special paving, lighting and other similar means to clearly delineate pedestrian areas.
  - (iv) To the maximum extent feasible, landscaped islands with raised curbs or islands designed to induce infiltration of storm runoff shall be used to define parking lot entrances, the ends of all parking aisles, the location and pattern of primary internal access drives, and to provide pedestrian refuge areas and walkways.
  - (v) All parking spaces shall open directly upon an aisle or driveway with such width and design to provide safe and efficient access and egress for the vehicle.
- d. Driveways
- (i) Driveway entrances and exits shall be set back at least one hundred fifty (150) feet from a signalized intersection, or thirty-five (35) feet from the curb return of a street intersection or within thirty-five (35) feet of the radius of the edge of pavement or traveled street at an intersection on a curve.
  - (ii) Driveway entrances and exits shall be at roadway grade level where the driveway intersects the city's right-of-way except as otherwise approved by the city engineer.
  - (iii) Parking plans may be refused where it is necessary to back a vehicle into a heavily traveled street.
  - (iv) In single family and duplex residential zoning districts, commercial, retail, office, multifamily, and industrial areas, each entrance and exit to a parking facility shall be completely surfaced and shall be constructed and maintained so that any vehicle entering or exiting the facility shall be clearly visible at a distance of not less than ten (10) feet to any person approaching said entrance on any pedestrian path or walk; and
  - (v) See Section 9.5, Streets, for driveway design requirements.
- (5) Parking Area Surface Requirements
- a. All open, off-street parking, and vehicular use areas shall be paved with bituminous or Portland cement binder so as to provide a permanent, durable and dustless surface and shall be so graded and drained as to dispose of all water within the area. Such paving and draining of waters shall be done in accordance with the specifications of this Code. If required, adequate culverts shall be provided under driveway entrances to prevent obstruction of drainage ways and to comply with the drainage criteria set forth in this Chapter.
  - b. Alternative dust-free parking surfaces including, but not limited to, gravel, stone, brick, and paving blocks may be used upon condition of prior approval of the City Engineer.
- (6) Required Number of Spaces for Type of Use.
- a. Residential and nonresidential uses shall provide a minimum number of parking spaces as defined by the standards in Table 7.6.

- b. The minimum number of parking spaces or loading zones required may be altered by the City Engineer to assure adequate parking and loading. However, the applicant must remain compliant with all applicable ADA requirements and maintain safe and convenient access for vehicles and pedestrians.

(7) On-street parking

- a. On-street parking shall be allowed subject to approval from City Council for all streets except those classified as *Local Side Street, Alley* and *Arterial*. On-street parking may not occupy designated bicycle lanes.
- b. All on street parallel parking spaces shall have a minimum length of twenty-two (22) feet.
- c. See Section 9.5 Streets, generally, for further requirements regarding on-street parking.

(8) Off-Street Parking Stall Dimensions

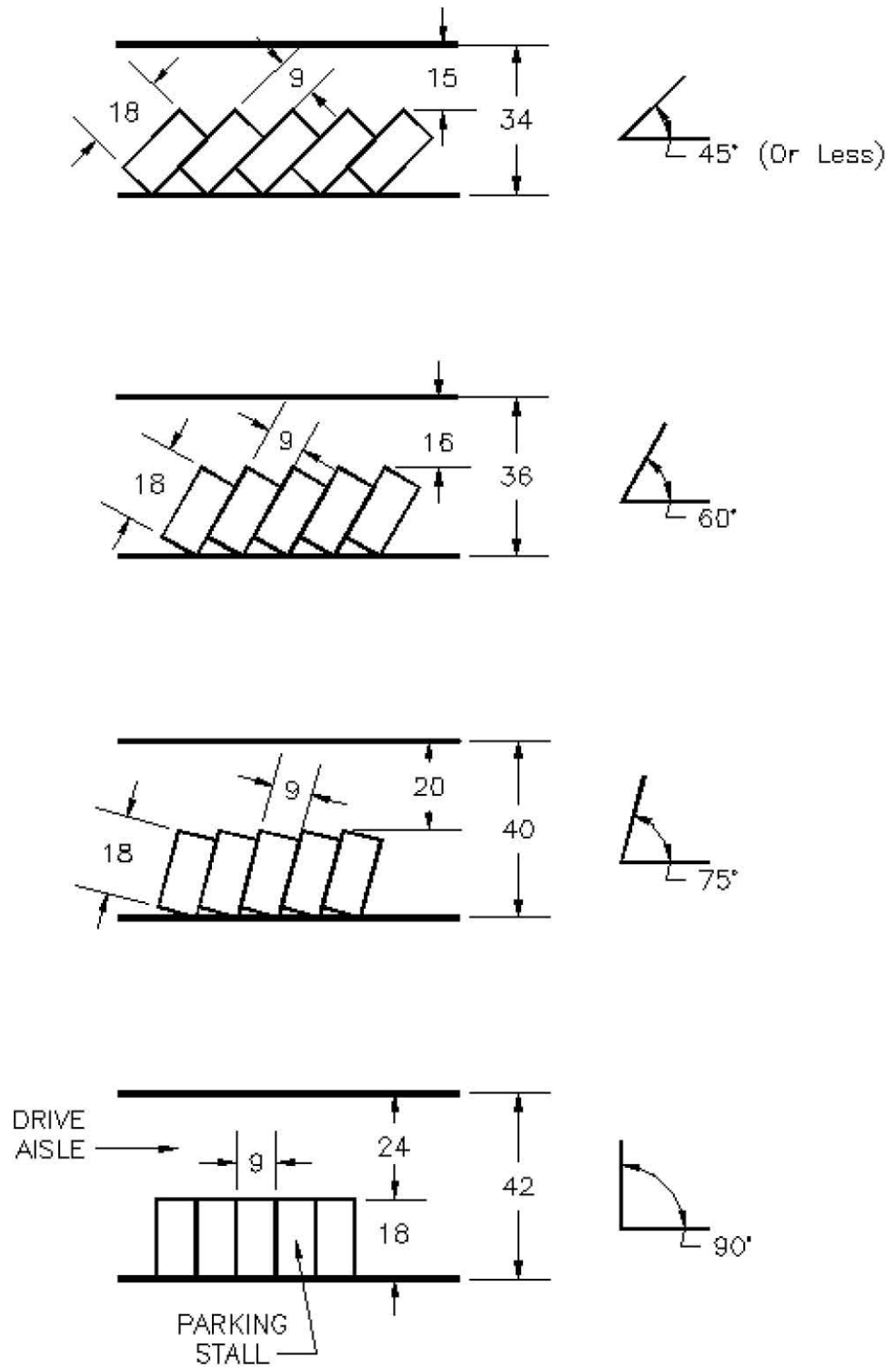
- a. Parking areas for automobiles shall meet the following standards for long-and short-term parking of standard and compact vehicles:
  - (i) Required off-street parking spaces shall be at least nine (9) feet wide and eighteen (18) feet long. Each space shall have a vertical clearance of at least seven and one-half (7.5) feet.
  - (ii) Parallel Parking Stalls shall have a minimum length of twenty-two (22) feet.
  - (iii) Drive aisles in off-street parking areas shall comply with the following standards:

**Table 7.7 Drive Aisle Requirements**

Parking Stall Angle (degree deflection)	Minimum Aisle Width (feet)
90	24
75	22
60	16
45 (or less)	14

- (iv) Two-way drives must be twenty-five (25) feet in width
- b. Vehicular Overhang. Parking facilities will be designed to prevent vehicle encroachment into public walkways and sidewalks.
- c. See Figure 7.2 Typical Parking Layout for graphic representing parking layout dimension requirements.

Figure 7.2 Typical Parking Layout



- (9) Requirements for compliance with the ADA Standards for Accessible Design. Any time an off-street parking facility is striped or re-striped, it shall, at a minimum, comply with the ADA Standards contained within this code as well as any further requirements not explicitly contained herein. Further information may be obtained from the U.S. Department of Justice, Civil Rights Division, Disability Rights Section. Information may also be obtained by visiting the website *www.ada.gov*.
  - a. ADA Parking space Design Standards.
    - (i) Accessible parking spaces for cars shall have the required number of van-accessible and car-accessible parking spaces as detailed in Table 7.8 Minimum Number of Accessible Parking Spaces.

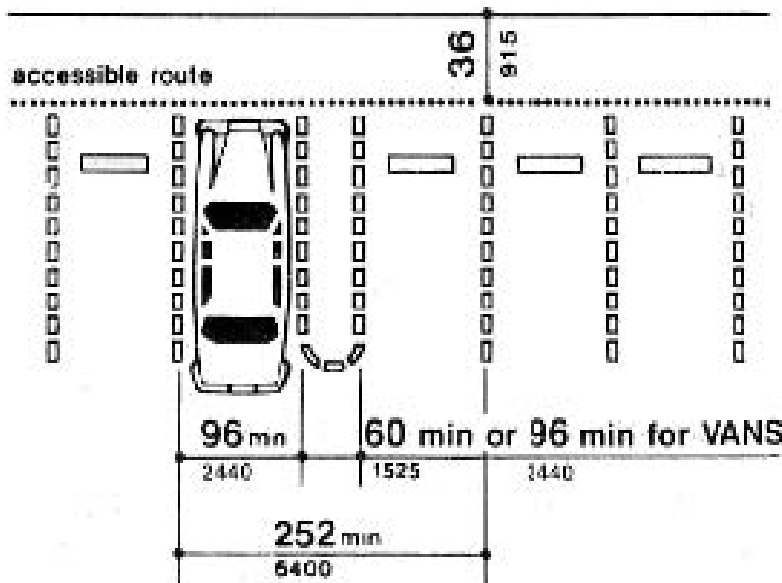
**Table 7.8 Minimum Number of Accessible Parking Spaces**

Total Number of Parking Spaces Provided (per lot)	Column A Total Minimum Number of Accessible Parking Spaces (Col. B + Col. C)	Column B Van-Accessible Parking Spaces with min. 96" wide access aisle	Column C Accessible Parking Spaces with min. 60" wide access aisle
1 to 25	1	1	0
26 to 50	2	1	1
51 to 75	3	1	2
76 to 100	4	1	3
101 to 150	5	1	4
151 to 200	6	1	5
201 to 300	7	1	6
301 to 400	8	1	7
401 to 500	9	2	7
501 to 1000	2% of total parking provided in each lot	1/8 of Column A*	7/8 of Column A**
1001 and over	20 plus 1 for each 100 over 1000	1/8 of Column A*	7/8 of Column A**
*One of every 8 accessible spaces		**Seven of every 8 accessible spaces	

- (ii) Car-Accessible parking spaces shall:
  1. Have a minimum sixty (60) inch wide access aisle to accommodate a person using a wheelchair to enter or exit the car,
  2. Have a sign that identifies the parking space(s) as “Car-Accessible,”
  3. Be located on level ground.
- (iii) In addition to the above requirements for Car-Accessible parking spaces, Van Accessible parking spaces shall have:



1. A minimum ninety-six (96) inch wide access aisle to accommodate a wheelchair lift,
  2. A vertical clearance of at least ninety-eight (98) inches to accommodate van height at the van parking space, the adjacent access aisle, and on the vehicular route to and from the van accessible space, and
  3. An additional sign that identifies the parking space(s) as “Van-Accessible.”
- b. ADA Parking space Location
- (i) Accessible parking spaces must be located on the shortest accessible route of travel to an accessible facility entrance. Where buildings have multiple accessible entrances with adjacent parking, the accessible parking spaces must be dispersed and located closest to the accessible entrances.
  - (ii) When accessible parking spaces are added in an existing parking lot, the accessible spaces must be located on the most level ground in closest proximity to the accessible entrance.
  - (iii) An accessible route must be provided from the accessible parking to the accessible entrance. Accessible routes shall:
    1. Not have curbs or stairs,
    2. Be at least three (3) feet wide with a firm, stable, slip-resistant surface, and
    3. Not have a slope of greater than one-to-twelve (1:12) in the direction of travel.
  - (iv) Accessible spaces may be clustered in one (1) or more lots if equivalent or greater accessibility is provided in terms of distance from the accessible entrance, parking fees, and convenience.
  - (v) Van-accessible parking spaces located in multi-story parking garages may be clustered on one floor to accommodate the minimum height requirements.



(10) Loading Zones

- a. All development shall provide loading zones and service areas adequately sized to accommodate the types of vehicles that use them. Such loading zones and service areas shall be indicated on the development plan.
- b. Loading space requirements shall be calculated according to either Table 7.9 or Table 7.10, as required in Table 7.6.
- c. All loading spaces shall be screened from view in accordance with the requirements for parking areas in this Chapter and the requirements set forth in Chapter 7. All development shall provide loading zones and service areas adequately sized to accommodate the types of vehicles that use them. Such loading zones and service areas shall be indicated on the development plan.
- d. Two different sized loading zones are described in this Code.
  - (i) Large Loading Zones shall be ten (10) feet wide by fifty (50) feet long. These are sized to accommodate larger delivery and service vehicles. See Table 9.5, Large Loading Zones.
  - (ii) Small Loading Zones shall be ten (10) feet wide by twenty-five (25) feet long. These are sized to accommodate smaller delivery and service vehicles. See Table 9.6, Small Loading Zones.
  - (iii) Different uses may be required to provide either Small loading zones or Large loading zones. In certain cases where a use has a Gross Floor Area over twenty-five thousand (25,000) feet, the installation of both small and large loading zones may be required.

**Table 7.9 Large Loading Zones**

Gross Floor Area (Square Feet)	Minimum Number of Loading Spaces
	Large Loading Zones (10x50)
5,000 - 24,000	1
24,001 - 60,000	2
60,001 - 96,000	3
96,001 - 144,000	4
Each additional 54,000	1 additional loading space

**Table 7.10 Small Loading Zones**

Gross Floor Area (Square Feet)	Minimum Number of Loading Spaces	
	Small Loading Zone (10x25)	Large Loading Zone (10x50)
2,000 – 10,000	1	
10,001 – 25,000	2	
25,001 – 100,000	2	1
Each additional 100,000	1 additional	

(11) Shared Parking

- a. Where parking spaces are used jointly by two (2) or more buildings or establishments, the required space may be located not to exceed three hundred (300) feet from a building in a commercial or office district, and not to exceed five hundred (500) feet from any other non-residential building.

- b. Shared parking may be applied when land uses have different parking demand patterns during the day and are able to use the same parking spaces at different times of the day.
- c. Shared parking must be approved by the City Manager.

(12) Private Driveway Provisions (See Section 9.5 Streets)

(13) Fire Lanes

- a. The requirement for Fire Lanes and the enforcement of restrictions as related to Fire Lanes established in this section are designed to ensure adequate access to commercial, office, multi-family, and other facilities by fire-fighting and other emergency vehicles.
- b. Regulations
  - (i) Any off-street parking facility required to have five or more parking spaces, constructed or significantly altered subsequent to the effective date of this Code, shall be required to have a fire lane.
  - (ii) Whenever a person or entity applies for a site development, building, or construction permit, significantly improves a building, or applies for a change of use that would necessitate the provision of a fire lane according to the terms of this Chapter, said person or entity shall include in all plans and specifications submitted to the City the location and dimensions of the proposed fire lanes required by this Chapter.
  - (iii) A fire lane may be provided in an off-loading roadway area on the subject property in lieu of providing the fire land in a parking facility if the City Council determines, at its discretion, that the alternate fire lane provides adequate access for emergency vehicles to structures on the subject property.
  - (iv) All required fire lanes shall be delineated by a red stripe on the pavement marking the outside boundaries of the fire lane. In addition, signs shall be conspicuously placed along the curb nearest the fire lane indicating the existence of the fire lane, and indicating that parking therein is prohibited.
  - (v) Any proposed fire lane less than 20 feet shall be subject to approval by the City Council with recommendation by the City Engineer and/or Fire Marshall.
- c. Variances Under certain circumstances, a fire lane may prove impracticable (e.g. West Side of Main Street in Old Town Buda). The City Council may authorize a variance from the requirements of this section when, in its opinion, undue hardship will result from requiring strict compliance. In such case, the individual or entity requesting a variance must provide a detailed plan indicating provisions for adequate alternate emergency vehicle access to the subject property. Any alternate emergency vehicle access plan must be reviewed by the City Engineer and Fire Marshall for adequacy.

(14) Bicycle Parking

- a. Where practicable, off-street parking and facilities for bicycles shall be provided for each land use as follows:

**Table 7.11 Bicycle Parking Requirements**

Use	Number of Bicycle Parking Spaces and Facilities
Residential (1- 4 family units)	0
Residential (multifamily)	Min. 2, plus 1 per 10 living units
Retail	Min. 2, plus 1 per 5,000 sq. ft., 7 max.
Office	Min. 1, plus 1 per 5,000 sq. ft., 7 max.
Park	Min. 5, plus 1 per acre of land, 15 max.
Public (other than park)	Min. 2, plus 1 per 5,000 sq. ft., 7 max.
Industrial	Min. 2, plus 1 per 10,000 sq. ft., 7 max.
Agriculture/Open Space	0

- b. Bicycle parking facilities shall be racks or lockers anchored to prevent movement or theft. Each space designated for bicycle parking shall be a minimum of two (2) feet wide and six (6) feet long. Bicycle parking facilities shall, at minimum, be a bike rack with the ability for a user to lock one wheel and the frame to the rack, with the user providing the lock and chain.
- c. Access to the use being served by the parking facility shall be at least as convenient for users of bicycle parking as the most convenient automobile parking and as close as possible to the desired entrances without interfering with pedestrian or vehicular traffic.

(15) Traffic Control Devices

- a. Standard traffic control signs and devices shall be used to direct traffic where necessary within a parking lot.
- b. No signs shall be located on any parking lot except behind the setback lines established for the zoning district in which the parking facility is located, or at facility entrances and exits.

(16) Lighting

Light fixtures provided for any off-street parking area adjacent to a residential use or residentially zoned lot shall shield the source of light from sight and prevent the spillover of direct light onto the residential use, while still providing security to motorists, pedestrians and bicyclists. See Section 7.10 of this Code for lighting standards.

(17) Maintenance

The property owner shall be responsible for maintaining any vehicular use area in good condition and free of refuse, debris, and vehicles that have not been driven for two weeks or longer, and all landscaping in a healthy and growing condition, replacing it when necessary as specified in the approved site development permit.

**Section 7.9 Assessment and Improvement of Transportation Network**

- (1) Purpose and General Policy.
  - a. The purpose of this section is to require that development within the Buda jurisdictional area is supported by an adequate roadway network, including collector-level and higher capacity streets, as may be necessary to accommodate the continuing growth and development of the City and its jurisdictional area. Acquisition of new rights-of-way for off-site, abutting and internal streets to support new development is necessary and desirable. The city requires that:
    - (i) development impacts are mitigated through contributions of street rights-of way and/or improvements to existing and new roadways; or
    - (ii) new developments contribute their fair share of the costs of needed transportation improvements.
  - b. There must be a rough proportionality between the traffic impacts created by a new development and requirements placed on the property owner or applicant for new development to dedicate and improve offsite, abutting and internal street rights-of-way to City standards. The City desires to assure both that development impacts are mitigated through contributions of street rights-of-way and transportation system improvements and those new developments contribute their fair share of the costs of transportation improvements. It is the City's intent to institute a procedure to assure that mandatory dedications of street rights-of-way and street construction requirements are proportional to the traffic demands created by a new development.
  - c. If the traffic impact will affect a state controlled highway then the developer must coordinate the necessary improvements with the Regional Texas Department of Transportation. When a Final Plat is submitted the developer must have obtained an agreement on the necessary road improvements and submitted an agreement between the City of Buda and the Developer to meet the requirements established by TxDOT. This will require the developer to coordinate with TxDOT and request TxDOT to submit the necessary contract documents between TxDOT and the City of Buda to use as a basis for the transportation agreement between the City of Buda and the Developer. A Final Plat cannot be recorded until the agreement has been finalized and the necessary funds are deposited with the City of Buda.
  - d. The City Manager or his designee shall be the primary point of contact with the landowner or developer or his agents, and has considerable authority and responsibility for administering the provisions of this section of the Code. However, all final decisions concerning participation in costs and completion of improvements affecting City streets and any County Roads that will be annexed into the City as part of the development must be specified in a traffic impact analysis, capital improvements plan, or mitigation plan as required in this section and shall presented to the Planning and Zoning Commission and ultimately approved by the City Council.
- (2) Applicability
  - a. The regulations in this section apply to existing and future transportation networks associated with land development activities, within the City limits

and within the City's extraterritorial jurisdiction. Any application for site development in accordance with this Code must comply with these standards.

- b. When a developer submits a Site Development Plan, the applicant shall complete and submit a Traffic Impact Analysis (TIA) Worksheet. As part of the approval process the Planning and Zoning Commission and the City Council shall determine, based upon the City Engineers recommendation, if a TIA is required. The threshold requirement for a TIA shall be a development or combination of developments that would result in trip generation of more than an average of five thousand (5,000) trips per day based upon the latest edition of the Institute of Transportation Engineers (ITE) Trip Generation Manual. If the proposed development does not exceed the threshold, a TIA waiver shall be noted on the TIA Determination Worksheet. If the TIA threshold is exceeded, the applicant shall be so advised on the TIA Determination Worksheet and referred to the City Manager or his designee for consultation concerning the preparation of a TIA.

- c. Phased Developments.

When required, an initial TIA shall be submitted with the site development plan. If the City Engineers determines that a follow-on TIA is needed the updated TIA shall be submitted with each future phase of a development submitted for approval and shall be generally consistent with the initial TIA. The initial TIA shall be updated whenever the final plat is modified to authorize more intensive development. The initial TIA and updated TIAs shall consider the cumulative impacts of all future phases of the development and not segment the impacts into smaller amounts that would avoid identification of and participation in any needed capital improvements.

(3) Traffic Impact Analysis, Study Scope

When a TIA is required, the type and scope of the study shall be determined during a scoping meeting with the City Manager or his designee. The scoping meeting will follow the approval of the Site Development Plan approval. No application requiring a TIA may be made until the scope of the required study has been determined. The City Manager or his designee may involve representatives of or request assessments from other agencies and departments and consultants. The elements to be determined during the scoping session shall include the following:

- a. Type of Study.

The possible types of reports include: a letter report, full TIA report or special report (e.g., sight distance survey). The TIA shall be certified by a registered professional engineer with a specialty in the field of transportation engineering.

- b. Definition of Impact Area.

The points of access and key streets and intersections that may be affected by development of the subject tract constitute the impact area. Traffic recorder and turning movement assessment locations shall also be determined.

- c. Period of Analysis.

Periods of analysis may include: daily traffic, AM, PM or weekend peak hour.

- d. Analysis Scenarios.

Scenarios for analysis shall include: existing conditions, opening year conditions with and without development, and ten (10) years after opening with and without development, unless the City Manager or his designee specifies a different scenario based on unusual circumstances. In the event that specific land uses for the development are not specified at the time of subdivision or plat application, the daily trip generation rate for the most intensive land use from the ITE Manual for the land use classification of the application shall be used to compute the estimated average daily trips.

e. Growth Rate Assumption.

The rate of growth assumed in background traffic assumptions.

f. Pipeline Development.

Planned pipeline developments in the area that have been approved or are under review.

(4) Process

The TIA shall follow standard transportation engineering practices processes for determining trip generation and distribution including trip generation category, diversion assumptions, distribution assumptions, and the adequacy of the road network to serve the proposed development, and whether off-site road dedication and improvements should be made to mitigate the effects of the development proposed in the application. The data and methods used in the TIA shall be based upon the latest editions of ITE manuals.

(5) Submittal Requirements

- a. Following approval of the TIA scope, copies of the document shall be sent to the City Manager or his designee. The City Manager shall determine the number of copies of the TIA that the applicant will be required to submit.
- b. If Hays County and/or the Texas Department of Transportation roads are affected and they have reached agreement with the Developer then the developer shall submit a copy of the letter from Hays County and/or the Texas Department of Transportation (TxDOT) that outlines any agreements between the developer and Hays County and/or TxDOT for planned improvements to County and/or State roads abutting subdivisions or sites and the trigger for such improvements. Per Section 7.8(1)c, the agreement must be submitted prior to Final Plat approval.

(6) Traffic Study Elements

A letter report or special report shall only include those elements agreed upon in the scoping meeting. A full TIA shall include the following elements.

a. Existing Condition Survey

b. Street System Description

The street system shall be described including geometric features, lane usage, traffic control, signage, sight distances and adjacent uses and curb cuts.

c. Traffic Volumes

Existing traffic volumes shall be provided for the impact area including both AADT (Average Annual Daily Traffic) and "Design" peak hour volumes. AADT may be derived from current counts of the City or TxDOT (if available) and peak hour volumes shall be based on field counts. Data shall be adjusted for daily and seasonal variations. Turning movement counts for the peak hour

shall be provided for critical intersections. Peak hour periods shall be as determined at the scoping meeting.

d. Capacity Analysis

Existing capacity of signalized and unsignalized intersections.

- e. Other items may be required at the discretion of the City Manager or his designee depending upon the type and scale of the project. These may include but are not limited to: queue length analysis, pedestrian counts, accident data, traffic speeds (both 50th and 85th percentile), and stopping sight distances.

f. Future Without Development

Capacity analysis is to be provided for opening year and plus 10-year conditions for key intersections (and roadway segments where appropriate) without the development but including any planned developments. The analysis shall be based upon methodologies approved in advance by the City Manager or his designee.

g. Future With Development

- (i) The TIA shall include a detailed description of the area street network, a description of proposed land uses, the anticipated stages of construction, the anticipated completion date of the various phases of land development, and the trigger points requiring implementation of all described improvements.

- (ii) Projections of the daily and peak hour traffic generation of the project shall be made using the latest edition of the ITE Trip Generation Manual unless the City Manager or his designee determines that locally derived data will provide more accurate forecasts. Data from similar facilities may be used where the information is not available from ITE.

- (iii) The projected trips shall be distributed onto the road network as agreed in the scoping meeting.

- (iv) Capacity analysis for opening year and plus 10-year conditions for key intersections (and roadway segments where appropriate).

- (v) Special analysis as may be required to determine warrants for signalization, minimum safe sight distances, turning radius requirements, turning lane or acceleration/deceleration lane length analysis, curb cut locations or similar requirements.

h. Mitigation Plan

The TIA shall identify the need and timing for transportation improvements, if any, needed to maintain the same or higher level of service than exists prior to development during each phase of development. Where the analysis indicates that the project will create transportation system deficiencies in the impact area, improvements shall be recommended which shall include projected cost estimates. Costs estimates shall include right-of-way acquisition, utility relocation, and transportation facility design and construction. All cost estimates shall be approved by the City Engineer or the City Manager or his designee prior to acceptance of the TIA. The design of improvements shall be in accordance with specifications of this Code and other standards as may be adopted by the City and, where appropriate, TxDOT. The mitigation plan shall also include provisions in the future for any dedications necessary to comply with the Minimum Road Standards described below. Where the final approval authority for any procedure determines that a



mitigation plan is not adequate to address the traffic impacts of the project, it may serve as a basis for denial of the permit or subdivision plat.

(7) Consultants

The City may require that an independent consultant be hired by the applicant to perform required TIA studies or to review all or part of a study prepared by the applicant's consultants.

(8) Minimum Road Standards

All applications for plat approval, site plan approval, zoning change or PUD zoning shall provide for adequate roads to support proposed development through compliance with the following minimum standards governing dedication and improvement of internal and adjacent thoroughfares. For purposes of this section "adjacent thoroughfares" shall include thoroughfares abutting the proposed subdivision or site development, whether located within the boundaries of the subdivision or within public rights-of-way.

(9) Standards and Specifications

The property owner shall dedicate and improve all required rights-of-way for internal and adjacent thoroughfares required by these regulations in accordance with the classification of streets contained in this Code.

(10) Dedication and Improvement of Internal and Adjacent Thoroughfares

For thoroughfares that currently are or will in the future be located alongside a property boundary, the property owner shall dedicate and improve, as a minimum, one-half of the right-of-way necessary to meet the specification of future thoroughfares contained in the Comprehensive Plan or the City or County Thoroughfare Plan as adopted or amended by the City Council from time to time. The City may require additional land and improvements for rights-of-way for adjacent thoroughfares where necessary to achieve adequacy of the road network and where such additional land and improvements are proportional to the traffic impacts generated by the proposed development, depending on factors such as the impact of the development on the thoroughfare, the timing of development in relation to need for the thoroughfare, and the likelihood that adjoining property will develop in a timely manner. In the case of adjacent frontage or service roads for state and federally designated highways, the property owner shall dedicate sufficient right-of-way and make authorized improvements in order to provide an adequate road network to serve the development.

(11) Substandard Street Improvements

Where an existing thoroughfare that does not meet the City's right-of-way or design standards abuts a proposed new development, the City may require the property owner to dedicate the right-of-way for a standard thoroughfare width, and to improve the street according to the dimensions and specifications in this Code, depending on factors such as the impact of the development on the thoroughfare, the timing of development in relation to need for the thoroughfare, and the likelihood that adjoining property will develop in a timely manner.

## (12) Capital Improvements Plan for Roads

A road improvement may be considered adequate for an application if the City Manager determines that the required improvement is included, funded, and approved in the City's, County's or State's capital improvements plan for roads, provided that the applicant agrees to phase development to conform to the date of completion of such scheduled improvement. This section shall not be construed to prevent the City from requiring dedication of rights-of-way for such roads, or from assigning trips to such roads in a TIA in order to determine a development project's proportionate costs of improvements.

## (13) Proportionality Requirements and City Participation in Costs and Completion of Improvements

- a. The Developer's portion of the costs of improvements (costs include dedication, fees and construction costs) shall not exceed the amount required for infrastructure improvements that are roughly proportionate to the proposed development as approved by a professional engineer retained by the City, the holder of a license issued under Chapter 1001, Occupation Code.
- b. The City may participate in the costs of improvements required by this section in order to achieve proportionality between the traffic impacts created by the proposed development and the obligation to provide adequate roadways. In such cases, the property owner shall be responsible for the entire initial costs of road improvements, including design costs. Reimbursement of the City's agreed share of the costs shall be made as funds become available. The construction of improvements and the provisions for participation in costs by the City shall be included in a subdivision improvement agreement.
- c. During the course of providing for improvements, the City shall cooperate with the developer in the use of its governmental powers to assist in the timely and cost effective implementation of improvements. Assistance shall not mean financial aid in actual easement acquisition, construction or engineering costs. Specifically, the City agrees to:
  - (i) Assist in the acquisition of necessary right-of-way and easements;
  - (ii) Assist in the relocation of utilities;
  - (iii) Assist in obtaining approvals from Hays and Travis County;
  - (iv) Assist in obtaining approvals from TxDOT;
  - (v) Assist in securing financial participation for major thoroughfare improvements from Hays County, TxDOT or the Capital Area Metropolitan Planning Organization (CAMPO) or other area wide transportation planning and management entities as may be established in the future.
- d. A Developer who disputes the determination made under Subsection (13)a. above may appeal to the City Council and present testimony and evidence pursuant to procedures adopted by the City Council. The City Council shall make its determination within 30 days of the final submission of any testimony or evidence by the Developer.
- e. A Developer may appeal the determination of the City Council to a County or District Court of the County in which the development project is located by filing the appeal within 30 days of the final determination of the City Council.

## (14) City Evaluation and Action

The City shall evaluate the adequacy of the TIA prepared by the applicant. Based upon such evaluation, the City shall determine (1) whether the

application may be approved in the absence of dedication of rights-of-way or construction of improvements to each affected thoroughfare and (2) the extent of the applicant's obligations to make such dedications or improvements. The application for which a TIA is being conducted shall not be approved until the City has received all required payments or is otherwise satisfied with the financial arrangements related to required transportation improvements. The City shall condition the approval of the development application on one or more of the following acts by the applicant:

- a. delay or phasing of development until thoroughfares with adequate capacity or intersection improvements are constructed;
- b. reduction in the density or intensity of the proposed development sufficient to assure that the road network has adequate capacity to accommodate the additional traffic to be generated by the development;
- c. dedication or construction of thoroughfares or traffic control improvements needed to mitigate the traffic impacts generated by the proposed development.

(15) Deferral of Obligation

Upon request of the applicant or property owner, the obligation to dedicate or improve thoroughfare rights-of-way or to make intersection improvements imposed on an application may be deferred to a later stage of the development process. As a condition of deferring the obligation to dedicate rights-of-way for or to improve thoroughfares, which deferral shall be in the sole discretion of the City, the City shall require the developer to execute a subdivision or site development improvement agreement specifying the amount and timing of the rights-of-way dedication or improvements to thoroughfares, including the posting or depositing of a letter of credit or other fiscal surety, in a form and under terms acceptable to the City, in advance of approval of the development application.

(16) Cash Contributions

In lieu of the obligation to dedicate or improve thoroughfares or make traffic control improvements or post fiscal surety for subsequent construction to achieve road adequacy, the applicant may propose to make equivalent cash contributions based upon the development project's proportionate share of the costs of improvements, which the City in its sole discretion may accept in satisfaction of road adequacy standards in this section. Any funds accepted by the City shall be earmarked for construction of the improvements for which the contribution was made.

(17) Options

Whenever the proposed development's share of the costs of a thoroughfare or traffic control improvement needed to mitigate traffic generated by the development is less than one hundred percent (100%), the City in its sole discretion may do the following:

- a. participate in the excess costs; or
- b. aggregate the costs of improving multiple thoroughfares or intersections identified in the TIA, and require improvements to only some of the thoroughfares or intersections affected by the development.

## (18) Advance Funding

If the landowners determine to either fund in advance or fund more than their pro-rata share, the City shall credit the developer's future fiscal posting. For those contributions and improvements beyond the developer's pro-rata participation, the City may either credit the developer's future fiscal posting or reimburse the developer out of City funds or funds allocated from other area landowners' contributions for those specific improvements.

## (19) Appeal of Road Adequacy Conditions

- a. An applicant may appeal a disapproved or denied final action resulting, in full or in part, from a determination that the Mitigation Plan was insufficient. The appeal shall first be presented to the City Council and, if a satisfactory resolution is not attained, the City Council shall refer the appeal to the Board of Adjustment to consider the appeal and make a finding and recommendation to the City Council, such recommendation to be binding upon the City and the applicant as it pertains to the Mitigation Plan and the development for which the Mitigation Plan was prepared.
- b. Basis for Appeal
  - (i) The appeal shall allege and demonstrate that recommended conditions requiring dedication or construction of thoroughfares or traffic control improvements are not roughly proportional to the nature and extent of the traffic impacts on the road network created by the development being proposed.
  - (ii) The appeal may also allege and demonstrate that the imposition of the conditions deprives the owner of the economically viable use of the land, or of a vested property right.
- c. The appeal hearing body shall consider the appeal and determine whether the street or traffic control dedication and construction requirements are roughly proportional to the nature and extent of the impacts on the road network created by the development proposed. If the petition also alleges that the proposed dedication or construction requirements constitute a deprivation of economically viable use or of a vested property right, the hearing body also shall consider such issues. Following such determinations, the appeal hearing body may take any of the following actions regarding the road adequacy portion of the appeal only:
  - (i) Deny the appeal, upon determining that the required dedications of rights-of-way for or improvements to thoroughfares or traffic control improvements are roughly proportional to the nature and extent of the impacts created by the development, and order that such dedication or improvements be made as a condition of approval of the subdivision or site development application.
  - (ii) Deny the appeal, finding that the dedication or improvement requirements are inadequate to achieve road adequacy, and either deny the subdivision or site development application or require that additional dedications of rights-of-way dedication for or improvements to thoroughfares, or traffic control improvements, be made as a condition of approval of the application.
  - (iii) Grant the appeal and waive in whole or in part any dedication or construction requirement that is not roughly proportional; or
  - (iv) Grant the appeal, and direct that the City participate in the costs of

acquiring rights-of-way or constructing improvements sufficient to achieve proportionality.

### **Section 7.10 Outdoor Lighting**

#### (1) Purpose and Intent

The purpose of this section is to regulate outdoor lighting in order to reduce or prevent light pollution in the City. New lighting technologies have produced lights that are extremely powerful, and these types of lights may be improperly installed so that they create problems of excessive glare, light trespass, and higher energy use. Excessive glare can be annoying and may cause safety problems. Light trespass reduces privacy, degrades the enjoyment of the night sky, and results in higher energy use and increased costs for everyone. Appropriately regulated, and properly installed, outdoor lighting will contribute to the safety and welfare of the residents, and will help preserve the historic and rural character of the City in keeping with the desired objectives of the Comprehensive Plan.

#### (2) Applicability

- a. The regulations contained in this section are binding only within the City limits of Buda.
- b. Compliance with the regulations in this section is strongly encouraged for improvements and developments within the ETJ in order to prevent light pollution and preserve the rural and historic character of the City.
- c. All outdoor lighting fixtures installed on private and public property within a new development or redevelopment within the City limits shall be required to comply with this Code. This Code does not apply to interior lighting. However, overly bright lighting emitted from a structure will be subject to this Code if it is determined by the City Manager that it creates a nuisance or a safety hazard as defined in the References section of this Code.
- d. All outdoor lighting fixtures existing and legally installed and operating before the effective date of this Code shall be exempt from this Code unless they are determined to create a safety hazard. When an existing lighting fixture(s) become inoperable, their replacements are subject to the provisions of this Code.
- e. Modifications to nonconforming lighting fixtures shall also comply with this Chapter.
- f. Compliance with these requirements shall be administered by the City Manager or his or her designee.
- g. In the event of a conflict between this section and any other section of this Code or any other regulation of the City, the more stringent requirements shall apply.

#### (3) Exemptions

The following are exempt from the provisions of this Code:

- a. Publicly maintained traffic control devices.
- b. Street lights installed prior to the effective date of this Code.
- c. Temporary emergency lighting (fire, police, repair crews).
- d. Lighting fixtures and illumination requirements imposed by TxDOT within TxDOT right of way.
- e. Moving vehicle lights.

- f. Navigation lights (aircraft warning beacons on water towers and wireless transmission facilities) required by State or Federal law.
- g. Signs and associated lighting that conform with the sign regulations of this Code.
- h. Seasonal decorations with lights in place no longer than sixty (60) days.
- i. Sports field lighting, until 10:00 P.M.
- j. Other temporary uses approved by the City Council (festivals, carnivals, fairs, night-time construction).
- k. Covered porch lighting on residences provided that each external light fixture does not exceed one-hundred and fifty (150) watts (2220 lumens).
- l. Security lights of any output that are controlled by a motion sensor switch provided they do not exceed 0.25 foot candle at the property line and do not remain illuminated for a duration not to exceed ten to twelve (10-12) minutes after activation.

#### (4) Submittals

Applications for all building permits other than single-family and duplex residential, or site development permits, including the installation of outdoor lighting fixtures for new construction, shall provide proof of compliance with this Code. The submittal shall contain the following information as part of the site plan:

- a. Plans indicating the location, type, and height of lighting fixtures including both building mounted and ground mounted fixtures;
- b. A description of the lighting fixtures, including lamps, poles or other supports and shielding devices, which may be provided as catalogue illustrations from the manufacturer;
- c. Photometric data, which may be furnished by the manufacturer, showing the angle of light emission;
- d. Detailed site lighting plan illustrating the foot candle power measured throughout the site; and
- e. Additional information as may be required by the Planning and Zoning Commission in order to determine compliance with this Code.

#### (5) General Standards

The following standards shall apply to all outdoor lighting installed after the effective date of this Code.

- a. Outdoor lighting shall be designed to provide the minimum lighting necessary to ensure adequate safety, night vision, and comfort, and not create or cause excessive glare onto adjacent properties and public street rights of way.
- b. Outdoor lighting must be hooded, shielded, and/or aimed downward.
- c. The hood or shield must mask the direct horizontal surface of the light source. The light must be aimed so as to insure that the illumination is only pointing downward onto the ground surface.
- d. Any bright light shining onto an adjacent property or streets that would result in a safety hazard is not permitted. Light trespass beyond property boundaries or above the horizontal plane shall be considered non-compliant.
- e. Existing fixtures may be adapted to comply with this Code by adding a properly designed hood or shield, or by redirecting any upward mounted fixture downward onto the ground surface, sign, or illuminated structure.

- f. All outdoor lighting fixtures shall be designed, located, and maintained to minimize light trespass and all direct illumination shall be kept within the boundaries of the property upon which the light fixture is positioned.
- g. When approved, accent lighting shall be directed downward onto the structure or object and not toward the sky or adjacent properties. Direct light emissions shall not be visible above the roofline or beyond the building edge.
- h. Spotlights on landscaping and foliage shall be limited to one hundred and fifty (150) watts output. The light shall be shielded and so as not to create a nuisance or safety hazard.

(6) Specific Nonresidential Lighting Requirements

- a. The maximum allowable intensity of lighting for any nonresidential use shall be 0.25 foot candles measured at the property line adjacent to any residentially zoned area or at the street ROW line when the residentially zoned area is separated by a public street ROW.
- b. Light poles shall be placed on the site at a setback equal to their height from all adjacent residential property.
- c. Light poles shall have a maximum height equal to the maximum height allowed for the main building in each zoning district.

## **Chapter 8 Environmental Protection**

### **Section 8.1 Purpose and Intent**

- (1) This purpose of this chapter is to set forth requirements for the protection of environmental resources within the City of Buda and its extraterritorial jurisdiction (ETJ). This chapter references policies and measures for:
  - a. promotion of water conservation practices
  - b. parks and open space planning
  - c. stormwater quality management
- (2) Design and construction of water quality measures, water conservation approaches, and parks and open space facilities shall be consistent with the policies and guidelines established in the most recent versions of the Buda Comprehensive Plan, the Buda Utility Plan, the Buda Water Quality Protection Ordinance, and guidelines provided by TCEQ related to the Edwards Aquifer recharge or contribution zone.

### **Section 8.2 Relationship to Comprehensive Plan**

Environmental protection measures set forth in this chapter are intended to advance and support the General Land Use Policies and the Vision Statement of the Comprehensive Plan of the City of Buda. This Chapter addresses the following goals of the Comprehensive Plan:

- a. Preservation of water quality and quantity through water conservation measures
- b. Preservation and protection of waterways and floodplains
- c. Preservation and protection of surface and groundwater resources
- d. Promotion of awareness and implementation of Best Management Practices for purposes of water quality and land conservation
- e. Preservation of open space
- f. Enhancement of the quality and quantity of other natural resources
- g. Development of new recreational opportunities

### **Section 8.3 Applicability**

- (1) The water quality protection requirements of the Buda Water Quality Protection Ordinance (Appendix A) are applicable to all residential and non-residential development in those portions of the City of Buda and its ETJ which are located within the Barton Springs Edwards Aquifer recharge or contributing zones.
- (2) The requirements of the Buda Water Quality Protection Ordinance as revised in Section 8.4 (3) below are applicable to all residential and non-residential development in those portions of the City of Buda and its ETJ which are not located within the Barton Springs Edwards Aquifer recharge or contributing zones.



- (3) The requirements of the Buda Water Quality Protection Ordinance, as revised or not revised, are not applicable for the following:
  - a. Developments not located in the Barton Springs Edwards Aquifer recharge or contributing zone with a total estimated impervious cover of twenty-five (25) percent or less;
  - b. Nonresidential developments with a total impervious cover area of five thousand (5,000) square feet or less;
  - c. Developments involving construction of less than three (3) single-family residential structures or less than two (2) duplex residential structures.
- (4) The City shall review and approve estimates of impervious cover percentage prior to determining the applicability of this Section to a proposed development.
- (5) Water conservation requirements are applicable in all portions of the City of Buda and its ETJ. Parks and open space requirements are applicable in all portions of the City of Buda and its ETJ. Drainage criteria and requirements have many implications for environmental protection. Refer to the provisions in Chapter 9 of this Code for drainage related requirements.

#### **Section 8.4 Water Quality Protection**

- (1) Adoption of City of Austin Environmental Criteria Manual  
The specifications and standards recommended in the most current Edition of the City of Austin Environmental Criteria Manual, as amended from time to time, including later editions, except such portions that may be hereinafter amended, deleted, or modified by the City of Buda shall be the governing document in the design, development, and construction of all storm water quality related improvements within the city limits and extraterritorial jurisdiction of the City of Buda.
- (2) Edwards Aquifer Recharge Zone Standards.  
Residential and non-residential development projects in the Edwards Aquifer Recharge Zone shall comply with the City of Buda Water Quality Protection Ordinance and any legal requirements of the TCEQ and/or BSEACD.
- (3) Standards for Development Outside the Edwards Aquifer Recharge Zone  
Residential and non-residential development projects in the City and extraterritorial jurisdiction and outside of the Edwards Aquifer Recharge Zone shall comply with the City of Buda Water Quality Protection Ordinance (Water Quality Ordinance), with the following modifications:
  - a. The requirements of sections 1-1 through 1-11 of the Water Quality Ordinance are not applicable outside of the Edwards Aquifer Recharge Zone.
  - b. Section 1-12 of the Water Quality Ordinance is modified to read as follows:
    - (i) A water quality control must be designed in accordance with the most recently adopted version of the City of Austin Environmental Criteria Manual, or LCRA's Non-Point Source Pollution Control Technical Manual (both are kept for reference at City Hall), or any other innovative management practice approved by the City Engineer.

- (ii) A water quality control must isolate and treat the water draining to the control from the contributing area and result in a 75% reduction in total suspended solids and total phosphorous resulting from the development activity. The required pollutant reduction level is applied only to the incremental increase in pollutant load caused by development. If a sand filtration system is required, the minimum required capture volume is the first one-half inch of runoff, or the 2-yr storm runoff volume, whichever is greater.
  - (iii) Water quality controls must be situated to receive and treat all runoff from impervious surfaces in the development. Where this is not practicable, supporting documentation must be provided to demonstrate attainment of the necessary water quality treatment level.
  - (iv) The location of a water quality control must be shown on the slope map, preliminary plan, site plan, or subdivision construction plan, as applicable; and may not be located in a twenty-five (25) year floodplain.
- c. If the developer is proposing an innovative management practice, the applicant must substantiate the pollutant removal efficiency of the proposed control with refereed professional journals or a verifiable engineering study.
- d. Section 1-13 of the Water Quality Ordinance is modified to read as follows:
  - (i) An innovative runoff management practice is a practice that is designed to address the requirements of sections 1-12 (Water Quality Control Requirements) and 1-13 (Water Quality Control Standards) of the Water Quality Ordinance in a fashion that is different from or complementary to the standards contained in the above-referenced sections of the Ordinance. The City encourages the use of innovative management practices.
  - (ii) An innovative management practice proposal must be reviewed and approved by the City. Review and approval is based on:
    1. technical merit;
    2. compliance with the requirements for water quality protection and improvement;
    3. resource protection and improvement,
    4. advantages over standard practices; and
    5. anticipated maintenance requirements
- e. Maintenance.

Section 1-14 of the Water Quality Ordinance is modified to read as follows:

  - (i) The water quality control shall be designed to minimize maintenance requirements.
  - (ii) The subdivider/developer and City shall provide for an extended inspection and maintenance program of all water quality controls as follows:
    1. For a commercial or multifamily development, the owner will maintain a required water quality control in accordance with the maintenance standards in the City of Austin Environmental Criteria Manual. Documentation will be provided by the owner of the facility to ensure that sufficient annual funding exists to properly maintain any water quality controls. The City or its designated representative shall inspect each water quality control at least once in the first year following approval of completion of construction and at least once every three (3) years thereafter. If noncompliance is found during an

inspection, the City will request in writing that the property owner comply. This notice will describe the measures to be taken. If, within thirty (30) days of notice, the maintenance required is not accomplished, the City may impose fines or assessments as established in Section 12.3 of this Code, or bring action in a court of competent jurisdiction as provided in Section 12.4 of this Code to require the property owner to accomplish necessary maintenance. Necessary maintenance is that maintenance needed to bring the facility and/or improvement into compliance with this chapter or technical manuals referenced herein or other ordinances, laws or regulations. The City hereby declares that any failure to maintain a water quality control in accordance with City standards is a public nuisance subject to all remedies, legal and equitable, to abate that nuisance.

2. For a single-family or duplex residential development, the City will maintain a required water quality control if the water quality control has been accepted by the City. The subdivider/developer shall make an estimation of the cost to conduct periodic inspections and maintenance of water quality controls, including one (1) year after the City's acceptance of completion of construction and every three (3) years thereafter for a total period of at least sixteen (16) years. The City shall have authority to review and approve the estimated costs. The subdivider/developer shall post surety for payment of the estimated costs consistent with the requirements specified in Section 12.5 of this Code, or make a contribution for the full estimated cost of inspection and maintenance to the City prior to the City's approval of a final plat or issuance of a site development permit.
- f. Prior to the approval by the City of Buda of a permit, final plat, site development plan, or building permit, the developer or applicant shall provide the City with complete copies of all plans and documents pertaining to the Barton Springs Edwards Aquifer which are relevant to the proposed project. These plans and documents shall include, but are not limited to, the following:
- (i) Edwards Aquifer Protection Plans
  - (ii) Contributing Zone Plans
  - (iii) Storm Water Pollution Prevention Plans
  - (iv) Water Pollution Abatement Plans
  - (v) Organized Sewage Collection System Plans
  - (vi) Underground Storage Tank Facility Plans
  - (vii) Aboveground Storage Tank Facility Plans

(4) Onsite Wastewater Permit

Prior to the approval of a final plat, the developer or applicant shall provide the City with complete copies of all applicable permit applications, plans and documents pertaining to the Onsite Wastewater Permit as required by Hays County.

### **Section 8.5 Water Conservation Education**

- (1) Publications.
  - a. Homebuilders in new subdivisions shall provide information to owners of all new dwellings regarding the design, installation, and maintenance of water efficient landscapes. This information may be obtained from the Barton Springs Edwards Aquifer Conservation District (BSEACD). However, builders may obtain this information from other sources as long as the information is similar in context and breadth to that of the BSEACD. The information packet will be submitted to the City for approval with the plat application, or in any case prior to final plat approval. Any charge for such publications shall be incurred by the homebuilder.
  - b. The City shall provide information about the use of water efficient landscapes and irrigation practices to water users throughout the community.
- (2) Model Homes.

If there are one or more model homes in a new subdivision, at least one such model home shall be landscaped and shall demonstrate the principles of water efficient landscaping via signs and posted information. Signs shall be used to identify the model as an example of a water efficient landscape featuring elements such as hydrazones, irrigation equipment and other approaches which contribute to overall water efficiency.

### **Section 8.6 Parks and Open Space Requirements**

- (1) Purpose

The purpose of this Section is to provide for the adequate provision of parkland and open space to meet the needs of a growing citizen population. These requirements may include easements, land dedication, or a fee-in-lieu of payment for the acquisition and development of public park land. It is hereby declared that the City of Buda has a substantial amount of existing recreation areas in the form of public park land and open space and the development of that park land to better serve existing and future residents is necessary for general public health and welfare. While the dedication of land area to meet the requirements of this section is acceptable and in some cases desired, it is the policy of the City to encourage the payment of a fee-in-lieu of dedication to provide a mechanism for improvement of existing park land. The requirements of this section are an integral part of the procedure for planning and developing property or subdivisions in the City, whether such development consists of new residential construction on vacant land or the addition of new dwelling units on existing residential land.
- (2) Applicability

The park land dedication and park development requirements of this Section shall apply to every residential subdivision developed under the provisions of this Code, with the following exceptions.

  - a. The park land dedication requirements set forth in this Section and the requirements for payment of fees in lieu of park land dedication shall not apply to an application for approval of a preliminary or final plat for a residential subdivision that was initially filed before the effective date of this Code, and which plat has not expired. In such cases, other preexisting ordinances of the City pertaining to park land dedication shall nonetheless apply. For all plat

applications for a residential subdivision filed after the effective date of this Code, park land dedication and/or improvement requirements for park facilities shall be imposed at the time of preliminary plat approval.

- b. Requirements for park improvement fees set forth in this Section shall not apply to any application for approval of a preliminary or final plat for a residential subdivision that was initially filed before the effective date of this Code, and which plat has not expired.
- c. Following initial imposition and satisfaction of park dedication and improvement requirements, additional requirements shall apply to revised plat applications for residential subdivisions only if such revised or renewed application results in an increase in the number of dwelling units. In such case, park dedication requirements then in effect shall apply only to the additional dwelling units proposed in the application.
- d. Single Family developments less than ten (10) dwelling units in size shall not be required to dedicate parkland. Multifamily developments less than five (5) dwelling units in size shall not be required to dedicate parkland.

### (3) Submittal Requirements

- a. Prior to submittal of a General Development Plan or Preliminary Plan, a General Parks Plan shall be submitted and shall contain, at a minimum, the following information:
  - (i) Location and size of any proposed parks to be dedicated to the public or to be retained as private parkland.
  - (ii) A statement of the suitability of the parkland in meeting the criteria in Subsection (5) of this Section.
  - (iii) A general park development plan including any proposed improvements.
  - (iv) A phasing plan.
- b. Prior to submittal of a Final Plat, a Detailed Parks Plan shall be submitted and shall contain, at a minimum, the following information:
  - (i) Location and size of proposed park.
  - (ii) A statement of the suitability of the parkland in meeting the criteria in Subsection (5) of this Section.
  - (iii) A detailed plan of any proposed improvements, including cost.
  - (iv) A site plan and site development permit meeting the requirements of Section 3.9(6) of this UDC.
- c. The Parks and Recreation Commission shall make recommendations based upon the Comprehensive Plan and/or Parks and Recreation Master Plan as adopted by the City, and the standards and provisions contained herein, to the City Council concerning the amount and location of park land and fees-in-lieu of park land dedication.
- d. All parkland to be dedicated to the City of Buda shall meet the suitability requirements of Subsection (5) of this section.
- e. The City Council shall have final authority on park land dedication.

### (4) Requirements for Park Land Dedication

- a. The subdivision of any parcel or tract of land into a residential subdivision within the City limits or ETJ shall require the subdivider to set aside and dedicate-sufficient and suitable lands for the purpose of a park or make an in-lieu financial contribution for the acquisition or development of park land in accordance with the provisions of this section.
  - (i) No area or facility shall be dedicated for parkland purposes unless approved and accepted by the City.

- (ii) All subdivisions of land subject to the requirements of this Code shall conform to the most recent edition of the Comprehensive Plan or any specific Parks and Recreation Plan adopted by the City which may supersede the Comprehensive Plan.
  - (iii) All subdivisions of land receiving final plat, or alternative form plat approval based on this Code shall conform to the requirements of this Section. The City Council, as advised by the Parks and Recreation Commission and the Planning and Zoning Commission, and subdivider may negotiate the combination of park land dedication, payment of fees-in-lieu of required park land, or any combination thereof, to satisfy these requirements.
  - (iv) Where a subdivider proposes to pay an in-lieu-fee as provided for in this Section, the City Council may accept such payment as satisfying the park land dedication requirements of this Code, except that the City reserves the right to require the dedication of land for park purposes in conformance with the provisions of this Section when five (5) or more acres of land would be required to satisfy the park land dedication requirements.
  - (v) For the purpose of these parkland dedication requirements, public parkland shall be defined as *“Any noncommercial, not for profit area that predominately consists of open space areas designed to meet the active and/or passive recreational needs of the public and is owned, operated and maintained by the City.”*
  - (vi) For the purpose of these parkland dedication requirements, private parkland shall be defined as *“Any tract of land owned, operated and maintained by a homeowner’s association, property owner’s association, developer or other private entity that provides active and/or passive recreation to a specific area, neighborhood or group of individuals and is not available to the general public for recreational use.”*
- b. Formula for Calculating Area of Park Land
- (i) The acreage to be donated prior to final plat approval by the Council of any residential subdivision shall be pro-rated in accordance with Table 8.1 below.

**Table 8.1 Park Land Dedication Requirements**

Single Family, Duplex, & Multifamily	1 acre / 50 dwelling units
Less than 10 Single Family Units; or Less than 5 Multifamily Units	None

- c. Surety for dedication of parkland shall be provided in the same manner as required of other subdivision- and site-related construction, as specified in Section 12.5 of this Code.
- d. Fee-In-Lieu of Park Land Dedication
  - (i) When the amount of land required in this Chapter is less than five (5) acres in size, the subdivider shall be required to pay a fee-in-lieu of parkland dedication. When the amount of land required in this Chapter exceeds five (5) acres in size, the City may allow, at its option, to accept the payment of a fee-in-lieu of park land dedication or a combination of park land dedication

and fees-in-lieu, in order to satisfy the requirements of this Section. Any proposed subdivision located within the extraterritorial jurisdiction of the City shall be required to pay a fee-in-lieu of parkland dedication. For developments within the City’s ETJ, the City, at its sole discretion, may accept private parkland to satisfy all or a portion of the dedication requirements.

- (ii) Where the fee in lieu of park land is required or acceptable to the Council as provided for in this Code, such fee shall be equal to:

**Table 8.2 In-lieu-fee**

Single Family, Duplex, & Multifamily	\$500 / dwelling unit
Less than 10 Single Family Units; or Less than 5 Multifamily Units	None

- (iii) The appropriate fee shall be imposed by the City at the time of approval of the preliminary plat and shall be paid prior to the release by the city of each final plat for filing in the deed records of Hays County.
  - (iv) The City shall reserve the fees contributed in lieu of park land dedication in a separate account from the general funds of the City, along with any accrued interest, and shall proceed to complete acquisition or improvement of park land. All fees collected in lieu of park land dedication shall be expended in on a first in, first out basis. If any or all of the funds are not spent for such purposes within ten (10) years from the date that they are collected, the subdivider shall have the right to request repayment by the City and the City shall refund the principal amount of all unexpended funds that were collected from the subdivider.
- e. Public Access and Park Land Dedication Required
- (i) Unless credit for private park land is given consistent with the criteria set forth below, all park land and improvements thereto shall be dedicated to the public. All residents of Buda and its extraterritorial jurisdiction, in addition to the owners of lots within the subdivision in which park land is dedicated or fees-in-lieu are contributed, shall have the same rights and privileges to use City park land and facilities once the park land dedications are made or fees are paid to the City.
  - (ii) Where a substantial private park and recreational area is provided in a proposed residential subdivision the City may, at its sole discretion, give partial credit to the subdivider, not to exceed fifty percent (50%) of the total acreage requirements for park land dedication and funding requirements for park improvement set forth in this Section, if the City finds that it is in the public interest to do so and that all the following standards are met:
    1. That yards, court areas, setbacks and other open areas required to be maintained by the rules and regulations of the City shall not be included in the computation of such private recreational open space;

2. That the private ownership and maintenance of the open space and facilities is adequately provided for by recorded agreement, covenants or restrictions;
  3. That the use of the private open space is restricted for park and recreation purposes by recorded covenant, which runs with the land in favor of future owners of the property and which cannot be defeated or eliminated without the written consent of the City or its successors;
  4. That the proposed private open space is reasonably adaptable for use for park and recreational purposes, consistent with the park land design requirements specified in this section of the Code. Private swimming pools operated and maintained by an HOA shall not be considered as meeting the requirements of this section;
  5. That the facilities proposed for the private open space are in substantial accordance with the provisions of the City's Comprehensive Plan, Parks and Recreation Plan and other adopted plans of the City;
  6. That the private open space for which partial credit is given is a minimum of five (5) acres and provides a minimum of \$30,000 per acre or portion thereof in park and recreation improvements, subject to the approval of the City, and that assurance is provided in a form acceptable to the City that the proposed dedication of land and improvements will be completed in a timely manner; and
  7. That, in addition to the private park land and improvements provided, there is an amount of public open space and improvements provided or a proportional amount of fees-in-lieu of dedicated park land and improvements provided in compliance with the park land design requirements and improvement requirements specified in Section 8.6(4) and (5) of this Code.
- (iii) The City shall have full discretion to consider, approve, or deny any request for credit for private park land and recreation facilities as set forth in this Section. The Parks and Recreation Commission shall consider and make recommendations to the City Council on any such request.
- f. Park Land Dedication Methodology
- For the purpose of this Chapter, the following parkland dedication calculations reflect the maximum possible land dedication and fee-in-lieu of land dedication allowable. The City, at its option, may reduce the required land dedication and fee-in-lieu of payment.
- (i) Current Level of Service
    - Total Population: 5,028 (established by Ordinance No. 080607-1 approved on August 6, 2007)
    - Total Existing Park Land: 239 acres
    - Total Persons per Acres of Park Land: 21
  - (ii) Land Requirements
    - Persons per Household Owner Occupied: 2.88 (source: 2000 US Census)
    - Persons per Household Renter Occupied: 2.17 (source: 2000 US Census)
    - Single Family: 21 people / 2.88 PPH = 7 Dwelling Units/Acre  
1 Acre per 7 Dwelling Units\*
    - Multifamily: 21 people / 2.17 PPH = 10 Dwelling Units/Acre  
1 Acre per 10 Dwelling Units\*
  - (iii) Fee-in-Lieu of Land Requirements



Cost per Acre of Existing Park Land: \$6,173 (assumed average based on CAD appraisal)

Single Family: \$6,173 / 7 Dwelling Units = \$882 per Dwelling Unit

Multifamily: \$6,173 / 10 = \$617 per Dwelling Unit

(iv) Park Development Costs

Estimated Cost of Improvements per Acre of Developed Parkland: \$30,000

Single Family: \$30,000 / 7 Dwelling Units = \$4,286

Multifamily: \$30,000 / 10 Dwelling Units = \$3,000

(5) Park Land Design Requirements

- a. Any land to be dedicated to meet the requirements of this Chapter shall be reasonably located and adaptable for use as park land and/or recreation facility, consistent with the most recent edition of the Comprehensive Plan and/or any Parks and Recreation Plan as may be adopted by the City Council.
- b. The Parks and Recreation Commission shall make recommendations to the Planning and Zoning Commission and the City Council regarding the suitability of proposed park land. The location, access, size, shape, topography, natural drainage, utilities, parking facilities, and wooded areas and other vegetative cover of the parcel or tract of land to be dedicated shall be appropriate for public parks and recreation purposes. All such park land shall be designated and located so as to satisfy the following general requirements:
  - (i) Dedicated land of less than the minimum required acreage may be developed based upon the recommendation from the Parks and Recreation Commission that a smaller area is in the public interest, or that additional contiguous land will be reasonably available for dedication to or purchase by the City. Such developments may be required to contribute fees-in-lieu of park land or a combination of fees and park land. Wherever possible, the dedicated land should be adjoining a school site, public or nonprofit institution, church, or other community facility that enhances the open space and recreational benefit of the park land.
  - (ii) Unless specifically exempted elsewhere in this section, access to park land designated on a subdivision plat shall be provided by the dedication of at least 200 feet of street frontage, in a manner satisfactory to the City, preferably a 200 foot by 200 foot corner site at the intersection of two streets. When the land abutting the designated park land is developed, the subdivider of such abutting land shall furnish and pay for all paving of all abutting street frontage and shall provide water and sewer access to the boundary of one side of the delineated park land area to meet minimum requirements of these regulations. No linear parking will be allowed on such frontage.
  - (iii) The land to be dedicated to meet the requirements of these regulations shall be suitable for public parks and recreation activities. Requirements include but are not limited to:
    1. Grade/Slope Required  
At least fifty (50) percent of the dedicated land should not exceed five (5) percent grade;
    2. Utilities Required  
Minimum service connections of two (2) inch water line and six (6) inch gravity sewer line or two (2) inch pressurized sewer line and electricity line shall be provided and located along at least one property line of the dedicated land;

3. Permanent Property Boundary Markers/Monuments Required

Above-ground, grade level survey markers are required to be permanently installed on all property lines of the dedicated land, in accordance with the requirements of the City.

- (iv) Any disturbed park land shall be restored and the soil stabilized by a vegetative cover by the subdivider using approved xeriscape species.
- (v) Areas falling within the 100-year floodplain of the main channels of Onion Creek or Garlic Creek may be dedicated in fulfillment of the dedication requirements, subject to approval by the City Council. Said dedication will include, at a minimum, a strip one-hundred (100) feet wide on Garlic Creek and three-hundred (300) feet wide on Onion Creek on both sides measured from the center of the creek channel. The Onion Creek dedication may be reduced to 150 feet upon Council approval.
- (vi) Where the City determines that parking is necessary to provide for access and ease of use to dedicated parkland, the amount of parking shall be provided in a manner determined by the City Manager.

c. Greenbelts

- (i) In cases where greenbelts and other recreational walkways or bikeways front on public roads in the interior of residential subdivisions, they may only be required to provide the following minimum street frontage:

Table 8.3 Greenbelt Frontage Requirements

Road Type	Frontage Required (feet)
Arterial	50
Collector	40
Local	30
Cul-de-sac	15

- (ii) Greenbelts fronting on public roads in non-residential subdivisions or developments will be required to provide a minimum street frontage of fifty (50) feet.
  - (iii) Greenbelt widths, right-of-way, and construction shall be in conformance with the requirements of this Chapter, and other Chapters of this Code, as they may apply.
- d. In the case of areas that do not meet the grade, slope, or other requirements for parkland dedication found in this section, but that are known to contain sensitive environmental features, the City may, at its discretion and after review by the Parks and Recreation Commission, modify these standards subject to the following limitations:
- (i) That such areas shall provide recreational or educational opportunities for the surrounding community in lieu of park land dedication;
  - (ii) That such areas shall be given a partial credit against the requirement of land dedication and/or payment of fees.
  - (iii) That such areas shall meet any additional standards deemed necessary by the City Council after a recommendation by the Parks and Recreation Commission, pertaining to the dedication of land containing sensitive environmental features.

- e. Prior to dedication of park land, the subdivider shall make full disclosure of the presence of any hazardous substances and/or underground storage tanks (U.S.T.'s) of which the subdivider has knowledge. The City, at its discretion, may proceed to conduct such initial environmental tests and surveys on the land as it may deem appropriate, and the subdivider shall grant to the City and its agents and employees such reasonable access to the land as is necessary to conduct such surveys and tests. If the results of such surveys and tests indicate a reasonable possibility of environmental contamination or the presence of U.S.T.s, the City may require further survey and tests to be performed at the subdivider's expense as the City may deem necessary prior to its acceptance of the dedication, or in the alternative, the subdivider may be required to identify alternative property or pay the fees in lieu of such park land dedication.
  - f. The park site shall be free of trash and debris. If the condition of the dedicated park land is disturbed during construction of subdivision improvements then the subdivider shall be responsible for returning the dedicated land to its previous condition prior to or at the time of final plat filing. The public improvements to be constructed per the applicable subdivision plat will not be accepted by the City until such time that the above conditions have been met.
- (6) Park Development
- a. The subdivider shall improve all dedicated public park land with improvements approved by the City, prorated for an amount equal to at least \$30,000 per acre. Design, specification, and construction of the improvements shall be subject to review and approval by the City. Construction of the improvements must be completed within three (3) years of the City's approval of the first final plat of the subdivision. Surety for construction of improvements shall be provided in the same manner as required of other subdivision- and site-related construction, as specified in Section 12.5 of this Code.
  - b. In lieu of constructing the improvements, the subdivider may elect to contribute the required amount of funds in lieu of construction to the City to meet the City's current or future recreational needs. In such cases, the City shall reserve the funds and any accrued interest for park improvements in a separate account from the general funds of the City. If a developer who has dedicated land in accordance with Section (4)b above elects to make a fee-in-lieu of payment for park development, the City shall utilize those funds for improvement of parkland within the subdivision in which the funds are collected. In the event that there are remaining funds after development of said parkland, the City may utilize the remaining funds to complete improvements within any public park in the City. If any or all of the funds are not spent within ten (10) years from the date that they are collected, the subdivider shall have the right to request repayment by the City and the City shall refund all unexpended funds that were collected from the subdivider.
  - c. If the subdivider elects to pay fees in lieu of park land dedication in accordance with Section 8.6(4)d of this Code, then the subdivider shall pay to the City a prorated improvements fee of \$30,000 per acre of park land that is required to be dedicated, in addition to the fees paid in-lieu of dedication.
- (7) Updating of Dedication Fees, Improvement Costs and Other Requirements
- The standard fees for contributions-in-lieu-of park land dedication and minimum costs for improvements to park land as specified in this Section may be updated from time to time on the basis of current development costs. The Parks and

Recreation Commission shall consider and make periodic recommendations to the City Council on such fees and costs. Additionally, the Parks and Recreation Commission shall consider and make periodic recommendations to the City Council on design standards and other provisions of this Section. All such recommendations should be compiled and included within a Parks and Recreation Plan for the City, subject to final review adoption by the City Council.

### **Section 8.7 Tree Preservation and Mitigation**

(1) Purpose and Intent

The purpose of this section is to conserve, protect and enhance existing healthy and safe trees and natural landscape. It is recognized that the preservation of existing trees contribute to the overall quality and environment of the City. Trees can and do contribute to the process of purification, oxygen, regeneration, groundwater recharge, reduction of pollution and contaminants in aquifers, erosion and dust control, abatement of noise, provide wildlife habitat and enhance property values. Indiscriminate clearing or stripping of natural vegetation on any parcel is prohibited.

(2) Applicability and Exemptions

a. The provisions of this section are applicable to the following:

- (i) All new residential and nonresidential development within the City limits or its extraterritorial jurisdiction.
- (ii) Redevelopment of any residential or nonresidential property within the City limits or its extraterritorial jurisdiction that results in an increase in the building footprint or the total destruction and reconstruction.

b. The following areas are exempt from the tree removal permitting requirements of this section but shall be subject to the mitigation requirements identified in this section:

- (i) Trees located within, and within ten feet (10') of, the building footprint
- (ii) Trees located within the area of a proposed on-site sewage facility (OSSF)

c. The following areas are exempt from the preservation requirements of this section:

- (i) Trees located within a right-of-way to be dedicated to and maintained by the City
- (ii) Trees located within any utility easement

(3) Tree Preservation

The existing natural landscape character, especially native oaks, elms, and pecan trees, shall be preserved to the maximum extent reasonable and feasible. A Tree Removal Permit is required for the removal of any tree with a DBH (diameter at breast height measured 4 feet above existing ground level) greater than eight inches (8").

a. Protected Trees

Trees having a DBH between eight (8) and twenty (20) inches are designated as "Protected Trees". Any Protected Trees not exempt from preservation in Section 8.7(2)c above may be removed upon approval of a Tree Removal Permit by the City Administrator or his/her designee. Any decision of the City

Administrator or his/her designee regarding a Tree Removal Permit may be appealed to the Zoning Board of Adjustments in accordance with Section 3.9(9) of this Code.

b. Heritage Trees

Trees having a DBH of twenty inches (20”) or greater are designated as “Heritage Trees”. Any Heritage Trees not exempt from preservation in Section 8.7(2)c above may be removed upon approval of a Tree Removal Permit by the Planning and Zoning Commission. Any decision of the Planning and Zoning Commission regarding a Tree Removal Permit may be appealed to the City Council.

(4) Tree Mitigation

Any trees that are removed or damaged as a result of the approval of a Tree Removal Permit or under the provisions of Section 8.7(2)b. shall be mitigated for on the same site as the proposed development. In the event that mitigation is not feasible on the same site as the proposed development, an applicant may request to donate trees, meeting the mitigation requirements of this section, to be planted at public parks, schools, or other approved public facilities throughout the City or provide a fee-in-lieu of payment which will be used to place trees at public parks, schools, or other approved public facilities throughout the City.

a. Protected Trees

Protected trees shall be mitigated at a one-to-one (1:1) caliper inch ratio for every tree removed. Replacement trees shall have a minimum caliper of three inches (3”).

b. Heritage Trees

Heritage trees shall be mitigated at a three-to-one (3:1) caliper inch ratio for every tree removed. Replacement trees shall have a minimum caliper of three inches (3”).

c. Damaged Trees

Any trees that are designated for preservation and are damaged during the construction process or that die within two (2) years of issuance of a certificate of occupancy shall be mitigated for in accordance with subsection 4.a and 4.b above.

d. Exempted Trees

The following trees are exempt from the mitigation requirements of this section:

<b>Common Name</b>	<b>Scientific Name</b>
Hackberry	<i>Celtis occidentalis</i>
Eastern Red Cedar	<i>Juniperus virginiana</i>
Common Ashe Juniper	<i>Juniperis ashei</i>
Chinaberry	<i>Melia azedarach</i>
Mesquite	<i>Prosopis spp.</i>
Ligustrum	<i>Ligustrum spp.</i>

(5) Tree Protection Standards

All trees to be preserved on site shall be protected from damage caused by site excavation or construction in accordance with the following:

- a. All trees shall be protected by a fence, frame or box constructed around the drip line of the preserved tree.
- b. A minimum of three inches (3") of mulch or compost shall be spread beneath the drip line of the preserved tree.
- c. No person shall excavate any ditches, tunnels or trenches, place any paving material or place any drive or parking area within the drip line of any Protected or Heritage tree without prior written approval of the City Administrator or his/her designee at the time of Site Development Permit approval.
- d. No person shall attach any rope, wire, nails, advertising posters or other contrivance to any Protected or Heritage Tree.

(6) Tree Preservation Credits – Nonresidential and Multifamily Developments

To encourage the preservation of existing Protected or Heritage Trees contained within a proposed development, the following minimum tree preservation credits may be provided:

- a. Protected Trees shall receive a credit against the minimum required landscaping standards at a one-to-one (1:1) caliper inch ratio;
- b. Heritage Trees shall receive a credit against the minimum required landscaping standards at a three-to-one (3:1) caliper inch ratio; or,
- c. Protected and Heritage Trees located within a required buffer area shall receive a credit against the minimum buffer requirements at a one-to-one (1:1) caliper inch ratio.

(7) Tree Removal Permit

A tree removal permit is required for the removal of any Protected or Heritage Trees not exempt in Section 8.7(2)b or 8.7(2)c above. The permit must be accompanied by an appropriate application and shall contain a tree preservation plan showing the following:

- a. Existing/proposed topography
- b. Location of property lines, easement, rights of ways, setbacks, parking areas and sidewalks
- c. Location, species and size (in DBH) of each Protected and Heritage tree, except those trees exempted by Section 8.7(4)d above
- d. A tree inventory that summarizes the following
  - (i) Total number of DBH inches on the site
  - (ii) Total number of DBH inches to be removed
  - (iii) Total number of DBH inches to be preserved
  - (iv) Location of any proposed tree mitigation
  - (v) Any proposed tree preservation credits.
- e. A summary of the tree protection methods to be utilized

(8) Penalties

Any violation of this section shall be subject to penalty in accordance with Chapter 12 of this UDC.

## **Chapter 9 Infrastructure and Public Improvements**

### **Section 9.1 Purpose and Intent**

- (1) The purpose of this Chapter is to assure that residential and nonresidential development projects constructed within the City of Buda and its extraterritorial jurisdiction (ETJ) are adequately furnished with necessary public infrastructure. These include water, wastewater, stormwater drainage, roads, and open space resources.
- (2) Design and construction of infrastructure in the City and ETJ shall be consistent with the policies and guidelines established in the most recent versions of the Buda Comprehensive Plan and the Buda Utility Plan. Any interpretation of the requirements of this Section shall be made in a manner consistent with the Comprehensive Plan and Utility Plan.
- (3) The Planning and Zoning Commission and the City Engineer shall have an annual review of amendments to the City of Austin Criteria Manuals adopted by this Code and shall make recommendations to the City Council regarding the adoption of such amendments.

### **Section 9.2 Conformance with the Comprehensive Plan**

This chapter addresses policies contained in the Comprehensive Plan and legal requirements for the adequate provision of infrastructure for the health, safety, and welfare of the residents of the City of Buda and its surroundings.

- a. Bicycle and Pedestrian Trail requirements reflect the policy of improved pedestrian connectivity and recreation opportunities.
- b. Water and Wastewater Utility requirements reflect the mission of the Comprehensive Plan to “Ensure the Quantity and Quality of water” for the residents of Buda. Of paramount importance is protection of the environment and public safety.
- c. Drainage and erosion control requirements address issues of environmental protection, property damage, health, and safety.
- d. Off street parking requirements are designed to reduce the amount of impervious cover while providing adequate parking facilities for each use.

### **Section 9.3 General Standards**

- (1) Compliance with Standards  
Full compliance with the standards contained within this Code must be obtained before the issuance of a building repair, plumbing or electrical permit for any structure on a lot within a subdivision within the jurisdiction of the City.
- (2) Review, Permit and Enforcement Authority  
In fulfilling any responsibilities in this Section that require technical or other expertise, the City Manager or designee of the Council shall rely on the assistance

of the Director of Public Works or City Engineer or another designee for such expertise.

(3) Unapproved Final Plat or Site Development

a. City approvals, including but not limited to building, repair, plumbing, or electrical permits, shall not be issued by the City for any structure on a lot in a subdivision or on a parcel for which a final plat or site development permit has not been approved and filed for record.

b. No City Maintenance.

The City shall not repair, maintain, install or provide any streets or public utilities or services in any subdivision for which a final plat has not been approved and filed for record, nor any parcel or lot for which a site development permit has not been issued, nor in which the standards contained herein or referred to herein have not been complied with in full.

c. No Utility Service

The City shall not sell or supply water, gas, electricity or sewerage within a subdivision for which a final plat has not been approved and filed for record, or parcel or lot for which a site development permit has not been issued, nor in which the standards contained herein have not been complied with in full.

(4) Grandfather Provisions

The provisions of this Section shall not be construed to prohibit the issuance of permits for any lot or undivided tract or parcel of land upon which a residence exists that was in existence prior to the passage of the City's subdivision regulations on September 2, 1996 (and any other amendments thereafter).

(5) Required Improvements

In the absence of any provision to the contrary, the subdivider, developer or applicant shall provide the following improvements, as approved in the construction plans, in conformance with the standards, specifications and requirements of this Unified Development Code:

a. Streets including rights-of-way, alleys, sidewalks, bridges, signalization, and street lighting;

b. Water system including utility easements, water distribution lines, fire hydrants, valves, pumps, and water towers;

c. Sanitary sewer system including utility easements, sanitary sewer lines, manholes, and lift stations;

d. Drainage system including drainage easements, channels, storm sewer lines and inlets, basins, control structures, and landscaping;

e. Park land and improvements;

f. Permanent monument markers;

g. Utilities for electric and telephone service and associated utility easements installed in conformance with the terms and regulations of the provider of said utility;

h. Gas and cable television and other telecommunications service and associated utility easements, when provided, installed in conformance with the terms and regulations of the provider of said utility.

(6) Improvement Continuity and Integration

All improvements must be designed and installed so as to provide for a logical



system of utilities, drainage and streets and to create continuity of improvements for the development of adjacent properties. Pedestrian, vehicle, water, wastewater and drainage improvements must be extended to the perimeter of a subdivision.

(7) Improvement Plans

- a. Plans for the improvements required by this Chapter shall be prepared and approved in accordance with the provisions contained herein and certified for accuracy and completeness by a registered professional engineer licensed by the State of Texas.
- b. After completion of construction, the developer shall deliver to the City as-built construction documents indicating all improvements, new construction, and upgrades. These documents shall clearly indicate the location of all improvements including the location of public utilities and infrastructure. The documents shall include a certification from a licensed Professional Engineer that all construction required by this code was performed in compliance with the standards and specifications required of this code.

(8) Acceptance of Improvements

During the course of installation and construction of the required improvements, the Director of Public Works, City Engineer or another designee of the City Manager shall make periodic inspections of the work to insure that all improvements comply with this Code and other municipal, county and State requirements. Upon completion of installation and construction of all required improvements, the developer may seek acceptance of all public improvements by the City by submitting the required number of copies of as-built plans and a one year maintenance bond in an amount as specified at the time of final plat submittal. In addition, the developer shall provide a statement signed by a registered professional engineer that all improvements have been installed and constructed in accordance with the submitted as-built plans.

(9) Maintenance and Supervision

Where a residential subdivision contains sewers, sewage treatment facilities, water supply systems, parks and grounds held in common, drainage facilities, or other physical facilities necessary or desirable for the welfare of the area, or that are of common use or benefit which are not or cannot be satisfactorily maintained by an existing public agency, provision shall be made which is acceptable to the City for the proper and continuous operation, maintenance, and supervision of such facilities. A copy of the agreements providing for the proper and continuous operation, maintenance and supervision of such facilities shall be presented to the City Manager and approved as to form by the City Attorney at the time of final plat approval or site development permit issuance and shall be filed of record with the plat or permit thereof.

#### **Section 9.4 Adequate Public Facilities (APF) Processing Procedures**

- (1) A final plat or replat or site development permit will not be approved unless the land proposed for subdivision or site development is adequately served by

essential public facilities and services listed in Table 9.1 and Section 9.3(5). Adequately served is defined as having an approved construction plan that demonstrates that public facilities and services will be constructed. The final plat can be approved but not filed until such time as the public facilities and services have been accepted by the City Engineer and City Inspector with a letter of acceptance being issued by the City Manager.

**Table 9.1 APF Requirements**

Streets including alleys, bridges and street lighting, rights-of-way, sidewalks, signalization.
Water system including wells (where used), utility easements, water distribution lines, fire hydrants, valves, pumps, pressure tanks, water towers and other water facilities.
Sanitary sewer system including utility easements, sanitary sewer lines, manholes, and lift stations.
Drainage system including drainage easements, culverts, channels, storm sewer lines and inlets, basins, control structures, and landscaping.
Park land and improvements in accordance with parkland dedication requirements.
Utilities for electric and telephone service and associated utility easements shall be installed in conformance with the terms and regulations of the provider of said utility. Gas and cable television service and other telecommunications service and associated utility easements, when provided, shall be installed in conformance with the terms and regulations of the provider of said utility.

- (2) This policy may be further defined and supplemented by other codes adopted by the City.
- (3) Parking  
 A final plat or replat or site development permit will not be approved unless adequate parking capacity is provided, based on the standards specified in this Code. All parking facilities including driveways, parking lots, parking garages, and all other facilities intended for the temporary storage of motorized vehicles, trailers, bicycles, and other transportation devices will be designed in compliance with the requirements contained herein. It is the intent of this Code that parking facilities are constructed to provide adequate capacity and functionality to the uses they serve while preserving the health, safety, and welfare of the residents of the adjacent areas and the City overall.
- (4) Street Access.
  - a. A final plat, replat or site development permit will not be approved unless the proposed lot(s) have safe and reliable access for daily use and emergency purposes. A plat or replat will not be approved unless the proposed lot(s) have direct access to an improved public or private street, an approved public way, or an approved access easement in accordance with Section 7.4(1) of this

Code, and connected to an improved public thoroughfare. Except for lots which are provided access from an approved cul-de-sac, all subdivisions must have at least two means of vehicular access or approach on a paved public right-of-way. Where development phasing or constraints of the land prevent the provision of a second, separate means of access, the City may, in its sole discretion, accept a temporary street connection, or median divided street or entry to satisfy this requirement.

- b. A non-residential site development permit will not be approved unless the parcel on which the development is proposed is a legal lot, duly recorded in the County Deed Records. Such legal lot shall have safe and reliable access for daily use and emergency purposes. The permit will not be approved unless the lot has direct access to an improved public or private street, an approved public way, or an approved access easement in accordance with Section 7.4(1) of this Code, and connected to an improved public thoroughfare.

(5) Lighting

A final plat or replat or site development permit will not be approved unless lighting requirements as defined in this Code are met.

(6) Water

A final plat or replat or site development permit will not be approved unless the proposed lot(s) or development is connected to the City's water system or a community water supply system acceptable to the City which is capable of providing adequate water for health and emergency purposes. Except for lots along an approved cul-de-sac or where it is impracticable, all lots must be provided service connections from a looped water main providing water flow from two directions or sources. New developments or improvements of existing developments should consult the City of Buda Utility Master Plan for compliance with the plan. For residential or non-residential developments not being serviced by the City, a letter of service must be submitted from the water corporation indicating their intent to service.

(7) Wastewater

A final plat or replat or site development permit will not be approved unless the proposed lot(s) or site developments are served by an approved means of wastewater collection and treatment. The projected wastewater discharge of a proposed development shall not exceed the proposed capacity of the proposed development's wastewater system. The City may require the phasing of development and/or improvements to the systems so as to maintain adequate wastewater capacity. New developments or improvements of existing developments should consult the City of Buda Utility Master Plan for compliance with the plan.

(8) Fire Protection

Water service must be sufficient to meet the fire flow requirements of the proposed development, except where a suitable alternative means of fire protection is approved by the City Volunteer Fire Department Chief, or his designee, and the City Engineer. The City may require the phasing of development, and/or the construction of improvements to maintain adequate fire

protection.

(9) Drainage

Increased stormwater runoff attributable to new development must not exceed the capacity of the downstream drainage systems or adversely affect adjoining property. Where the projected runoff would exceed capacity based on the standards specified in this Code, the City may require the phasing of development, the use of control methods such as retention or detention, and/or the construction of off-site drainage improvements as means of mitigation. New developments or improvements of existing developments should consult the City of Buda Drainage Master Plan for compliance with the plan.

(10) Parks and Recreation

- a. A final plat or replat or site development permit will not be approved unless adequate parks and recreational requirements are provided, based on the standards specified in this Code. All residential developments, including multifamily developments, will be required to comply with these standards and requirements.
- b. It is the intent of this Code that parks and recreational facilities are located and constructed to provide adequate capacity and functionality to the residents they serve and provide safe, healthy recreational opportunities to the community.

(11) Monumentation and Survey Control

A final plat or replat or site development permit will not be approved unless the monument and ground control requirements of this Code are met.

(12) Fiscal Surety and Assurance of Construction and Maintenance

The landowner or developer shall be required to comply with all the requirements for Fiscal Surety relating to Construction and Maintenance as detailed in Chapter 12.

### **Section 9.5 Streets**

(1) Purpose

- a. The purpose of this section is to ensure adequate and safe pedestrian and vehicle circulation within the City and ETJ and into adjoining areas.
- b. All developments shall provide for streets and sidewalks to serve said development in accordance with the requirements and design standards of this section and other sections or manuals, guidelines, reports, as may be referenced in this section.

(2) Adoption of City of Austin Transportation Criteria Manual

The City of Austin Transportation Criteria Manual is hereby adopted by the City of Buda for the purpose of establishing rules and regulations for the design, development, construction, alteration, enlargement, repair, conversion, improvement, use, height, width, area, and maintenance of roadways and thoroughfares until such time that the City of Buda may create and adopt a Transportation Criteria Manual or other such document regulating the design, construction, and modification of streets and sidewalks. Such portions that may be hereinafter amended, deleted, or modified by the City of Buda shall be the

governing document in the design, development, and construction of all improvements within the city limits and ETJ of the City of Buda. Where any provision of this code conflicts with a provision or requirement of the adopted City of Austin Transportation Criteria Manual, the more stringent requirements shall control.

(3) General requirements

- a. Prior to the acceptance of the street improvements by the City, the Director of Public Works or another designee of the City Manager shall conduct at least one inspection of the street improvements. This inspection shall occur upon substantial completion of the street improvement. The applicant shall notify the City that an inspection is desired at least two (2) business days prior to the need for inspection. The applicant shall provide whatever reasonable assistance the City requests in order to make the inspection and shall be present at the time of inspection.
- b. All proposed street systems or system improvements shall extend existing major streets and such existing secondary and local access streets as may be desirable for the safety, convenience, and adequacy of circulation.
- c. Per the "Interlocal Cooperation Agreement Between Hays County and the City of Buda for Subdivision Regulation within the Extraterritorial Jurisdiction of the City of Buda", All new developments shall be required to dedicate public right-of-way pursuant to the Hays County Transportation Plan, as currently revised or amended. A copy of the current Hays County Transportation Plan shall be made available at City Hall.
- d. If lots or tracts of land in a proposed subdivision are large enough to suggest further subdivision in the future, or if part the tract is not subdivided, consideration shall be given to possible future street layout, openings, and access to future lots which could result from such re-subdivision.
- e. Local streets shall be designed to discourage high-speed through traffic.
- f. The street system shall bear a logical relationship to the natural topography.
- g. Bikeways shall be provided in accordance with the requirements of this section.
- h. Right-of-way widths and locations shall be as required in this Code. Right-of-way requirements shall be applicable to each individual lot.
- i. Every lot shall have access to it that is sufficient to afford a reasonable means of ingress or egress for emergency vehicles as well as for all those likely to need or desire access to property for their intended use. Approval from City Council and the Fire Marshall must be acquired for all lots which do not have direct access to a public street.

(4) Traffic Impact Analysis

All new developments, improvements, or changes of use requiring the issuance of a permit from the city may also require a Traffic Impact Analysis (TIA) as described in Chapters 6 and 7, Site Development.

(5) Bikeways

- a. The primary function of bikeways is to carry bicycle traffic. They should not be used to carry significant pedestrian traffic unless they have been designed to do so. If designed properly, the developer may receive impervious cover credit as an incentive to include Bikeways.
- b. Bikeways shall be designed in conformance with the requirements set forth in

the City of Austin Transportation Criteria Manual.

- c. Bikeways have been classified into three types:
  - (i) Type I Off-Road Bikeway or Bicycle Path Type I Bikeways are used primarily for recreational purposes. Intersections with roadways should be minimized.
  - (ii) Type II Bicycle Lane Type II Bikeways are located within the vehicular roadway and in the outside lane and are intended for the preferential or exclusive use of bicycles. Typically, Type II Bikeways should not be used on roadways which allow parking unless designed to accommodate both uses.
  - (iii) Type III Bicycle Compatible Street Type III Bikeways are streets that do not have dedicated bikeways. Neighborhood and residential collectors often accommodate both vehicular and bicycle traffic with no extra width requirements. Nonresidential collectors and arterials will require additional width in the outside lanes of the roadway to safely accommodate both cyclists and commuters.

(6) Street Classification

a. All streets shall be classified and defined as follows:

- (i) Alley  
A public or private vehicular roadway, designed for the special accommodation of the property it serves and not intended to be used for general public use. In no case shall dead-end alleys be permitted.
- (ii) Local Side Street  
A street that is a secondary access from residential streets to collector streets or a secondary access from residential street to residential street.
- (iii) Local Street  
A street whose primary function is to serve abutting land use and traffic within a neighborhood or limited residential district. A local street is generally not continuous through several districts. (Approximately two hundred (200) to one thousand (1,000) trips per day, maximum)
- (iv) Collector  
A street whose main purpose is to collect and direct traffic from local streets to arterial streets, to carry traffic between arterial streets or to provide access to abutting commercial or industrial properties or higher intensity residential land uses. (Approximately one thousand (1,000) to five thousand (5,000) trips per day)
- (v) Arterial  
The primary function of an arterial street is to carry high volumes of through traffic. Access is usually limited to intersections and major driveways. Arterial streets serve as a link between major activity centers within and between urban areas. (Minimum five thousand (5,000) trips per day)
- (vi) Parkway  
A parkway is an arterial street with a landscaped median or with supplemental width in the landscaped right-of-way which does not have continuous frontage roads. Parkways have a greenspace buffer between the roadway and adjacent development and preserves and enhances the natural landscape as much as possible.
- (vii) Cul-de-sac

- A street which terminates in a vehicular turnaround.
- (viii) Access Road  
A street which is parallel and adjacent to an arterial street. It is designed to provide access to abutting properties so that the properties are sheltered from the effects of the through traffic on the arterial street or so that the flow of traffic on the arterial street is not impeded by direct driveway access from abutting properties. When used as a private drive, it shall be referred to as a "private parallel driveway."
- b. Whenever a street continues an existing street that formerly terminated outside the subdivision or parcel, or it is anticipated that the street will be continued beyond the subdivision or parcel at some time, the classification of the street will be based upon the street in its entirety, both within and outside of the subdivision or parcel.
- (7) Coordination with Streets in Adjacent Subdivisions
- a. The street system of a subdivision shall be coordinated with and extended directly to existing, proposed, and anticipated streets within existing and future subdivisions. All subdivision shall provide for future access, such as by stubbing streets for future extension, to adjacent vacant areas which will likely develop under a similar zoning classification or for a similar type of land use.
- b. Collector streets shall intersect with or otherwise connect directly to collector or arterial streets within adjacent subdivisions at safe and convenient locations.
- c. Collector and local streets shall connect with streets in adjacent subdivisions where necessary to permit the convenient movement of traffic through and between residential neighborhoods or to facilitate access to neighborhoods by emergency vehicles.
- d. Whenever connections to anticipated or proposed streets in adjacent subdivisions are required by this Chapter, the street right-of-way line shall be extended and the street developed to the property line of the subdivided property or to the edge of the remaining undeveloped portion of a single tract at the point where the connection to the anticipated or proposed street is expected to connect or continue. A temporary turnaround is required for any dead end street that exceeds two hundred (200) feet as measured from the centerline of the nearest intersecting street. Notwithstanding the other provisions of this subsection, no temporary dead-end street in excess of six hundred (600) feet may be created unless no other practicable alternative is available.
- e. The City Council shall require the developer to dedicate additional right-of-way as determined by the City Council and Hays County and to construct or improve that portion of existing streets and associated transportation improvements, including all underground utilities, bordering, abutting, or within a proposed subdivision.
- f. The City Council may require the developer to construct or improve portions of existing streets which do not border or abut a proposed subdivision but are clearly affected by it based on the findings of an applicable Traffic Impact Analysis.
- g. If an existing dead end street is proposed to be terminated rather than extended into a new development, the developer is responsible for creating a

permanent end to that street.

(8) General Street Layout

- a. Street intersections shall be as close to ninety (90) degrees as possible, given due regard to terrain and topography. In no case will intersections at angles more acute than seventy (70) degrees be permitted.
- b. Cul-de-sac Streets
  - (i) Unless approved by the City Engineer, cul-de-sacs shall not exceed six hundred (600) feet in length (measured from the centerline of the intersecting roadway to the center of the turnaround), and shall have a circular turnaround based on the following standards:
  - (ii) For single-family areas, a paved turnaround of at least fifty (50) feet in radius and a right-of-way of one hundred twenty (120) feet in diameter.
  - (iii) For non-residential and multi-family areas, a paved turnaround of at least sixty (60) feet in radius and a right-of-way of one hundred fifty 150 feet in diameter.
- c. “Eyebrow” or “elbow” Street Corners
  - (i) The minimum centerline radius for the eyebrow shall be fifty (50) feet.
  - (ii) From the point of intersection of the centerlines of the street sections leading into the turn, the radius to the right-of-way shall be fifty (50) feet and the radius to the edge of pavement shall be forty (40) feet.
  - (iii) The return radius of the eyebrow shall be twenty-five (25) feet.
  - (iv) The interior angle of the eyebrow shall be between eighty (80) and one-hundred (100) degrees.
- d. Street jogs with centerline offsets of more than one hundred fifty (150) feet shall be avoided unless the City Engineer determines that no other practicable alternative exists.

(9) Street Design Standards

- a. Arterial
  - (i) Minimum right-of-way of one hundred and ten (110) feet, with four (4) paved lanes totaling fifty-four (54) feet. One and a half (1.5) foot concrete ribbon curb required outside of pavement width and a minimum four (4) foot shoulder beyond the ribbon curb. No parking is allowed on this roadway section.
  - (ii) Alternate standard for arterial: Minimum right-of way width of 90 feet with two (2) paved lanes totaling forty-eight (48) feet face to face and standard six (6) inch curb and gutter. No parking is allowed on this roadway section.
  - (iii) A fifteen (15) foot wide center turning lane may be required the length of the entire roadway section or portions thereof as required by the City. The City shall base its decision on the results of applicable Traffic Impact Analyses, the number of driveways entering the roadway and other traffic considerations affecting the safety of the roadway. Ten (10) feet of additional right-of-way will be required where a center turning lane is installed.
- b. Collector
  - (i) Minimum right-of-way of seventy (70) feet, with two (2) lanes totaling 26 feet. One and a half (1.5) foot concrete ribbon curb required outside of pavement width and a minimum four (4) foot shoulder beyond the ribbon



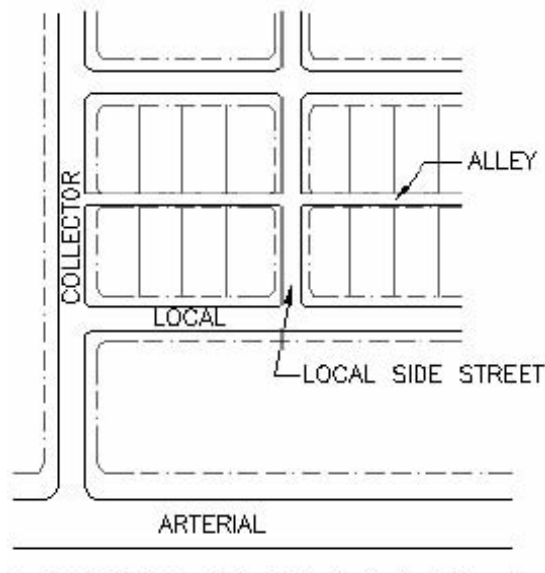
- curb.
- (ii) Alternate standard: Minimum right-of way width of sixty (60) feet with two (2) paved lanes totaling thirty (30) feet face to face and standard six (6) inch curb and gutter.
- c. Local
  - (i) Minimum of sixty (60) feet of right-of-way, with two (2) lanes totaling twenty-four (24) feet. One and a half (1.5) foot concrete ribbon curb required outside of pavement width and a minimum four (4) foot shoulder beyond the ribbon curb.
  - (ii) Alternate standard: Minimum right-of way width of fifty (50) feet with two (2) paved lanes totaling twenty-seven (27) feet face to face and standard six (6) inch curb and gutter.
  - (iii) For certain cul-de-sacs that only serve a small number of residences, a reduction in pavement width may be permitted by the City Manager subject to approval by the Fire Marshall.
- d. Local Side Street
  - (i) Minimum right-of-way width forty-six (46) feet with two (2) paved lanes totaling twenty-two (22) feet. One and a half (1.5) foot concrete ribbon curb required outside of pavement width and a minimum three (3) foot shoulder beyond the ribbon curb.
  - (ii) Alternate standard: Minimum right-of-way width forty (40) feet with two (2) paved lanes totaling twenty (20) feet and standard six (6) inch curb and gutter.
  - (iii) No parking is allowed on local side streets.
  - (iv) No lots may front on local side streets.
- e. Alley
  - (i) Minimum right-of-way width fifteen (15) feet with one (1) paved lane totaling twelve (12) feet. No curb is required.
  - (ii) No parking is allowed on alleys although garages are allowed to be located off of alleys with provision for a parking area beyond the right of way.
  - (iii) Driveway entrances shall be allowed on alleys.
  - (iv) No lots may front on alleys.
- f. Streets in High Density Developments
  - (i) The City Engineer may require that Streets and Rights of Way in areas developed for High Density, Duplex, or Multifamily residential use be three (3) feet wider to accommodate the increased demand for on-street parking.
  - (ii) As an alternative, the developer or landowner may install overflow parking in an amount equal to the square footage that would have otherwise been installed through increased pavement width.
  - (iii) This overflow parking must be located to conveniently serve the needs of residents and their guests. Depending on the arrangement of the residences, a distribution of overflow parking areas may be required.

**Table 9.8 Street Requirements**

Street Type	Min. Right of Way Width (ft)*	Minimum Pavement Width (ft)*	Sidewalk Required	Parking Allowed	Bikeway Requirement
Arterial	110	54	Both sides	No	Type II
Arterial <i>Alternate</i>	90	42	Both sides	No	Type II
Collector	70	26	Two sides	2 side	Type II-nonresidential Type III-residential
Collector <i>Alternate</i>	60	30	Two sides	2 side	Type II-nonresidential Type III-residential
Local	60	24	One side	2-side	Type III
Local <i>Alternate</i>	50	27	One side	2 side	Type III
Local Side Street	46	22	No	No	Type III
Local Side Street <i>Alternate</i>	40	20	No	No	Type III
Alley	15	12	No	No	No
Parkway	90	36 feet	Both sides	No	Type I

Roads in areas developed for High Density may require an additional R.O.W. and pavement width of three (3) feet.

**Figure 9.3 Street Layout**

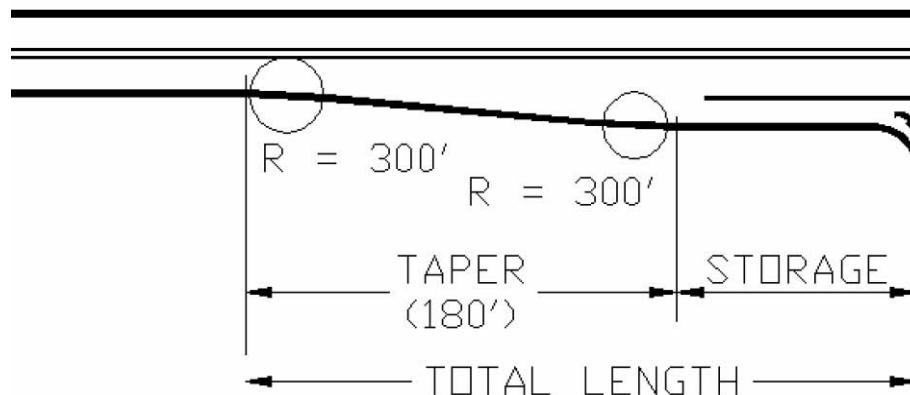


- g. Acceleration/Deceleration Lanes In cases where the City Manager or his designee recommends to the City Council that a turn lane is needed to maintain the public safety or general welfare of the community, the Council

may require that a turn lane be constructed in accordance with the following standards:

- (i) All acceleration/deceleration lanes shall be eleven (11) feet wide.
- (ii) An additional ten (10) feet of right of way shall be provided with acceleration/deceleration lanes.
- (iii) All acceleration/deceleration lanes constructed on or at intersections with state and federal roadways shall be designed in accordance with the requirements and specifications of the Texas Department of Transportation (TxDOT).
- (iv) All acceleration/deceleration lanes shall be installed with a taper and storage area.
- (v) The total length for all right turn and deceleration lanes shall be calculated as follows:
  - 1. For roadways with posted speeds forty-five (45) miles per hour and faster, the total length of the turn lane shall be:  $\text{Total Length} = 11 \times \text{Posted Speed}$
  - 2. For roadways with posted speeds under forty-five (45) miles per hour, the total length of the turn lane shall be:  $\text{Total Length} = (11 \times \text{Posted Speed}^2) / 60$
- (vi) For all areas, a tangent section of no less than ten (10) feet shall be provided from the preceding driveway curb return to the transition of deceleration lane. This distance may be extended in non-residential areas to facilitate the safe and efficient flow of traffic
- (vii) Turn and deceleration lanes shall be the responsibility of the developer and shall be paved to the standards of other City streets and roadways.
- (viii) The City Engineer may, at his discretion reduce the requirement for Total Length of an acceleration or deceleration lane.

**Figure 9.4 Acceleration/Deceleration Lane**



(10) Street Construction Standards

a. General Standards

- (i) All required street improvements shall comply with the street design specifications, as contained in the City of Austin Transportation Criteria

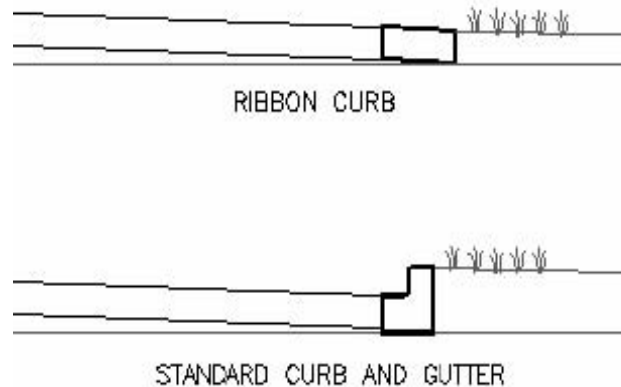
Manual by reference and included in this Code the same as if set out at length in this section. Right-of-way widths in excess of the street design specifications shall be required whenever, due to topography, additional width is necessary to provide adequate earth slopes. Where any provision of this Code conflicts with a provision or requirement of the City of Austin Transportation Criteria Manual, the more stringent requirements shall control.

- (ii) All dedicated streets within a new subdivision shall consist of a base and asphalt surface or reinforced concrete pavement. Streets shall be constructed in accordance with Section 3 “Pavement Design” of the City of Austin Transportation Criteria Manual, with exceptions to criteria as specifically noted otherwise in the City’s Unified Development Code. Subgrade stabilization using lime or cement is required for all roadways when the subgrade P.I. is equal to or greater than 20. The subgrade shall be stabilized a minimum of 3 feet behind the back of curb and a minimum of 8” in depth (as specified by the Austin Transportation Criteria Manual 3.2.0 – 4) using the percentage of treatment required by the geotechnical engineer. All fill placed in the roadway shall be compacted using a sheep foot roller in accordance with the required densities specified by the Austin Transportation Criteria Manual.
  - (iii) Pavement design standards for all streets shall meet or exceed the minimum requirements as shown in a geotechnical report, based on borings taken along the streets. The geotechnical report shall be prepared by an independent professional engineer with geotechnical engineering expertise licensed to practice in the State of Texas in strict conformance with current requirements as described in the City of Austin Transportation Criteria Manual, utilizing the street classifications in this Code. Subgrade stabilization using lime or cement is required for all roadways and shall be constructed in accordance with Section 9.5(10)a(ii) of the UDC.
  - (iv) All built streets shall undergo a certified testing after construction to assure compliance with the geotechnical survey and pavement design. The results of this testing shall be submitted to the City in addition to any other required documents.
  - (v) Alternative Surfaces: Alternative street pavement strips at intersections (crosswalks) and selected utility facility locations may be submitted for consideration to the City. Alternative pavement strips may consist of hand-laid paving blocks specifically designed for moderate-to-high speed traffic loadings and shall be segregated from adjoining pavement surfaces through the installation of a reinforced concrete ribbon. Maintenance of alternative street pavement shall be the responsibility of the developer, enforced by license agreement with the City.
  - (vi) Curbs and Gutters may be required on streets within the subdivision along lines and grades specified by the City.
- b. Street Curb Requirements
- (i) Except as otherwise provided in Subsection a., all streets shall be constructed with curb and gutter or ribbon curb and shall conform to the other requirements of this subsection. Standard 90-degree curb as specified by the City of Austin Transportation Criteria Manual shall be used, except that ribbon curb shall be permitted on condition of meeting

the minimum width and right of way requirements of this section. Street pavement widths shall be measured from curb face to curb face where 90-degree curb is used, and from the outside edge of curb to outside edge of curb where ribbon curb is used. Roll-type curb may be substituted for 90-degree curb. Pavement width on roll-type curb shall be measured from center of curb face to center of curb face.

- (ii) All streets constructed in the ETJ shall comply with the minimum requirements set forth by Hays County and the Texas Department of Transportation as necessary.
- (iii) Ribbon curb shall be one and one-half (1.5) feet wide concrete construction as specified in the City of Austin Transportation Criteria Manual.
- (iv) Curb and gutter shall be standard six (6) inch height concrete construction as specified in the City of Austin Transportation Criteria Manual.
- (v) All new curb installations shall be required to smoothly transition with existing curb installations.

**Figure 9.5 Curb Types**



- c. Relationship to topography
  - (i) Streets shall be logically related to the existing topographical conditions and shall conform as closely as practicable to the original topography.
  - (ii) Streets shall be designed to facilitate street drainage and storm water runoff and to minimize any adverse impacts of storm drainage on property downstream from the street.
  - (iii) Street grades shall be designed in accordance with the City of Austin Transportation Criteria Manual. Under no circumstances will street grades or design speeds exceed those allowed in Table 8.9 without approval by City Engineer.

**Table 9.9 Street Speed and Grade Requirements**

Street Type	Minimum Design Speed (MPH) <sup>1</sup>	Maximum Street Grade
Arterial	50	7%
Collector	40	9%

Local	30	12%
Local Side Street	25	12%
Alley	15	10%
Cul-de-Sac	25	12%
Parkway	45	10%
<sup>1</sup> Design Speed shall be at least five (5) mph greater than posted speed.		

(11) Street Crosswalks

- a. Crosswalk right-of-ways a minimum of four (4) feet in width shall be dedicated where deemed necessary by the City Council as recommended by the Planning and Zoning Commission to provide safe and convenient circulation or access to: schools, parks and playgrounds, commercial centers, shopping centers, parking lots, and transportation and other community facilities, or to provide safe and convenient pedestrian circulation within a subdivision.
- b. Crosswalk ways shall be clearly marked with pavement marking in compliance with the requirements set forth in Section 8.6(12).
- c. City Council may require the subdivider or site developer to dedicate a crosswalk way with a width of greater than four (4) feet and/or provide alternative crosswalk surfacing if it is deemed necessary for pedestrian safety and convenience.

(12) Driveway Construction Standards

- a. All driveway entrances and other openings onto streets within the city’s jurisdiction shall be constructed in accordance with the requirements of the City of Austin Transportation Criteria Manual, this section, and Section 7.8, Parking.
- b. Approval from the City Engineer must be obtained for the installation of driveways in a public right of way.
- c. No driveway shall be constructed within one hundred fifty (150) feet of a signalized intersection, or within thirty-five (35) feet of the curb return of a street intersection or within thirty-five (35) feet of the radius of the edge of pavement or traveled street at an intersection on a curve.
- d. All Driveways directly accessing a State Highway shall be reviewed by TxDOT and must have a TxDOT permit before plan approval.

(13) Driveway Design Standards

a. General Driveway Design

Driveways and other openings shall be designed so that:

- (i) Driveways shall be designed and constructed so that stormwater runoff into public streets and standing water is minimized.
- (ii) Vehicles can enter and exit from the lot in question without posing any substantial danger to themselves, pedestrians, or vehicles traveling in abutting streets.
- (iii) Interference with the free and convenient flow of traffic, pedestrian and vehicular, is minimized.
- (iv) The lowest grade possible is used, necessitating, in some cases, switchback type designs. In no case shall a grade of more than fifteen

- (15) percent be permitted.
  - (v) Fire apparatus access lanes shall be designed and maintained to support the imposed loads of fire apparatus (80,000 lbs. gross vehicle weight) and shall be provided with a surface so as to provide all-weather driving capabilities.
  - (vi) The installation of drainage culverts may be required to provide adequate drainage and storm water flow.
  - (vii) Whenever a subdivision that involves the creation of one or more new streets borders on or contains an existing or proposed arterial street, no direct driveway access may be provided from the lots within this subdivision to the arterial.
- b. Residential driveway design and construction standards
- (i) Driveways shall be constructed using reinforced Portland concrete pavement of at least four (4) inches in depth, containing a minimum of four (4) sacks of cement per cubic yard and shall obtain a minimum compressive strength of three thousand five hundred (3,500) pounds per square inch in twenty-eight (28) days.
  - (ii) Alternative pavement strips may be submitted for consideration to the City. Alternative decorative pavement strips may consist of a dust-free, well draining surface including gravel or other crushed stone material, or hand laid paving blocks. Maintenance of alternative pavement shall be the responsibility of the developer, enforced by maintenance agreement with the City.
  - (iii) Driveway pavement width on the public right-of-way for single family residences shall be a minimum of twelve (12) feet with a maximum of thirty (30) feet. Fifteen (15) feet is recommended.
  - (iv) No residential driveways shall front onto an arterial.
  - (v) Common driveways
    1. Common, or shared, driveways are encouraged and may be approved provided a permanent access easement has been granted to each property owner to use the portion of driveway on the other lot.
    2. Common driveways shall be a minimum width of fifteen (15) feet.
    3. Common drives serving three or more residences shall provide a turnaround for fire apparatus acceptable to the Fire Marshall.
- c. Non-residential and multifamily driveway design and construction standards.
- (i) A minimum spacing between driveways of two hundred (200) feet is required.
  - (ii) Single lane driveways shall be no less than fourteen (14) feet in width.
  - (iii) Two (2) way entrances shall be no less than twenty-four (24) feet in width.
  - (iv) Driveways shall not be located within the minimum side setback required for the zoning district and land use where the driveway is located unless approved by City Engineer.
  - (v) Connecting drive aisles between adjacent properties are encouraged and in some cases may be required by the City Manager as a condition of approval.
  - (vi) Non-residential and multi-family driveways serving more than eight (8) residences are not permitted to access local residential streets.
  - (vii) Driveways from arterials and residential or commercial collectors shall either line up with or be offset from opposing driveways sixty (60) feet

from driveway edge to driveway edge. Requirements do not apply to parkways with medians and arterials with continuous center turning lanes.

- (viii) Townhouse drive aisles shall be reinforced Portland concrete. Alternative decorative surfaces, as described above, may be permitted by the City Manager.
- (ix) Non-residential and multi-family drive aisles, except for townhomes, inside the property line shall be constructed according to one of the following standards:
  1. Asphalted Surface Types: Hot mix asphalt concrete pavement, or an approved equal, laid at the rate of one hundred fifty (150) pounds per square yard, providing a pavement of two (2) inches depth with a minimum of eight (8) inches compacted flexible base; or
  2. Reinforced Portland Concrete: Reinforced Portland concrete pavement of six (6) inches depth, containing a minimum of five (5) sacks of cement per cubic yard and shall attain a minimum compressive strength of three thousand five hundred (3,500) pounds per square inch in twenty-eight (28) days.
  3. Alternative Decorative Surfaces: Alternative decorative pavement strips may be submitted for consideration to the City. Alternative decorative pavement strips may consist of hand-laid paving blocks specifically designed for moderate-to-high speed traffic loadings and shall be segregated from adjoining pavement surfaces through the installation of a reinforced concrete ribbon. Maintenance of alternative pavement shall be the responsibility of the developer, enforced by maintenance agreement with the City.

(14) Sidewalk Construction Standards

- a. Sidewalks shall be constructed in accordance to the specifications set forth in the City of Austin Transportation Criteria Manual.
- b. The sidewalks required by this section shall be at least four (4) feet in width or wider as specified elsewhere in this Code.
- c. Sidewalks six (6) feet wide shall be installed along both sides of all arterials and collectors and on pedestrian paths as may be required under Chapter 5 of this Code, except as noted otherwise.
- d. The City Engineer may recommend, and the City Council may permit the installation of walkways constructed with other suitable materials when it concludes that:
  - (i) Such walkways would serve the residents of the development as adequately as concrete sidewalks; and
  - (ii) Such walkways would be more environmentally desirable or more in keeping with the overall design of the development
  - (iii) Provisions for permanent maintenance of the sidewalk have been satisfied.

(15) Sidewalk Design Standards

- a. In order to facilitate pedestrian access from the streets to schools, parks, playgrounds, open space corridors, commercial and retail centers, or other nearby streets, the City Engineer may require that sidewalks be installed along certain streets.



- b. Sidewalks shall not immediately abut streets and shall be separated from the street surfaces to the maximum extent possible allowing for right-of-way width, shoulders, drainage ways, etc. Sidewalks shall be separated from the surfaces by a minimum of four (4) feet unless otherwise approved by the City Engineer.
- c. Whenever curb and gutter construction is used on public streets, wheelchair ramps for the handicapped shall be provided at intersections and other major points of pedestrian flow. Wheelchair ramps and depressed curbs shall be constructed in accordance with the requirements of the City of Austin Transportation Criteria Manual.
- d. Whenever the City Council finds that a development requires a means of pedestrian access from that development to schools, parks, playgrounds, or other roads or facilities and that such access is not conveniently and safely provided by sidewalks adjacent to streets, the developer may be required to reserve an unobstructed easement of at least ten (10) feet in width to provide such access.
- e. The pedestrian paths to be constructed through the midsection of long residential blocks, as may be required by Chapter 5 of this Code, shall be designed to provide continuous access through the neighborhood by connecting to and aligning with similarly situated pedestrian paths on adjoining blocks and by connecting with sidewalks along the block face.
  - (i) A minimum of fifteen (15) feet of right-of-way shall be required, with landscaping and provisions for drainage on both sides of the pavement.
  - (ii) Pavement shall be six (6) feet in width, terminating at sidewalks on each block face, and constructed of reinforced Portland concrete pavement in accordance to the specifications set forth for sidewalk construction in the City of Austin Transportation Criteria Manual, except that the City Engineer may recommend, and the City Council may permit the installation of pedestrian paths constructed with other suitable materials when it concludes that:
    - 1. Such paths would serve the residents of the development as adequately as concrete sidewalks; and
    - 2. Such paths would be more environmentally desirable or more in keeping with the overall design of the development.
  - (iii) For certain pedestrian paths that only serve a small number of residences, a reduction in pavement width may be permitted by the City Manager.
  - (iv) Provisions for permanent care and maintenance of the pedestrian path and right-of-way shall be made and approved by the City Manager prior to approval of the final plat.

#### (16) Street Lights

Street lights shall be installed by the subdivider or site developer at major street intersections within the subdivision or site development and at major intersections on the boundaries of the subdivision in accordance with the requirements set forth in this Code, Section 7.10 Lighting, as deemed appropriate by the City Council.

#### (17) Street Signs

Street signs shall be installed by the subdivider at all intersections within, or abutting the subdivision in accordance with the City of Austin Transportation Criteria Manual and the most recent edition of the Texas Manual on Uniform Traffic Control Devices.

(18) Street Names

Names of new streets shall not duplicate or cause confusion with the names of existing streets, unless the new streets are a continuation of or in alignment with existing streets, in which case the names of the existing streets shall be used. Street names shall be compatible with the Hays County 911 service.

(19) Street Marking

Street marking shall be applied by the subdivider in compliance with requirements set forth in the City of Austin Transportation Criteria Manual and the most recent edition of the Texas Manual on Uniform Traffic Control Devices.

(20) Private Streets

- a. All private streets shall conform to the same standards as set out herein for public streets. Private streets shall not be included to meet minimum lot sizes.
- b. Speed limits for private streets shall be set according to the American Association of State Highway and Transportation Officials (AASHTO) standards.
- c. Gated communities have the following additional requirements:
  - (i) A minimum one hundred (100) foot queuing distance from the gate to an intersecting exterior right-of-way.
  - (ii) A paved circular turnaround on the public side of the gate of at least one hundred (100) feet in diameter and a right-of-way of at least one hundred thirty (130) feet in diameter.

(21) Fire Access

a. General Requirements

- (i) Fire apparatus access lanes shall be provided for every facility, building or portion of a building hereafter constructed when any portion of the facility or any portion of an exterior wall of the first story of the building is located more than one hundred fifty (150) feet from fire apparatus access as measured by an approved route around the exterior of the building.
- (ii) More than one fire apparatus lane shall be provided when it is determined by the Fire Marshall that access by a single road might be impaired by vehicle congestion, condition of terrain, climatic conditions or other factors that could limit access.
- (iii) Fire apparatus access lanes between aisles of parking or under porte-cocheres not providing direct access to fire apparatus need not be designated as fire lanes.
- (iv) When fire lanes cannot be installed due to building location on property, topography, waterways, non-negotiable grades or other similar conditions, the Fire Marshall is authorized to require additional fire protection measures.
- (v) When access to or within a structure or an area is unduly difficult because of secured openings or where immediate access is necessary for

life-saving or firefighting purposes, the Fire Marshall is authorized to require a key box to be installed in an accessible location. The key box shall be of a type approved by the Fire Marshall and shall contain keys to gain necessary access as required by the Fire Marshall.

- (vi) Existing improved sites shall be reviewed by the Fire Marshall and compliance with this subsection shall be met to the greatest extent possible.
  - (vii) All other standards and requirements of the Northeast Hays County Rural Fire Prevention District shall be met. All onsite improvements and facilities needed to provide emergency service and firefighting capability for new developments shall be provided by the developer.
  - (viii) Developers shall obtain design criteria and plan approvals from the Hays County Emergency Service District No. 8 and provide evidence of such approval in advance of seeking final plat or site development permit approval.
  - (ix) The designation of fire lanes does not make the City responsible for the maintenance of the fire lanes on private property. The owner of the property continues to be responsible for the maintenance of the area. The official record of the designation and location of the fire lanes shall be kept in the office of the Fire Marshall.
- b. Specifications
- (i) Fire apparatus access lanes shall have an unobstructed width of not less than fifteen (15) feet and an unobstructed vertical clearance of not less than fifteen (15) feet.
  - (ii) Vertical clearances or widths shall be increased when, in the opinion of the Fire Marshall, vertical clearances or widths are not adequate to provide fire apparatus access.
  - (iii) Fire access lanes shall have a minimum twenty (20) foot inside and forty (40) foot outside corner radius.
  - (iv) Dead-end fire apparatus access lanes in excess of one hundred fifty (150) feet in length shall be provided with approved provisions for the turning around of fire apparatus. The turning radii and configuration shall be approved by the Fire Marshall.
  - (v) Fire apparatus access lanes shall be designated as tow away zones, clearly identified, properly marked and maintained to prevent obstruction by parking or any other obstruction. The Fire Marshall shall give notice of the designation to the owner of the property, directing the owner to cause, at the expense of the owner, markings to be painted on any areas designated as the fire lane. The markings must be red with white stenciling reading "FIRE LANE/TOW AWAY ZONE" in lettering at least three (3) inches in height. The stenciling shall be at intervals of thirty-five (35) feet or less. In addition, the owner shall cause signs to be posted at both ends of a fire lane and at intervals of 50 feet or less. Alternative marking of fire lanes may be approved by the Fire Marshall provided fire lanes are clearly identified at both ends and at intervals not to exceed thirty-five (35) feet.
  - (vi) Fire apparatus access lanes shall be designed and maintained to support the imposed loads of fire apparatus (80,000 lbs. gross vehicle weight) and shall be provided with a surface so as to provide all-weather driving capabilities.

(22) Utility requirements in roadways

Utilities installed in public rights-of-way or along private roads shall conform to the requirements set forth in this Code and the City of Austin Construction Standards Manual.

### **Section 9.6 Utilities**

(1) Purpose and Intent

The purpose of this section is to ensure the standardization and adequacy of utility design and construction. This will afford adequate provision of service to community residents and facilitate future utility improvement.

(2) Wherever practicable with regards to topography and other constraints, all major utility service facilities shall be installed in the public right-of-way along the roadway. Individual service connections to end users may be installed out of the public right of way.

(3) Water and Wastewater Utilities See Section 9.7 Water and Wastewater for requirements pertaining to Water and Wastewater utilities.

(4) Utility ownership and Easement Rights

a. In any case in which a developer installs or causes the installation of water, sewer, electrical power, telephone, or cable television, or other telecommunication facility and intends that such facility shall be owned, operated, or maintained by a public utility or any entity other than the developer, the developer shall transfer to such utility or entity the necessary ownership or easement rights to enable the utility or entity to operate and maintain such facilities.

b. Any installation of water, sewer, electrical power, telephone, or cable television, or other telecommunication facility shall be coordinated with the City. Any developer installing or causing the installation of such utilities shall acquire the appropriate licenses required by the City prior to utility construction or installation.

c. When a developer will be completing a development in phases, and when utility services are planned to be extended through the completed development for connection to properties beyond the development. The City may require an immediate dedication of the entire easement to ensure the orderly construction and extension of utility services in the areas beyond the developer's tract.

(5) Utility Lines Under Paved Streets

a. All utility lines planned to be constructed under a paved street shall be installed before the street is paved. All utility lines installed under an existing paved street shall be installed by boring to a point at least three (3) feet beyond the edge of pavement and must be approved in advance by the City Engineer or City Council.

b. Whenever it shall be necessary for an owner or developer of property described above to extend existing utility lines across an intervening property

or right-of-way not belonging to said owner the requirements of this section shall apply to the placement of all poles, overhead wires, associated structures, and utility lines across such intervening property or right-of-way.

(6) Utility Installation Standards

- a. All new utility installations and modifications to existing utility facilities shall maintain the minimum vertical and horizontal separations from all other utilities required by the owner of said utilities and shall be installed in accordance with all applicable federal, state, and local laws.
- b. When any new development takes place on any property within the City which either has been subdivided into two (2) or more lots, or is zoned or rezoned for commercial, office, multifamily, or industrial use, the owner or developer of any such lot shall refrain from constructing poles and installing overhead wires and associated structures, and instead, shall place all utility lines underground in accordance with sound engineering principles and in conformance with all building codes adopted by the City.

(7) Responsibility

All expenses for installation of utilities and for construction costs associated with placing utility lines underground shall be borne by the developer of the lot or utility owner.

- (8) Existing utility easements shall be vacated, partially or wholly, upon dedication of public right-of-way.

### **Section 9.7 Water and Wastewater Utilities**

(1) Purpose

The purpose of this section is to ensure the adequate provision of water and wastewater service to residents within the City and to protect the health, safety, and welfare of the community through standardization and quality of water and wastewater utilities design and construction.

(2) General

a. TCEQ

The Rules and Regulations of the Texas Commission on Environmental Quality (TCEQ), formerly Texas Natural Resource Conservation Commission (TNRCC), as published and adopted shall be the minimum standards for the design, installation, and regulation of water and wastewater facilities in the jurisdiction of the City of Buda.

b. Inspection, Certificate of Occupancy and Appeal

- (i) Prior to the issuance of a Certificate of Occupancy, the Director of Public Works or another designee of the City Manager shall conduct at least two inspections of the water and/or wastewater system. One inspection shall occur after completion of the installation of underground facilities but prior to backfilling of any soil. The second inspection shall occur upon completion of the entire system but prior to its operation. The applicant or registered installer shall notify the City that an inspection is desired at least five (5) business days prior to the need for inspection. The applicant

- or registered installer shall provide whatever reasonable assistance the City requests in order to make the inspection and shall be present at the time of inspection.
- (ii) The Director of Public Works Public Works for the City or his designee shall have the authority to approve or disapprove of the system; and if he determines that there are materials, construction, or installation practices that are not in compliance with the requirements of this Code, then the City shall have the right to cause all development related work to cease and desist until the City determines that the work can be or has been brought into compliance with applicable City regulations.
- c. Water and wastewater facility installation and improvements determined to be in the Recharge Zone of the Barton Springs region of the Edwards Aquifer of this Code shall be designed and constructed in accordance with the increased requirements developed by the TCEQ and Hays County for all water and wastewater facility improvements in the Recharge Zone in addition to any other requirements adopted by the City.
  - d. All developments in the City limits and ETJ shall be designed and sited in a manner that enables, to the maximum extent practicable, the connection to the City's water and wastewater system, regardless of whether such connection is to be completed at the time of permit issuance. Further, all developments that are designed to be served by on-site sewage facilities shall be designed to allow, to the maximum extent practicable, the future extension of gravity sewer lines along the property lines and the connection of individual wastewater lines from such developments to the City sewer by gravity flow.
- (3) Adoption of City of Austin Utilities Criteria Manual
- a. The City of Austin Utilities Criteria Manual and City of Austin Standard Details Manual are hereby adopted by the City of Buda for the purpose of establishing rules and regulations for the design, development, construction, alteration, enlargement, repair, conversion, improvement, use, and maintenance of water and wastewater facilities until such time that the City of Buda may create and adopt a Utilities Criteria Manual and Standard Details Manual or other such document regulating the design, construction, and modification of water and wastewater facilities. Such portions that may be hereinafter amended, deleted, or modified by the City of Buda shall be the governing document in the design, development, and construction of all improvements within the city limits and extraterritorial jurisdiction of the City of Buda. Where any provision of this code conflicts with a provision or requirement of the adopted City of Austin Utilities Criteria Manual and City of Austin Standard Details Manual, and/or the TCEQ rules, the more stringent requirements shall control.
  - b. For the purposes of this Ordinance, all references within the City of Austin Utilities Criteria Manual and City of Austin Standard Details Manual to "City of Austin" or "City" shall mean "City of Buda"; likewise all references to "Water and Wastewater Utility", "Utility", "Public Works Department", or "Watershed Protection and Development Review Department" or any administrative subunits of these entities or their successors shall mean "City of Buda Public Works Department and/or City Engineer" unless noted otherwise herein. All addresses, telephone numbers, or contact information in the City of Austin Utilities Criteria Manual and City of Austin Standard Details Manual shall be

- replaced by the corresponding information for the City of Buda Public Works Department.
- c. All water and wastewater fees and rates shall be as established by the ordinances of the City of Buda; likewise all references in the City of Austin Utilities Criteria Manual and City of Austin Standard Details Manual to additional City of Austin ordinance provisions shall be valid unless superseded by any relevant conflicting City of Buda ordinance provisions; likewise references to all forms, including but not limited to Application Forms, shall be construed to mean those corresponding forms used by the City of Buda.
  - d. Section 2.3.1.D.3 of the City of Austin Utilities Criteria Manual, referring to examination of Plumbing Inspectors administered by the City, shall be deleted.
  - e. The City of Austin "Standard Products List" shall mean products approved for installation by the City of Buda Public Works Department and/or City Engineer.
  - f. Section 2.5.1.D of the City of Austin Utilities Criteria Manual, shall be deleted and replaced with: "A Development Permit must be obtained from the office of the City Manager prior to final plan approval."
  - g. The first sentence of Section 2.6.1.A of the City of Austin Utilities Criteria Manual, shall be deleted and replaced with: "Four (4) sets of signed plans are required." The last sentence of section 2.6.1.B of the City of Austin Utilities Criteria Manual, shall be deleted and replaced with: "For reviews occurring during the construction phase, four (4) copies of the revised plans are required." 2.6.1.E of the City of Austin Utilities Criteria Manual, shall be deleted and replaced with: "The contractor shall call the One Call Center for information on existing buried utilities. If sufficient information is not available through the One Call Center, the contractor shall be responsible for contacting each individual potential utility provider for information on existing buried utilities."
  - h. The first sentence of section 2.7.1.A.1 of the City of Austin Utilities Criteria Manual, shall be deleted and replaced with: "The Public Works Director and/or City Engineer at their discretion may require a cost benefit analysis of gravity versus lift station costs including long term operation and maintenance of the proposed system."
  - i. The first sentence of section 2.7.1.B of the City of Austin Utilities Criteria Manual shall be deleted and replaced with: "Prior to construction two (2) complete sets of the plans and specifications shall be submitted to the Public Works Department for review and approval."
  - j. The first sentence of section 2.7.1.C of the City of Austin Utilities Criteria Manual, shall be deleted and replaced with: "All plans and specifications for lift stations within the City of Buda extra territorial jurisdiction (ETJ), submitted for review and approval, must demonstrate compliance with current TNRCC requirements, as well as those aspects of the City of Austin Water and Wastewater Utility Design Criteria and standard lift station specifications required herein."
  - k. The second paragraph of section 2.9.1, Introduction, referring to City of Austin Standard Specifications, shall be deleted and replaced with " All project manuals shall include either the appropriate City of Austin Standard Specifications, or else other Specifications acceptable to and approved by the

City of Buda Public Works Department and City Engineer. All projects shall be built in accordance with the City-reviewed and approved specifications. All variances to the approved specifications are subject to the approval of the City of Buda Public Works Department and City Engineer. Additional requirements for specific projects may be established where the conditions of service to the tract and related system operation and maintenance needs warrant."

- l. Section 2.9.2.A.1.a of the City of Austin Utilities Criteria Manual, shall be deleted and replaced with: "The Hazen-Williams "C" factor used for calculating friction losses shall be appropriate to the type of pipe and shall include consideration of the effects of increased pipe roughness over time due to aging. The engineering report shall include specific reference to a text, article, test data that serves as the basis for selection of the "C" factor. The "C" factor used for design will be subject to approval by the City Engineer." Section 2.9.2.A.1.e shall be revised to read "Maximum static pressure = 120."
- m. The first two sentences of section 2.9.2.B.1 of the City of Austin Utilities Criteria Manual, shall be deleted and replaced with: " Minimum main size shall be 8 inches for lines that in the judgment of the City Engineer might be extended or looped in the future, with consideration of 6-inch or 4-inch pipe for lines that will not be extended or looped, provided all other capacity requirements are met. All dead-end lines must include a fire hydrant or flush valve at the end of the line."
- n. The following shall be added at the end of section 2.9.2.B.4 of the City of Austin Utilities Criteria Manual: "The City of Buda Public Works Department or City Engineer may require air release valve on lines less than 16-inch diameter on a case-by-case basis."
- o. The first sentence of section 2.9.2.C.3 of the City of Austin Utilities Criteria Manual, shall be deleted and replaced with: " At dead ends of lines that in the judgment of the City Engineer might be extended or looped in the future, gate valves shall be located one (1) pipe length (10-ft. minimum) from the end points of the main. The following shall be added at the end of section 2.9.2.C.3: "Mechanical joint restraints shall be provided and concrete thrust-block shall not be allowed at the end of dead end lines that in the judgment of the City Engineer might be extended or looped in the future."
- p. Delete section 2.9.3.A.3 of the City of Austin Utilities Criteria Manual and replace with the following: "Strict attention shall be given to minimizing inflow and infiltration in the design of sewers. In sizing sewers, external contributions (infiltration and inflow) shall be accounted for in the design by using either City of Austin criteria, or TCEQ allowable infiltration test values, or another method acceptable to the City Engineer."
- q. Add the following to the end of section 2.9.3.D.4 of the City of Austin Utilities Criteria Manual: "The requirement for corrosion-resistant coating of manholes may be waived at the discretion of the City Public Works Director and/or City Engineer, for manholes that in the judgment of the City Engineer are sufficiently far upstream in the collection system that sulfide generation is not likely to cause corrosion of the manhole, and no future upstream extension is anticipated."
- r. Add the following at the beginning of section 2.9.3.F of the City of Austin Utilities Criteria Manual: "Inverted siphons shall not be allowed in the City of Buda or its ETJ unless specifically approved by the Public Works Director and the City Engineer."



- s. Delete the language of section 2.9.3.H in its entirety, and replace with the following:
- (i) "2.9.3.H Lift Stations (excluding low pressure sewer systems and services)" Lift stations will be allowed only where the City Public Works Director and/or City Engineer concur that conventional gravity service is not feasible. The City Public Works Director and/or City Engineer may at their discretion require a cost analysis to demonstrate that lift station installation cost plus long term operations and maintenance expense is less than installation cost for a gravity system."
  - (ii) The firm capacity duty point for lift station design shall be at least the cumulative wet weather peak flow for the upstream gravity collection system. Lift stations shall be designed with provisions for future expansion, to be able to serve the buildout condition of the lift station's service area based on the sewershed topography for gravity collection."
  - (iii) All lift stations constructed within the City or its ETJ, unless privately owned and operated, must meet TNRCC design criteria. All lift stations shall at a minimum include four feet of storage volume above the normal high-water level without overflowing the lift station or collection system, and shall be equipped with a functional alarm autodialer, telephone line, and quick-connect power terminals (of a type approved by the City Public Works Director and/or City Engineer) for a portable emergency power generator. Lift stations shall be provided with a corrosion resistant coating for all interior structures constructed at an elevation higher than two feet below the normal minimum water level. Lift stations shall be designed and constructed to allow removal of pumps using City equipment; however, if the weight of the pumps exceeds the capacity of City equipment, the lift station shall be provided with a hoist on site for pump removal. The Director of Public Works or his designee may impose additional design requirements for individual lift stations, including but not limited to additional monitoring and alarms, additional emergency power provisions, or additional odor control and corrosion protection, as size and location conditions warrant."
- t. Delete the language of section 2.9.3.I in its entirety, and replace with the following:
- (i) "2.9.3.I Low Pressure Sewers and Grinder Pump Service Connections" Low pressure sewer systems are generally prohibited in the City of Buda and its ETJ but may be approved by the City Public Works Director and/or City Engineer on a case-by-case basis. Pressure sewers shall not be used unless conventional gravity wastewater collection in combination with central-sewer lift stations is infeasible. The City Public Works Director and/or City Engineer may at their discretion require a cost analysis to demonstrate that pressure sewer system installation cost plus long term O&M expense is less than installation cost for a gravity system."
  - (ii) Low pressure sewer system designs, if allowed on a case-by-case basis, shall comply with all TNRCC design requirements including provisions for maintenance access, and shall include designation of a responsible management entity other than individual property owners, which will be responsible for maintenance of the individual grinder pump stations."
  - (iii) Low pressure sewer system designs, if allowed on a case-by-case basis, shall include check valves and isolation valves of a type approved by the

City Public Works Director and/or City Engineer at each service connection and at each junction of pressure sewer lines. Pressure sewer systems shall be constructed of corrosion-resistant materials. Air release valves shall be provided at high points and shall be equipped with odor control for discharge if air and liquid consisting of, at minimum, a manual perforated-pipe soil absorption bed. The design shall include provisions for joint restraint at all bends, ends, and intersections, and provisions for flexure at all junctions and service connections to accommodate differential settlement. All service connections to a low-pressure sewer system must be equipped either with an approved grinder pump, or else an approved septic tank effluent pump and septic tank effluent filter. Pumps for pressure sewer systems shall be of a standardized type, as selected and approved by the Public Works Director and/or City Engineer. Pressure sewer systems of greater than 10 service connections, or connected to a force main that is also connected to a central lift station, shall utilize semi-positive displacement pumps in lieu of centrifugal pumps. Service connection pumps shall include an audible-visible alarm panel located so as to be audible and visible from a street or public area.”

- (iv) Individual grinder pump service connections to gravity sewers are generally prohibited in the City of Buda and its ETJ but may be approved by the City Public Works Director and/or City Engineer on a case-by-case basis. Grinder pump service connections shall not be used unless a conventional gravity service connection is infeasible. Individual grinder pump service connections to gravity sewers are not considered to be low pressure sewers. The responsibility of ownership and maintenance for such service connections and pumps shall remain with the individual property owner; however, as a condition of approval, the property owner shall provide easements or other method of access for the City and shall sign a binding agreement allowing the City to enter the property and/or shut off service in order to correct service connection overflows, line breaks, or other emergency malfunctions. The agreement shall further stipulate that any such correction by the City of an emergency malfunction, whether requested by the property owner or not, shall be at the property owner's sole expense and shall be reimbursable to the City as a condition of continued service.”
- (v) All individual grinder pump service connections to gravity sewers, if allowed on a case-by case basis, shall be made to manholes rather than to lines. Such service connections shall include check valves and isolation valves of a type approved by the City Public Works Director and/or City Engineer, and shall be constructed of corrosion-resistant materials. The design shall include provisions for joint restraint at all bends, ends, and intersections, and provisions for flexure at all junctions and service connections to accommodate differential settlement. All pressure service connections to a gravity sewer system must be equipped either with an approved grinder pump, or else an approved septic tank effluent pump and septic tank effluent filter. Pumps for pressure service connections to gravity sewers shall be of a standardized type, as selected and approved by the Public Works Director and/or City Engineer. Pumps for pressure service connections to gravity sewers shall include an

- audible-visible alarm panel located so as to be audible and visible from a street or public area."
- u. Developments Not Connected to City of Buda Water and/or Wastewater At a minimum, all new development and/or improvement of water and/or wastewater systems within the City Limits or ETJ of the City of Buda not connected to City of Buda water and/or wastewater service shall be required to comply with the requirements of the City of Buda water line construction rules and rules of Hays County for On-Site Sewage Facilities.
  - v. For purposes of this article, a lot is "served" by city-owned water or sewer line if connection is required by this section.
- (4) Wastewater
- a. Design
    - (i) All on-site wastewater installations shall be designed by a Licensed Professional Engineer registered to practice in the State of Texas or a Registered Sanitarian registered to practice in the State of Texas. The Engineer or Sanitarian shall provide a letter certifying that the completed construction of the wastewater system meets the minimum State of Texas, and Hays County Standards. Whenever the standards and specifications of the Hays County, and the State of Texas conflict, the more restrictive requirements shall govern.
    - (ii) All wastewater extensions and connections to the City wastewater system shall be designed in accordance with the City of Austin Utilities Criteria Manual, Section 2, "Water and Wastewater Design Criteria" and the City of Austin Standards and Specifications Manual, except as noted herein.
    - (iii) In the case of new construction of residential or commercial buildings, the Certificate of Occupancy shall not be granted until the letter from the designing Engineer or Sanitarian certifying that the wastewater system is constructed according to the minimum standards of the State of Texas, the City of Buda, and Hays County, whichever are more restrictive, is received by the City, and the Director of Public Works or another designee of the City Manager has approved the system.
    - (iv) A written appeal may be made to the City Council of a decision by the Director of Public Works or another designee of the City Manager for the City to reject a request for a Certificate of Occupancy within ten (10) days of the rejection of the Certificate request. The appeal will be acted upon at the following meeting of the City Council.
  - b. Permits
    - (i) A permit for the construction of a wastewater collection system and/or service connection shall be required.
    - (ii) Three (3) copies of the plans for the wastewater collection system and/or service connection including a plat showing the location of the system shall be required. The plans shall show the seal of the engineer or sanitarian responsible for the design.
    - (iii) The City Engineer shall review the plans for the proposed wastewater collection system and/or service connection and recommend issuance of a permit if he determines that the plans are in compliance with the all the requirements set forth herein.
  - c. Connection to City of Buda Wastewater Collection System Required.
    - (i) Wherever it is legally possible and practicable in terms of topography to

connect a lot with a city wastewater line by running a connecting gravity or pressure line not more than five hundred (500) feet from the lot to such line, then a Certificate of Occupancy may not be granted until such time that connection is made to such line.

- (ii) Connection to such wastewater line is not legally possible if, in order to make connection with such line by a connecting gravity or pressure line that does not exceed five hundred (500) feet in length, it is necessary to run the connecting line over property not owned by the owner of the property to be served by the connection, and after diligent effort, the easement necessary to run the connecting line cannot reasonably be obtained.
  - (iii) An owner of improved real property may be excused from compliance with this subsection if the owner has received a written determination from the City Engineer that it is not feasible for the domestic sewage facilities on the owner's property to be connected with the City's wastewater collection system.
  - (iv) Connection of uses to the City's wastewater collection system shall be made in the most direct manner practicable, and a separate connection to the system is required for each building.
  - (v) The owner of a tract of property is responsible for all the costs of connecting the property to the organized system
  - (vi) It is unlawful for any person to use or maintain a cesspool or pit privy within the jurisdiction of the City. Developments within the ETJ must comply with the requirements of Hays County and the State of Texas pertaining to cesspools and pit privies. It shall be unlawful for any person to use or maintain any wastewater facility not permitted and/or not constructed in accordance with applicable state rules at the time of construction.
- d. Sewage Disposal Facilities Required
- Every principal use and every lot within a subdivision shall be served by a sewage disposal system that is adequate to accommodate the reasonable needs of such use or subdivision lot and that complies with all applicable health regulations.
- e. On-site Sewage Facilities
- (i) General Requirements. All systems shall be designed in compliance with the "Design Criteria for On-Site Sewage Facilities," Texas Administrative Code 30 TAC 285.1-285.91 and the Hays County "Rules for On-Site Sewage Facilities."
  - (ii) Specific requirements for the Edwards Aquifer Recharge Zone. Lots determined to be on the Edwards Aquifer Recharge Zone as depicted on the official map of the TCEQ which will not be connected to the City's wastewater system shall have an area of least one (1) acre. When it is difficult to determine from the maps of the TCEQ whether particular lots lie within the Recharge Zone, the City may make the determination, based upon a geological inspection of the site by a professional geologist competent to perform this task. The geologist shall be approved by the City Council prior to conducting the inspection and the inspections shall be conducted at no cost to the City.
  - (iii) Inspection of new facilities
    1. All new on-site sewage facilities shall be inspected as set forth in

- Section 9.7(2)b.
2. Upon satisfactory evidence that a new on-site sewage facility has been properly designed and constructed and completed in compliance with this Section, and that all other applicable federal, state, county, and local regulations have been complied with, the City shall issue a final permit to maintain and operate said facility.
  3. Should ownership of any property served by an on-site sewage facility installed or constructed under the provisions of this section be transferred, the new property owner, within thirty (30) days of the change of ownership, shall renew either the construction permit or the maintenance and operation permit; and the terms and conditions of said permits shall be binding upon all successors in interest to the property.
- (iv) System Monitoring and Alarm All on-site sewage systems shall be required to have a separate monitoring and emergency alarm system installed by the owner of the facility and approved by the City. Further, any on-site sewage system that requires the use of an electric energy source for aeration, grinding, pumping, or other such purposes shall be installed with a separate monitoring and emergency alarm system, of a design and installation to be reviewed and approved by the City, prior to its operation and issuance of a permit. Such monitoring and alarm system shall be activated and maintained in good operating condition at all times, as a condition of the permit.
- f. Restrictive Covenant and other Conditions
- (i) In connection with and as a condition for the issuance of a permit for the installation or construction of an on-site sewage system, the property owner shall execute an agreement with the City, entitled "Restrictive Covenant" to be filed among the Property Records of the Hays County Clerk, wherein the property owner covenants and agrees that:
    1. Within ninety (90) day of the date the City notifies the property owner in writing that the City wastewater collection line or any extension thereof runs within five hundred (500) feet of the property line, the owner shall, at his expense, connect his sewer line to the City system;
    2. If the property owner fails to connect his sewer line to the City's wastewater collection system as provided above, the property owner agrees that the City may perform any work necessary to accomplish the connection; in this regard, the owner agrees that the City's employees, officers, and agents, upon reasonable notice to the property owner and presentation of proper credentials, are authorized to enter upon his property and complete the connection;
    3. If the City performs the connecting work described above, the property owner agrees to pay the reasonable costs thereof and a reasonable administrative fee and sewer line tap fee, which expenses, if not paid as directed by the City, shall constitute a lien upon the property to be established in accordance with State Law; and
    4. The covenant shall be binding upon the property owner and any successors in interest to said property.
  - (ii) In connection with and as a further condition for the issuance of a permit for the installation, construction, operation, or maintenance of an on-site sewage facility, the property owner shall agree that, in the event an alarm

or monitor condition indicates that the facility should be emptied or is leaking or otherwise malfunctioning, the property owner shall promptly have the facility pumped out to avoid any overflow or agrees to take any corrective action necessary to remedy the malfunction or leakage. If he fails to take whatever corrective action as required after due notice and an opportunity for hearing, the City may:

1. Perform the necessary corrective work and bill the property owner for the reasonable costs thereof and a reasonable administrative fee, which expenses, if not paid, shall constitute a lien upon the property to be established in accordance with State Law;
  2. Prosecute the property owner for violation of this Section; or
  3. Take any other corrective action authorized by State law or local Code.
- (iii) In connection with and as a further condition for the issuance of a permit for the installation, construction, operation, or maintenance of an on-site sewage facility, the property owner shall agree that, should ownership of the property be transferred, the property owner has a duty to and shall advise the person to whom ownership is transferred of the terms and conditions of any permit or agreement required or entered into pursuant to this Section.
- (iv) The terms and conditions of such covenant, and any agreements required to be executed there under, shall be incorporated into and made a part of the maintenance and operation permit issued by the Hays County.
- (v) The City may impose such other reasonable restrictions and conditions in connection with the issuance of a permit required hereunder as it deems necessary for the protection of the public health.
- g. Revocation of Permit
- (i) A permit may be revoked by the County for failure to comply with the requirements for the issuance of such permit.
  - (ii) If it is determined that a permittee is not in compliance, the City shall notify Hays County, that the person(s) in possession and/or the property owner, in writing, of the nature of the non-compliance.
  - (iii) The permittee shall have thirty (30) days after notice of non-compliance to correct the defects except as provided herein. If the permittee has made a reasonable effort to correct the defects within the thirty (30) day period, but fails to complete the work, the County extend the period not to exceed an additional thirty (30) days for each extension.
  - (iv) If non-compliance has not been corrected within the period allowed for its correction, the County shall revoke the permit and notify the property owner and/or permittee in writing.
  - (v) A permit that has been revoked is void and has no effect, as if the permit had never been issued.
- (5) Water
- a. Water supply required
    - (i) Every principal use and every lot within a subdivision and every site development within the city limits and ETJ shall be served by a water supply system that is adequate to accommodate the reasonable needs of such use or subdivision lot and that complies with all applicable health

regulations. Subdividers shall be responsible for providing an approved public water supply system in compliance with the City of Buda Water and Wastewater Utility Plan. Where an approved public water supply or distribution main is within reasonable distance of the subdivision as determined by the City Council, but in no case more than one-half (0.5) mile away and connection to the system is practicable, the subdivider shall be required to bear the cost of connecting the subdivision to such existing water supply. The subdivider shall make a pro-rata contribution to funding of needed water supplies, storage facilities, treatment facilities, transmission, and distribution as determined necessary by the City. If these requirements are impracticable, a variance may be granted by the City Council.

- (ii) The subdivider shall install adequate water facilities, including fire hydrants, subject to the specifications of the regulations covering extension of public water systems adopted by the TCEQ.
  - (iii) Water systems shall be of sufficient size to furnish adequate domestic water supply, to furnish fire protection and water services to all lots, and to conform to the City of Buda Water and Wastewater Utility Plan and specific plans for provision of expanded capacity.
  - (iv) All water lines, except those in culs-de-sac, shall be connected to other distribution system water lines at both ends. Where it is not practical to connect a water line to the system at both ends, the dead-end water lines shall be the minimum size that will provide fire flow and pressure as required herein.
  - (v) Fire hydrants shall be provided as required in the City of Austin Utilities Manual and City of Austin Standards and Specifications. Standard three-way hydrants shall be installed and shall have a six-inch or larger connection to mains with a minimum five-inch valve opening. Hydrants shall be properly located along streets so there will be a fire hydrant every three hundred (300) feet in the commercial, office and industrial areas and every six hundred (600) feet in residential areas, so that every building will be within five hundred (500) feet of a standard fire hydrant. Hydrants must be equipped with the National Standard hose threads.
  - (vi) No water main line extensions shall be less than six (6) inches in diameter.
  - (vii) The design and layout of the water distribution system shall be acceptable to the State Fire Insurance Commission.
  - (viii) Fire flows are required to conform to International Standards Organization (ISO) standards. The City Manager is responsible for providing a listing of required fire flows for distribution to applicants. The City Manager is responsible for updating this general listing whenever ISO standards change.
- b. All fire flows shall be calculated with twenty (20) pound residual pressure. Fire flow calculations and/or model run printouts shall be included with submittals for the City Engineer's review.
- c. Location and performance guarantees. The location of all fire hydrants, all water supply improvements and the boundary lines of special districts, private systems and certified areas, indicating all improvements proposed to be served, shall be shown on construction plans. The cost of installing all water supply improvements to be made by the subdivider, including off-site

improvements, shall be included in the performance guarantees furnished by the developer.

- d. Individual wells
  - (i) If connection to a centralized water supply is impracticable, individual wells for each lot may be used in a manner so that an adequate supply of potable water will be available to every lot in the subdivision.
  - (ii) Individual wells shall be approved by the county health official and all other applicable well-permitting authorities, and this approval shall be documented by the health official's signature on the water system statement on the plat.

### **Section 9.8 Drainage and Erosion Control Standards**

#### (1) Purpose and Applicability

- a. Growth in and around the City of Buda and the associated development and construction of buildings, paved surfaces, roads and other improvements has altered in the past and continues to alter the natural flow of surface waters on the land. New building construction and the attendant construction of gutters, culverts, drains and channels for the conveyance of surface waters has increased the quantity of stormwater runoff and amplified peak flow rates, thus leading to the potential for flooding of property and homes, dangerous flows within and over public roadways and streets, and soil and channel erosion.
- b. It is the intention of the City Council to protect the health and safety of the citizens and visitors of the city and to prevent damage to private property and public facilities through the proper design and construction of both on-site and regional stormwater detention and/or retention facilities that prevent or adequately reduce increases in peak flow rates of runoff that may otherwise increase the risk of flooding and the associated risk of public endangerment, property damage and erosion.
- c. It is the intention of the City Council to protect the health and safety of the citizens and visitors of the city and to prevent damage to private property and public facilities through the installation and use of temporary and permanent erosion control practices that prevent or adequately reduce increases in erosion and siltation that may otherwise increase the risk of flooding and the associated risk of public endangerment and property damage by clogging and/or partial filling of constructed or natural drainageways as well as drainage structures and detention ponds.
- d. It is the intention of the City Council, through this Section, to establish a regional stormwater management program for the design and construction of onsite and regional stormwater detention facilities so that, where practical, the most cost-effective protection from flooding may be accomplished.
- e. The provisions of this chapter are applicable to all drainage improvements located within the City Limits and ETJ of the City of Buda.
- f. Unless a property is subject to the requirements of the City of Buda Water Quality Ordinance, Section 2.0.b and 4.0, this Section shall not apply to:
  - (i) Single family or duplex residential lots of subdivisions approved prior to the adoption of this Code, unless specifically required by prior agreement between the City and the owners or developers of such subdivisions, or



to new one-or two-unit subdivisions for single family or duplex residential lots. This Section is intended to be implemented for entire subdivisions at the time of platting and construction of street and drainage improvements and not on an individual lot basis for single family and duplex residential subdivisions.

- (ii) Residential subdivisions in the ETJ that create no more impervious ground cover than twenty percent (20%) of the gross surface area, exclusive of any area within the one hundred (100) year flood plain.
  - (iii) Multi-Family or Non-Residential lots less than one-half ( $\frac{1}{2}$ ) acre.
- (2) Compliance With Drainage Requirements Accomplished as Follows:
- a. Design and construction by the land owner or developer of one or more on-site stormwater detention facilities which limits peak flood flow rates from the proposed development to existing or predevelopment peak flood flow rates from the subject tract.
  - b. Construction of, or participation in the construction of, off-site drainage improvements, such as storm inlets, storm sewers, culverts, channel modifications, detention ponds, land filling, and/or other drainage facilities such that the peak flood flows for fully-developed watershed conditions from the watershed area in which the proposed development is located will be sufficiently and safely passed without increasing the peak discharge rate or the likelihood of flooding of adjacent and downstream property and roadways.
  - c. Construction of or financial participation in area wide drainage improvements, administered by the City pursuant to a regional drainage study or master plan for the Buda city limits and ETJ, as may be specified in regulations or policies relating to impact fees for drainage improvements.
- (3) Adoption of City of Austin Drainage Criteria Manual
- The City of Austin Drainage Criteria Manual and City of Austin Standard Details Manual are hereby adopted by the City of Buda for the purpose of establishing rules and regulations for the design, development, construction, alteration, enlargement, repair, conversion, improvement, use, and maintenance of stormwater and drainage facilities until such time that the City of Buda may create and adopt a Drainage Criteria Manual and/or Standard Details Manual or other such document regulating the design, construction, and modification of water and wastewater facilities.
- (4) Standards and Requirements for Drainage
- a. The specifications and standards recommended in the most current Edition of the City of Austin Drainage Criteria Manual and City of Austin Standard Details Manual, as amended from time to time, including later editions, except such portions that may be hereinafter amended, deleted, or modified by the City of Buda shall be the governing document in the design, development, and construction of all improvements within the city limits and extraterritorial jurisdiction of the City of Buda. Where any provision of this Code conflicts with a provision or requirement of the City of Austin Drainage Criteria Manual or City of Austin Standard Details Manual, the more stringent requirements shall control except where stated otherwise in this Chapter.
  - b. Stormwater runoff shall be computed on the basis of a fully developed contributing drainage area or watershed as determined under the City of

- Austin Drainage Criteria Manual.
- c. The City of Buda may require the owner of real property to provide, at the owner's expense and as a condition for preliminary plan approval, a drainage study for the total area to be ultimately developed. The drainage study must be in accordance with the City of Austin Drainage Criteria Manual.
  - d. Unless authorized by an approved site plan, a person may not place, or cause to be placed, an obstruction in a waterway. The person in control of real property traversed by a waterway shall keep the waterway free from an obstruction that is not authorized by a site plan. Further, placement of fill material, or construction of impervious cover, or construction or placement of any other structure on a person's property, or performance of any excavation or grading in a manner which alters the flow of surface water across any adjacent property is prohibited.
  - e. A final plat, subdivision construction plan, or site plan may not be approved unless the proposed development will not result in additional identifiable adverse flooding on other property; and, to the greatest extent feasible, preserves the natural and traditional character of the land and the waterway.
  - f. No final subdivision plat, subdivision construction plan, site plan or building permit shall be approved by the City unless it can be demonstrated by the owner or developer of such property that the proposed development has met the drainage requirements contained herein.
- (5) Standards and Requirements for Stormwater Detention
- Unless otherwise specified herein, the design of all stormwater detention facilities shall be in accordance with the minimum requirements of the current version of the City of Austin Drainage Criteria Manual. Computation of detention requirements shall be based on a fully developed drainage area, or watershed, in accordance with the minimum provisions of the City of Austin Drainage Criteria Manual.
- (6) Standards and Requirements for Erosion and Sedimentation Controls
- a. Temporary erosion and sedimentation controls are required for all development until permanent re-vegetation has been established and must be removed after permanent re-vegetation has been established. Design and construction of temporary erosion and sedimentation controls shall be performed in accordance with the City of Austin Environmental Criteria Manual and the City of Austin Drainage Criteria Manual.
  - b. For all projects, the applicant must provide a construction phase erosion and sedimentation control plan, acceptable to the City Engineer or another designee of the City, which includes specification of control measures to be installed, a sequencing schedule specifying the dates of installation and removal of control facilities, and a maintenance schedule and commitment for the life of the erosion and sedimentation control facilities to be installed. The landowner or developer shall provide assurance of perpetual maintenance and operation of any and all facilities for stormwater detention and/or runoff management constructed under the requirements set forth herein, in a form and specification acceptable to the City. Such assurance may be specified in advance by the City and make take the form of a plat note, posting of financial surety, legal provisions of an automatic property owners association which are enforceable by the City, or a combination of these or other provisions.

- c. No development shall be considered complete until permanent re-vegetation is established, the City of Buda has received the engineer's concurrence letter stipulating to this fact, and the City Engineer has inspected and accepted the vegetated area. Temporary and/or permanent re-vegetation of bare ground in order to stabilize disturbed soil shall occur at the earliest practicable date.
  - d. City of Buda construction inspection personnel may modify an erosion control plan or construction sequencing plan in the field without notice to the permit holder if the modification is a minor change to upgrade erosion controls or reflect construction progress; and, after two days written notice to the permit holder, if the inspector determines that an erosion control or the construction sequencing is inappropriate and the City Engineer has confirmed the inspector's findings in writing.
  - e. No final subdivision plat, subdivision construction plan, site plan or building permit shall be approved by the City unless the proposed development provides on-site control of the two year peak flow, as determined under the City of Austin DCM. A proposed development may provide off-site control of the two-year peak if the off-site control will not cause an adverse water quality impact from increased in-stream peak flow; or streambank erosion.
- (7) City of Buda Drainage Criteria Manual
- a. As an element of its Drainage Master Plan, the City of Buda has developed hydrologic and hydraulic models for primary waterways located within the City's jurisdiction. Watersheds included in this analysis include:
    - (i) Andrews Branch
    - (ii) Antioch North
    - (iii) Antioch South
    - (iv) Bradfield Village West
    - (v) Bradfield Village East
    - (vi) Garlic Creek (including primary tributaries)
    - (vii) Lifshultz
    - (viii) Old Town North
    - (ix) Old Town South
    - (x) Old Town West
    - (xi) Richmond Branch
  - b. These models represent the baseline from which hydrologic and hydraulic analysis and design for future proposed development should proceed. Digital copies of these models are available from the office of the Buda City Manager. These models are not necessarily complete or appropriate for application in all drainage analyses required for new development. However, hydrologic and hydraulic parameters provided in these models are considered correct and any deviation from values provided in the baseline models will potentially represent grounds for rejection of drainage analysis presented to the City in support of proposed development.
  - c. A Registered Professional Engineer, licensed in the State of Texas and qualified and experienced in the design and operation of stormwater detention ponds and related stormwater management facilities, shall perform and certify the hydraulic and structural design of stormwater detention ponds and related stormwater management facilities, including the development of engineering and technical information required for evaluation by the City.

## (8) Nuisance Provision

It shall be unlawful and constitute a nuisance for any person to discharge or cause to be discharged or spilled into the storm drainage system or environment any substance other than naturally occurring stormwater runoff except for: return flows from irrigation, water from building foundation drainage, runoff from non-commercial car washing, de-chlorinated water from swimming pools, reject water from water softening devices, water from fire hydrants including water used for fire fighting, uncontaminated groundwater, springs, discharges from potable water sources, air conditioning condensation, uncontaminated condensation, and other waters determined to be non-contaminated and acceptable for return to the storm drainage system and receiving waters. Nothing contained herein shall be construed to relieve any person discharging or causing to be discharged water into the storm drainage system from any liability for damage caused by the volume or quality of water discharged.

## (9) Responsibility for Proper Drainage Design and Construction Resides with Owner

Acceptance of requests from the land owner or developer to meet the stormwater detention requirements through measures listed in Section 9.8(4) above is solely at the discretion of the City and shall not relieve the owner of responsibility under civil law to adjacent and downstream properties.

**Section 9.9 Monuments and Survey Control Point Markers**

Subdivisions and all lots submitted for plat approval must provide monuments and control points as follows:

- (1) All monuments and control points shall be placed by a licensed land surveyor, and must be in place prior to the installation of any roadway improvements.
- (2) To the extent it is practicable, monuments should be installed in locations that will prevent disturbance or destruction of the monument by construction activities. Any monuments disturbed or destroyed during roadway construction shall be reestablished in conformance with the provisions of this Code by a licensed land surveyor.
- (3) All corners of subdivisions and points of curvature (P.C.) and points of tangency (P.T.) along boundary lines of subdivisions shall be marked with a one-half inch iron rod, two feet in length, set in the center of a concrete monument six (6) inches in diameter and thirty (30) inches deep, with the top of the concrete monument set flush with the finished ground surface.
- (4) Where, due to topographic conditions, permanent structures, or other conditions, the view is obstructed between any two adjacent monuments, intermediate monuments shall be set as to assure a clear view between adjacent monuments.
- (5) Corner markers shall be a one-half inch iron rod, or three-fourths inch pipe, two feet in length, and shall be installed flush with the ground. Corners of all lots, block corners, street right-of-way P.C.s and P.T.s shall be marked with corner markers.

- (6) One permanent benchmark must be installed and referenced to the U.S. Geological Survey Datum (USGS NAD 83, mean sea level) and the State Plane Coordinate System (Texas State Plane, South Central, Feet). The City Manager may waive the requirement for installations of a bench mark for subdivisions smaller than 50 acres when at least two benchmarks are located within one-half mile of the proposed subdivision boundaries.

## Chapter 10 Signs

### Section 10.1 Purpose.

The purposes of regulating the placement and specifications of signs within the City's jurisdictional area are as follows:

- (1) To promote and protect the safety of persons and property by assuring that signs do not create traffic hazards or impair motorists' ability to see pedestrians, other vehicles, obstacles or read traffic signs;
- (2) To promote the aesthetics, safety, health, morals and general welfare, and the assurance of protection of adequate light and air by regulation of the position, displaying, erection, use and maintenance of signs;
- (3) To promote the efficient transfer of general public and commercial information through the use of signs;
- (4) To enhance the overall appearance and economic value of the landscape, and preserve the unique natural environment that distinguishes the City and surrounding area.

### Section 10.2 Applicability and Effect

- (1) A sign may be erected, placed, established, painted, created, or maintained in the City only in conformance with the standards, procedures, exemptions, and other requirements of the Section.
- (2) The effect of this Section as more specifically set forth herein, is:
  - a. To establish a permit system to allow a variety of types of signs in commercial and industrial zoning districts and a limited variety of signs in other zoning districts, subject to the standards and the permit procedures of this chapter.
  - b. To allow signs that are small, unobtrusive, and incidental to the principal use of the respective lots on which they are located, subject to the substantive requirements of this chapter, but without requirements for permits;
  - c. To provide for temporary signs without commercial messages in limited circumstances;
  - d. To prohibit all signs not expressly permitted by this chapter; and e. To provide for the enforcement of the provisions of this chapter.
  - e. To provide for the enforcement of the provisions of this Chapter.
- (3) Any person, firm, association of persons, corporation, or other organization violating any of the provisions of this Chapter 10 shall be guilty of an offense under this chapter and shall be subject to penalty as defined in Chapter 12 of this UDC.

### Section 10.3 Calculation

(1) Calculation of Area of Signs.

The area of a sign shall be calculated by means of the smallest square, circle, rectangle, triangle, or combination thereof, that will encompass the extreme limits of the writing, representation, emblem, or other display, together with any material or color forming an integral part of the background of the display or used to differentiate the sign from the backdrop or structure against which it is placed, but not including any supporting framework, bracing, or decorative fence or wall when such fence or wall otherwise meets Code regulations and is clearly incidental to the display itself.

(2) Calculation of Area of Multifaceted Signs.

The sign area for a sign with more than one face shall be calculated by adding together the area of all sign faces visible from any one point. When two identical sign faces are placed back to back, so that both faces cannot be viewed from any point at the same time, and when such sign faces are part of the same sign structure and are not more than 42 inches apart, the sign area shall be calculated by the measurement of one of the faces.

(3) Calculation of Height.

The height of a sign shall be calculated as the distance from the base of the sign at normal grade to the top of the highest attached component of the sign. Normal grade shall be construed to be the lower of:

- (1) existing grade prior to construction or
- (2) the newly established grade after construction, exclusive of any filling, berming, bounding, or excavating solely for the purpose of locating the sign.

In cases in which the normal grade cannot reasonably be determined, sign height shall be calculated on the assumption that the elevation of the normal grade at the base of the sign is equal to the elevation of the nearest point of the top of a curb or a public street or the grade of the land at the principal structure on the lot, whichever is lower; except that in the Interstate Corridor, height will be measured from the IH-35 Roadway surface.

(4) Calculation of Maximum Total Permitted Sign Area for a Lot.

The permitted sum of the area of all individual signs on a lot shall be calculated by applying the formula contained in Table 10.2, "Maximum Total Sign Area per Lot by Zoning District," to the Lot frontage, building frontage, or wall area, as appropriate, for the zoning district in which the lot is located. The allowable maximum will be the greatest of the areas calculated by the formula. Lots fronting on two or more streets are allowed the permitted sign area for each street frontage, with signs facing a maximum of two streets. However, the total sign area that is oriented toward a particular street may not exceed the portion of the lot's total sign allocation that is derived from the lot, building, or wall area frontage on that street.

**Section 10.4 Sign Permits**

## (1) Permits Required

- a. If a sign requiring a permit under the provision of this Chapter is to be placed, constructed, erected, or modified on a lot either within the City limits or the City's extraterritorial jurisdiction, the owner of the lot shall obtain a sign permit prior to the construction, placement, erection, or modification of such a sign in accordance with the requirements of Section 10.4(4) below.
- b. Signs located in the ETJ are to be regulated by the sign development standards applied to comparable uses of similar businesses within the City limits.
  - (i) Businesses on IH-35 must comply with the sign regulations described in the C3/R3 Zoning Districts.
  - (ii) Businesses on Main Street, FM 967, FM 2770 and FM 1626 must comply with sign regulations described in the C2/R2 Zoning Districts.
  - (iii) All other locations within the ETJ must comply with sign regulations described in the C1/R1 Zoning Districts.
- c. No signs shall be erected in the public right-of-way except in accordance with Section 10.4(6), below.
- d. No sign permit of any kind shall be issued for an existing or proposed sign unless such sign complies with the requirements of this Chapter (including those protecting existing signs) in every respect and with the Master or Common Signage Plan in effect for the property, if applicable.

## (2) General Permit Procedures.

The following procedures shall govern the application for, and issuance of, all sign permits under this Chapter, and the submission and review of Common Signage Plans and Master Signage.

- a. Applications.

All applications for sign permits of any kind and for approval of a Master or Common Signage Plan shall be submitted to the City Manager (see Chapter 3, Section 3.9).
- b. Fees.

Each application for a sign permit or for approval of a Master or Common Signage Plan shall be accompanied by the applicable fees, which shall be established by the City Council from time to time by resolution.
- c. Completeness.

Within ten (10) days of receiving an application for a sign permit or for a Master or Common Signage Plan, the City Manager shall review it for completeness. If the City Manager finds that it is complete, the application shall then be processed. If the City Manager finds that it is incomplete, the City Manager shall, within such ten-day period, send to the applicant a notice of the specific ways in which the application is deficient, with appropriate references to the applicable sections of the Chapter.
- d. Action.

Within seven days of the submission of a complete application for a sign permit, the City Manager shall either:



- (i) Issue the sign permit, if the sign(s) that is the subject of the application conforms in every respect with the requirements of this Chapter and of the applicable Master or Common Signage Plan; or
  - (ii) Reject the sign permit if the sign(s) that is the subject of the application fails in any way to conform to requirements of this Chapter and the applicable Master or Common Signage Plan. In case of a rejection, the City Manager shall specify in the notice of rejection the sections of the Chapter or applicable plan with which the sign(s) is inconsistent.
- e. Action on Plan.

On any application for approval of a Master or Common Signage Plan, the City Manager shall either approve the proposed plan if the sign(s) as shown on the plan and the plan itself conforms in every respect with requirements of this Section, or reject the proposed plan if the sign(s) as shown on the plan or the plan itself fails in any way to conform with the requirements of the Section. In case of a rejection, the City Manager shall specify in the notice of rejection the sections of this Chapter with which the plan is inconsistent. The City Manager shall take action on or before the following dates as applicable:

- (i) Fourteen days after the submission of a complete application for existing buildings; or
- (ii) On the date of final action on any related application for building permit, site plan, or development plan for signs involving new construction.

(3) Permits to Construct or Modify Signs

Signs requiring a permit shall be erected, installed, or created only in accordance with a duly issued and valid sign construction permit from the City Manager. Such permits shall be issued only in accordance with the following requirements and procedures:

a. Permit for New Sign or Sign Modification.

An application for construction, creation, or installation of a new sign or for modification of an existing sign shall be accompanied by detailed drawings to show the dimensions, design, structure, and location of each particular sign, to the extent that such details are not contained on a Master or Common Signage Plan then in effect for the lot. One application and permit may include multiple signs on the same lot. Changing one panel on a multi-tenant sign is not considered a modification.

b. Inspection.

The City Manager shall cause an inspection of the lot for which each permit for a new sign or for modification of an existing sign is issued during the sixth month period after the issuance of such permit or at such earlier date as the owner may request. If the construction is not substantially complete at the time of inspection, the permit shall lapse and become void. If the construction is complete and in full compliance with this Chapter and with the building, sign, and electrical codes, the City Manager shall issue a Certificate of Sign Inspection. If the construction is substantially complete but not in full compliance with this Chapter and applicable codes, the City Manager shall give the owner or applicant notice of the deficiencies and allow an additional 30 days from the date of inspection for the deficiencies to be corrected. If the deficiencies are not corrected by such date, the permit shall

lapse and become void. Any incomplete structure shall be deemed a dilapidated sign and shall be subject to the provisions for remove under Section 10.9. If the construction is then complete and in compliance, the City Manager shall issue a Certificate of Sign Inspection.

(4) Sign Permits

- a. Signs shall be allowed on private property in the City or its extraterritorial jurisdiction in accordance with, and only in accordance with, Table 10.1, “Permitted Signs by Type and Zoning District.”
- b. A sign that is “Allowed” in a zoning district does not require prior permit approval. A sign indicated as “Permit Required” in a zoning district is allowed only with issuance of a permit approval. A sign that does not meet either criteria in a zoning district is not allowed under any circumstances.
- c. The following zoning or overlay districts are identified for the purpose of these tables:
  - (i) Agricultural district (AG)
  - (ii) Single family and duplex district (LR/MR/HR/DR)
  - (iii) Multifamily and manufactured housing district (MFR/MH)
  - (iv) Central Business, Historic, and Neighborhood Commercial/Retail District (C1/R1).
  - (v) Gateway Corridor and Arterial Commercial and Retail Districts (C2/R2)
  - (vi) Interstate Corridor and Interstate Commercial and Retail District (C3/R3)
  - (vii) Industrial District (I1/I2)
- d. Although permitted under the previous paragraph and Table 10.1, a sign shall be allowed only under the following conditions:
  - (i) The area of the sign conforms to the maximum permitted sign area for the zoning district in which the lot is located as specified in Table 10.2.
  - (ii) The size, location, and number of signs on the lot conforms to the requirements of Tables 10.1, 10.2, and 10.3.
    1. Residential Districts (LR/MR/HR/DR) freestanding sign requirements apply to entire subdivisions or multifamily developments. Building sign requirements apply to residential buildings having accessory uses.
  - (iii) Banners in the Central Business District may be displayed by annual permit up to twelve (12) times per year.
    1. Banners are allowed no sooner than two weeks before an event.
    2. Banners must be removed no later than one day after the event.
    3. The maximum size for a banner is fifteen square feet.
    4. One banner is allowed per business.
  - (iv) Signs in a Historic District must have a Certificate of Design Compliance.
  - (v) Projecting signs shall only be allowed by permit in the Central Business District (CBD) and shall adhere to the following regulations:
    1. Projecting signs shall not project more than two-thirds of the width of the abutting sidewalk.
    2. Projecting signs shall maintain a clearance of at least eight feet above adjacent sidewalks.
    3. Projecting signs shall not encroach into the required eight foot setback.
    4. No more than one projecting sign per building location shall be allowed.

5. If a wall sign is already permitted for the building, then the projecting sign shall not exceed 25 percent of the maximum allowable sign area for the zoning district in which the sign is located.
- (vi) Sidewalk signs shall only be allowed by permit in the Central Business District (CBD) and shall adhere to the following regulations:
1. Sidewalk signs shall not exceed four feet in height.
  2. Sidewalk signs must be placed directly in front of the business for which the sign is advertising.
  3. Sidewalk signs must be removed when the business is closed.
  4. Sidewalk signs must allow for a minimum of four feet of clearance as per ADA standards.
  5. Prior to issuance of a sidewalk sign permit, applicants must submit an executed indemnification form to the City.
- (vii) Canopies may be installed on building facades and shall count toward the maximum allowable wall sign area if commercial messages are advertised.
1. Commercial canopies shall comply with all applicable ordinances, including building codes.
  2. Sign permits shall be required if a commercial message is advertised on a canopy.
  3. Canopies must maintain a minimum of eight feet of clearance above the right-of-way.
- (viii) Small neon “open” signs are allowed behind glass storefronts only in the Central Business District (CBD) and ETJ and shall not require a permit.

**TABLE 10.1**

<b>PERMITTED SIGNS BY TYPE AND ZONING DISTRICT</b> <b>P = Permit Required A = Allowed (no permit required) X = Prohibited</b>								
<b>Sign Type</b>	Agricultural (AG)	Residential (LR/MR/HR/DR)	Residential (MFR/MH)	Central Business/ Historic/ Neighborhood (C1/R1)	Gateway (C2/R2)	Interstate (C3/R3)	Industrial (I1/I2)	Signs in the ETJ
<b>Freestanding</b>								
Other	X	X	P	P	P	P	P	P
Incidental	A	X	A	A	A	A	A	A
<b>Building</b>								
Banner	X	X	X	P	P	P	P	P
Building Marker	A	A	A	A	A	A	A	A
Canopy	X	X	X	P	P	X	X	P
Incidental	A	X	A	A	A	A	A	A
Marquee	X	X	X	P	P	P	X	P
Projecting	X	X	X	P	P	P	X	P
Residential	P	P	X	X	X	X	X	X
Roof	X	X	X	X	X	X	P	X
Roof, Integral	X	X	X	X	X	P	P	X
Street Address	A	A	A	A	A	A	A	A
Suspended	X	X	X	P	P	P	X	P
Temporary	A	A	A	P	P	P	A	P
Wall	X	X	X	P	P	P	P	P
Window	X	X	X	P	P	P	X	P
<b>Miscellaneous</b>								
Flag	A	A	A	A	A	A	A	A
Portable	A	A	A	P	P	P	A	P
Sidewalk	X	X	X	P	X	X	X	P
Neon "open"	X	X	X	A	X	X	X	A

**Table 10.2**

Maximum Total Sign Area per Lot by Zoning District								
Sign Type	Agricultural (AG)	Residential (LR/MR/HR/DR)	Residential (MFR/ MH)	Central Business/ Historic/ Neighborhood (C1 /R1)	Gateway (C2/R2)	Interstate (C3/R3)	Industrial (I1/I2)	Signs in the ETJ
Maximum Area of Sign in Square Feet	200	20 (per street frontage)	72 (per street frontage)	30 (per street frontage) (excluding wall signs)	100	800	400 (I1) 2000 (I2)	<ul style="list-style-type: none"> <li>• IH-35 = C3/R3 Standards</li> <li>• Main Street, FM 967, FM 2770, FM 1626 = C2/R2 Standards</li> <li>• All other ETJ Locations = C1/R1 Standards</li> </ul>
Percentage of Ground Floor Area of Principal Building	2	N/A	N/A	N/A	N/A	10	2	<ul style="list-style-type: none"> <li>• IH-35 = C3/R3 Standards</li> <li>• Main Street, FM 967, FM 2770, FM 1626 = C2/R2 Standards</li> <li>• All other ETJ Locations = C1/R1 Standards</li> </ul>
Square Feet of Signage per Linear Foot of Street Frontage	1.0	N/A	N/A	2 SF per 1 LF façade frontage (wall signs only)	N/A	6.0	N/A	<ul style="list-style-type: none"> <li>• IH-35 = C3/R3 Standards</li> <li>• Main Street, FM 967, FM 2770, FM 1626 = C2/R2 Standards</li> <li>• All other ETJ Locations = C1/R1 Standards</li> </ul>

**Table 10.3**

Number, Dimensions, and Location of Individual Signs by Zoning District								
Sign Type	Agricultural (AG)	Residential LR/MR/HR/DR	Residential MFR/MH	Central Business/ Historic/ Neighborhood (C1/R 1)	Gateway (C2/R2)	Interstate (C3/R3)	Industrial (I1/I2)	Signs in the ETJ
<b>Freestanding</b>								
Area (sq. ft.)	72	20	72	30	72 (Monument & Pole) 20 (Post & Arm)	72 (450 if within 200 ft of IH35)	72 (200 if within 200 ft of IH35)	<ul style="list-style-type: none"> <li>IH-35 = C3/R3 Standards</li> <li>Main Street, FM 967, FM 2770, FM 1626 = C2/R2 Standards</li> <li>All other ETJ Locations = C1/R1 Standards</li> </ul>
Height (feet)	8	5	8	10	12 (Pole, Post & Arm) 6 (Monument)	12 (42.5 if within 200 ft of IH35)	8 (25 if within 200 ft of IH35)	<ul style="list-style-type: none"> <li>IH-35 = C3/R3 Standards</li> <li>Main Street, FM 967, FM 2770, FM 1626 = C2/R2 Standards</li> <li>All other ETJ Locations = C1/R1 Standards</li> </ul>
Setback (feet)	10	8	8	8	8	10	10	<ul style="list-style-type: none"> <li>IH-35 = C3/R3 Standards</li> <li>Main Street, FM 967, FM 2770, FM 1626 = C2/R2 Standards</li> <li>All other ETJ Locations = C1/R1 Standards</li> </ul>
<b>Number Permitted</b>								
Per Lot	1	1 (per street frontage)	1 (per street frontage)	1 (per street frontage)	1 (per street frontage)	N/A	N/A	<ul style="list-style-type: none"> <li>IH-35 = C3/R3 Standards</li> <li>Main Street, FM 967, FM 2770, FM 1626 = C2/R2 Standards</li> <li>All other ETJ Locations = C1/R1 Standards</li> </ul>
Per Feet of Street Frontage	N/A	N/A	N/A	N/A	1 (per 100)	1 (per 100)	1 (per 200 – I1) (per 800 – I2)	<ul style="list-style-type: none"> <li>IH-35 = C3/R3 Standards</li> <li>Main Street, FM 967, FM 2770, FM 1626 = C2/R2 Standards</li> <li>All other ETJ Locations = C1/R1 Standards</li> </ul>

Unified Development Code

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<b>Building</b>								
Maximum Area (Square Feet)	N/A	2	72	2 SF per 1 LF of frontage (Wall) 15 (Projecting)	45 (Wall) 16 (Projecting)	N/A	N/A	<ul style="list-style-type: none"> <li>• IH-35 = C3/R3 Standards</li> <li>• Main Street, FM 967, FM 2770, FM 1626 = C2/R2 Standards</li> <li>• All other ETJ Locations = C1/R1 Standards</li> </ul>
Maximum Percent Wall Area	10	N/A	N/A	N/A	10	10	5	<ul style="list-style-type: none"> <li>• IH-35 = C3/R3 Standards</li> <li>• Main Street, FM 967, FM 2770, FM 1626 = C2/R2 Standards</li> <li>• All other ETJ Locations = C1/R1 Standards</li> </ul>
<b>Sidewalk</b>								
Height	N/A	N/A	N/A	4'	N/A	N/A	N/A	N/A
Per Business	N/A	N/A	N/A	1	N/A	N/A	N/A	N/A

- (5) Temporary Sign Permits (Private Property)  
Temporary signs on private property shall be allowed only upon the issuance of a temporary sign permit, which shall be subject to the following requirements:
- a. Term.  
A Temporary Sign permit shall allow the use of a Temporary Sign for a specified 30-day period.
  - b. Number.  
Only one Temporary Sign permit shall be issued on the same Zone Lot during any consecutive 4 month period.
  - c. Other Conditions.  
A Temporary Sign shall be allowed only in accordance with Table 10.1 and subject to all of the requirements for Temporary Signs as noted therein.
- (6) Signs in the Public Right-of-Way
- a. No signs shall be allowed in the public right-of-way except for those specifically licensed or permitted by the City, State or a political subdivision of the State exercising jurisdiction where the sign is located.
  - b. Banners Hung Across Main Street
    - (i) The responsible party must obtain a banner permit from TxDot and provide the City Manager with proof of the permit.
    - (ii) The permit applicant must submit a sign permit application to the City Manager including the dates during which the banner is to be hung. A banner may be hung for no more than thirty (30) days.
    - (iii) The sign permit application must be submitted to the City Manager at least five (5) working days before, but no more than ninety (90) days before the date requested for the banner to be hung.
    - (iv) Banners to be erected over streets shall be hung and removed by Pedernales Electric Co-op.
    - (v) Once a banner has been removed, it must be picked up at City Hall by the party responsible for it within ten (10) working days. If the responsible party fails to pick up a removed banner within ten (10) days, the banner shall be deemed abandoned and the City Manager shall dispose of it without accounting or liability to the owner for its damage or destruction.
    - (vi) Specifications for Banners
      1. Banners must be made of mesh material to insure air flow.
      2. Banners must have two (2), three (3) foot ropes on each end to attach to Pedernales Electric Cooperative facilities.
      3. Banners shall not exceed four (4) feet by thirty-six (36) feet.
      4. Banners hung across Main Street shall be elevated so as to leave an open span a minimum of nineteen (19) feet above the roadway.
  - c. Other Signs Forfeited.  
Any sign installed or placed on public property, except in conformance with the requirements of this Section, shall be forfeited to the public and subject to confiscation without accounting or liability to the owner for its damage or destruction.
  - d. In addition to other remedies hereunder, the City shall have the right to recover from the owner or Person placing such a sign on public property



the full costs of removal and disposal of such sign.

(7) Design, Construction, and Maintenance.

All signs shall be designed, constructed, and maintained in accordance with the following standards:

- a. All signs shall comply with applicable provisions of the adopted versions of the City of Buda Building Codes, the National Electrical Code, and Section 4 of the Uniform Sign Code at all times.
- b. Except for Banners, Flags, Temporary Signs, and Window Signs conforming in all respects with the requirements of this Chapter, all signs shall be constructed of permanent materials and shall be permanently attached to the ground, a building, or another structure by direct attachment to a rigid wall, frame, or structure.
- c. All signs shall be maintained in good structural condition, in compliance with all building and electrical codes, and in conformance with this code, at all times.

(8) Master or Common Signage Plan

a. Master Signage Plan

(i) Multi-Tenant Master Sign Plan.

For any Multi-tenant Center on which the owner proposes to erect one or more signs requiring a permit, the owner shall submit to the City Manager, a Master Signage Plan containing the following:

1. An accurate plot plan of the lot(s) at a minimum 1"=20' scale, or as approved by the City;
2. The location of buildings, parking lots, driveways, landscaped areas on such lot and any other information as required by the City;
3. Calculation of the maximum total sign area, the maximum area for individual signs, the maximum height of signs and the maximum number of freestanding signs allowed on the lot under this Chapter;
4. An accurate indication on the plan of the proposed location of each present and future sign of any type, whether requiring a permit or not, except that incidental window signs need not be shown;
5. An accurate depiction of the sign structure and materials, specifying standards for consistency among all signs on the lot(s) affected by the plan with regard to color scheme, lettering or graphic style, lighting, location of each sign on the buildings, materials, and sign proportions; and,
6. If the signage in the plan meets all requirements of this Chapter, without deviation, then a 20% increase in the maximum sign area shall be allowed for each sign.

- (ii) Multi-Lot Development. A multi-lot development is one containing two or more contiguous and adjacent lots (disregarding intervening streets and alleys) that may or may not be under common ownership that contain more than one building (not including any accessory building). The owner(s) of such multi-lot development may file a Master Signage Plan. For the purpose of this paragraph, if the signage in the plan meets the full intent of the section, then a 20% increase in the maximum sign area shall be allowed for each sign.

b. Common Signage Plan

- (i) Common Signage Plan.  
If the owner of two or more contiguous (disregarding intervening streets and alleys) lots or the owner of a single lot with more than one building (not including any accessory building) files with the City manager for such lots a Common Signage Plan meeting the requirements of this Chapter without deviation, a 25 percent increase in the maximum total sign area shall be allowed for each included lot. This bonus shall be allocated within each lot as the owner(s) elects.
  - (ii) Provisions for Common Signage Plan. The Common Signage Plan shall contain all of the information required for a Master Signage Plan and shall also specify standards for consistency among all signs on the lots affected by the Plan with regard to:
    - 1. Color scheme;
    - 2. Lettering or graphic style;
    - 3. Lighting;
    - 4. Location of each sign on the building;
    - 5. Material; and
    - 6. Sign Proportions.
  - (iii) Limit on Number of Freestanding Signs under Common Signage Plan. The Common Signage Plan, for all lots with multiple uses or multiple users, shall limit the number of Freestanding Signs to a total of one for each street on which the lots included in the plan have frontage and shall provide for shared or common usage of such signs. Lots having more than 300 feet of street frontage on a single street may have one sign per 100 feet of frontage.
- c. General Provisions for Master or Common Signage Plans
- (i) Existing Signs Not Conforming to Common Signage Plan.  
If any new or amended Common Signage Plan is filed for a property on which existing signs are located, it shall include a schedule for bringing all signs into compliance with this Chapter, within three years from the date of approval of the plan or amended plan.
  - (ii) Master or Common Signage Plan may contain such other restrictions as the owners of the lots may reasonably determine.
- d. Consent.  
The Master or Common Signage Plan shall be established by all owners or their authorized agents in such form as the City Manager may require.
- e. Procedures
- (i) Procedures.  
A Master or Common Signage Plan shall be included in any development plan, site plan, planned unit development plan, or other official plan required by the City for the proposed development and shall be processed simultaneously. The City Manager may review the Master Signage Plan and approve it provided it meets all requirements of this Chapter. Otherwise he may approve it with conditions; or may deny the plan.
  - (ii) Amendment.  
A Master or Common Signage Plan may be amended by filing a new Master or Common Signage Plan that conforms with all requirements of this Chapter.
  - (iii) Binding Effect.

After approval of a Master or Common Signage Plan, no sign shall be erected, placed, painted, or maintained, except in compliance with such plan, and such plan may be enforced in the same way as any provision of the Chapter . In case of any conflict between the provisions of such a plan and any other requirement of this Chapter , this Chapter shall control.

### **Section 10.5 Exempt Signs**

The following signs shall be exempt from regulation under this Chapter.

- a. Any public notice or warning required by a valid and applicable federal, state, or local law, regulation, or ordinance;
- b. Temporary real estate signs not exceeding six square feet in area and three feet in height in residential zoning districts and not exceeding 64 square feet in area and 12 feet in height in other zoning districts that advertise the property on which the sign is located for sale or lease. These signs must be removed within seven days after the property is sold or leased;
- c. Works of art that do not include a Commercial Message;
- d. Holiday lights and decorations with no Commercial Message;
- e. Traffic control signs on private property, such as stop, yield, and similar signs, the face of which meet Department of Transportation standards and that contain no Commercial Message;
- f. Temporary signs advertising a “garage sale” not exceeding six square feet in area. These signs may not be posted earlier than three days before and must be removed within one day after the sale;
- g. Temporary signs placed on construction sites identifying the contractor, engineer, architect, or developer and not exceeding 64 square feet in area for all entities identified. These signs may not be erected prior to approval of a site plan and must be removed within seven days after the completion of the project;
- h. Permanent subdivision identification signs approved by the City Council as part of the platting process;
- i. Temporary signs for special events such as charitable, church, or community activities. These signs may not be posted earlier than three weeks before and must be removed within one day after the event;
- j. Model home signs not exceeding 32 square feet in area and 5 feet in height.
- k. No Trespassing, No Hunting, and No Fishing Signs placed by the landowner.
- l. Vehicles used solely as Signs.

Signage is allowed on a truck, bus, car or other motorized vehicle provided all the following criteria are met:

1. Primary purpose of such vehicle or equipment is not the display of signs;
2. Signs are painted upon or attached directly to an integral part of the vehicle or equipment;
3. Vehicle/equipment is in operating condition, currently registered and licensed to operate on public Streets when applicable, and actively used in the daily function of the business to which such signs relate;
4. Vehicles and equipment are not used primarily as static displays advertising a product or service, not utilized as storage, shelter, or distribution points for commercial products or services for the general

- public; and
5. During periods of inactivity exceeding 5 working days such vehicle/equipment are not so parked or placed that the signs thereon are displayed to the public.
    - (i) Vehicles and equipment engaged in the active construction projects and on-premises storage of equipment and vehicles offered to the general public for rent or cars shall not be subjected to this condition.
    - (ii) This section shall not affect the use of wagons, old boats, and the like, which are integrated into the theme of an overall landscape plan.
- m. Political and Campaign Signs
1. Signs pertaining to candidates for public office, measures or issues on primary, general or special election ballots are permitted in all zoning districts and must comply with state law pertaining to political and campaign signs.
  2. Signs shall not be placed in any portion of the public right-of-way located between a street or sidewalk and a property line fence (i.e. residential lot backup to an arterial street) provided, however, that signs may be placed on public property while an election is being conducted in a public building so long as the signs are within 500 feet of the building but no closer to the building than what is permitted by the Texas Election Code.
  3. The Person, party or parties responsible for the distribution and display of such signs shall be individually and jointly responsible for their removal.
- n. Water Tower Signage
- A water storage device (including but not limited to elevated tanks and ground storage) constructed after adoption of this Chapter may display signage (including but not limited to the name of the water corporation or development, logo of the water corporation or development, or selling of advertising rights to another party) with the approval of the City Council.

### **Section 10.6 Prohibited Signs**

All signs not expressly permitted under this Section or exempt from regulation hereunder in accordance with this Section are prohibited in the City or its extraterritorial jurisdiction. Such signs include, but are not limited to:

- a. Beacons
- b. Illuminated Signs
- c. Obscene Signs
- d. Inflatable signs and tethered balloons
- e. Moving Signs
- f. Off-Premise Signs (except City-owned Directional Signs)
- g. Snipe Signs
- h. Animated Signs
- i. Electronic Reader Boards

### **Section 10.7 Nonconforming Signs.**

- (1) This Section shall apply to all Nonconforming Signs. All Nonconforming Signs shall be brought into compliance with this chapter in accordance with the provisions of this Section.
- (2) Signs erected on a property prior to its annexation and not in compliance with this Code shall be considered nonconforming signs until such time as they are brought into compliance in accordance with this chapter.
- (3) All Nonconforming Signs that were erected in violation of the ordinances of the City in existence at the time the sign was permitted or should have been permitted, and which violation was or has not been cured, shall, upon written notice, be required to be brought into compliance with this Chapter or removed within a reasonable time frame specified by the City Manager, but not to exceed 30 days from the date of Notice.
- (4) Nonconforming Signs that do not comply with the City Building Codes shall be subject to enforcement under the Building Codes, as well as this section. Repairs or modifications required under the City Building Codes shall not entitle the owner of the nonconforming sign to compensation under this chapter.
- (5) All Nonconforming Signs shall be subject to the following provisions:
  - a. Change of use: Whenever a land use changes, any nonconforming sign must be modified so as to be in full compliance with these sign regulations.
  - b. Any Nonconforming Sign that has been destroyed or damaged to the extent that the cost of repairing the sign is more than 60 percent of the cost of erecting a new sign of the same type at the same location shall be removed or shall be brought into compliance with this Chapter within six months from receipt of an order from the City Manager, without compensation being paid by the City to the Owner.
  - c. No Nonconforming Sign shall be required to be relocated or removed unless such Nonconforming Sign is more than 60 percent destroyed or damaged as provided in section 10.7(5)b above.
  - d. Any water storage device displaying signage existing at the date of this adoption is considered non-conforming and precluded from restoring any type of signage upon repainting of the water storage device.

### **Section 10.8 Abandoned signs, Dilapidated Signs, and supporting structures.**

- (1) The owner of any premise on which there is displayed or maintained an Abandoned Sign or Dilapidated Sign or abandoned or dilapidated supporting structure shall comply with the following requirements:
  - a. The owner of any Dilapidated Sign shall remove the sign within 30 days after receiving written notice from the City Manager or the adoption of this Chapter, whichever is later;
  - b. The owner of a supporting structure used or designed to be used with a Dilapidated Sign shall remove the supporting structure within 30 days after receiving written notice from the City Manager.
  - c. If an abandoned supporting structure does not have a can, frame, or similar part of the supporting structure that would hold the sign or to which the

- sign would be attached, the supporting structure shall be removed or made to comply with the provisions of the Section.
- d. Any modifications, alterations or changes to an abandoned sign or supporting structure shall be made in full compliance with the requirements of this Chapter.
  - e. Any dilapidated sign or dilapidated supporting structure not in compliance with this Section is an unlawful sign and may be removed by the City in compliance with Chapter 9 and the owner may be prosecuted or be enjoined from continuing such violation.
  - f. If a sign, which conforms to the regulations of this chapter, is abandoned, the owner, user, and persons who benefit from the sign and the owner, operator, and tenants of the property on which the sign is located shall remove it, paint out or cover the message portion of the sign, put a blank face on the sign, or otherwise bring it into compliance with this Chapter so as to leave the message portion and supporting structure neat and unobtrusive in appearance, within 90 days after receiving written notice from the City Manager.
- (2) The following are required for the use, display, maintenance, or permitting of an alteration of any abandoned sign or supporting structure regardless of when the sign was abandoned:
- a. Like material. Only the same like, or better quality material as that being replaced shall be used as a face on or in the abandoned sign. The face of the supporting structure must be one that the supporting structure is designed to support.
  - b. Covered Messages.
    - (i) Abandoned signs may be painted in order to “blank” the face. However, the paint must completely cover the sign face or message portion of the structure. The covered, painted over message must not show through the paint.
    - (ii) Covered sign faces must be of a material or substance that renders the resulting sign face completely blank, opaque, and resistant to deterioration. It is a violation of the Chapter to allow a covered message to bleed or show through the paint or covering.
    - (iii) Routed, embossed, or raised messages or sign copy must not be visible to the ordinary observer, if the face or message is blanked
- (3) No Person shall alter an abandoned sign or supporting structure without first obtaining a permit to do so from the City Manager.

## Chapter 11 Wireless Transmission Facilities

### Section 11.1 Purpose

The purpose of the City of Buda Telecommunications Antenna Code is to further an overall plan for the enhancement of public safety, consistent community development, preservation of property values and the general welfare of the City of Buda while providing for the communication needs of the residents and businesses in the City of Buda. The purpose of this section is to govern the placement of these facilities to:

- (1) Ensure that their location and use do not compromise the aesthetic quality of the community;
- (2) Facilitate the provision of wireless telecommunication services to the residents and businesses of the City of Buda;
- (3) Encourage operators of antenna facilities and antennas to locate them in areas where the adverse impact on the community is minimal;
- (4) Encourage co-location on both new and existing antenna facilities;
- (5) Encourage operators of antenna facilities and antennas to configure them in a way that minimizes the adverse visual impact through careful design, landscape screening, and innovative stealth techniques; and
- (6) Enhance the ability of wireless telecommunication providers to provide services to the community effectively and efficiently.

### Section 11.2 Definitions

In this section the following definitions apply:

*Alternative Tower Structure:* Clock towers, steeples, light poles and similar alternative-design mounting structures that camouflage or conceal the presence of antennas or towers. See also the definition of “stealth facility”.

*Amateur Radio Antenna:* A radio communication antenna used by a person holding an amateur station license from the Federal Communications Commission.

*Antenna:* A device used in communications, which transmits or receives radio signals, television signals, digital signals, analog signals, radio frequencies (excluding radar signals), wireless telecommunications signals or other communication signals.

*Antenna, Building Attached:* An antenna attached to an existing structure in two general forms: (1) roof-mounted, in which antennas are placed on the roofs of buildings, or (2) building-mounted, in which antennas are placed on the sides of

buildings. These antennas can also be mounted on structures such as water tanks, billboards, church steeples, electrical transmission towers, etc.

*Antenna Facility:* The antenna, mast, pole, structure, tower, building, equipment and other supporting material used to mount the antenna and equipment, equipment storage buildings and concealing or screening structures needed to operate an antenna.

*Co-location:* The act of locating wireless communications equipment for more than one telecommunications carrier on a single Antenna Facility.

*Equipment Storage Building or Structure:* An unmanned, single story equipment building, structure or platform used to house telecommunications equipment necessary to operate the telecommunications network.

*Monopole Tower:* A self-supporting tower facility composed of a single spire used to support telecommunication antennas. Monopole towers cannot have guy wires or bracing.

*Preexisting Towers and Preexisting Antennas:* Any Tower or Antenna for which a building permit or Special Exception has been properly issued prior to the effective date of this Ordinance, including permitted towers or antennas that have not yet been constructed so long as such approval is current and not expired.

*Satellite Receive-Only Antenna:* An antenna, one (1) meter or less in diameter that enables the receipt of television signals transmitted directly from satellites to be viewed on a television monitor. Such antennas are commonly known as a satellite dish, television receive-only antenna, dish antenna, parabolic antenna, or satellite earth station antenna.

*Satellite Antenna:* An antenna, greater than one (1) meter in diameter, which enables the transmission of signals directly to and from satellites. Such antennas are commonly known as a satellite dish, dish antenna, parabolic antenna, or satellite earth station antenna.

*Setback:* The minimum amount of space required between a lot line and a building line.

*Stealth Facility:* “Stealth” is a generic term describing a method that would hide or conceal an antenna, supporting electrical or mechanical equipment, or any other support structure that is identical to, or closely compatible with, the color of the supporting structure so as to make the antenna and related equipment as visually unobtrusive as possible to the surrounding neighborhood. Stealth facilities may include totally enclosed antennas, wireless facilities that replicate or duplicate the construction of common structures such as flagpoles, Alternative Tower Structures, and camouflaged wireless facilities that are constructed to blend into the surrounding environment.

*Telecommunications Tower:* Any structure that is designed and constructed for the purpose of supporting one or more antennae used for the provision of commercial



wireless telecommunications services. This definition includes monopole towers, alternative mounting structures or any other vertical support used for wireless telecommunications antennae. This definition does not include commercial radio or television towers; nor does it include such things as Satellite Receive Only Antenna or Amateur Radio Antennas.

*Telecommunications Tower Facility:* A facility that contains a telecommunications tower and equipment storage building or structure.

*TV Antenna:* An antenna that enables the receipt of television signals transmitted from broadcast stations.

**Section 11.3 Applicability/General Regulations**

The following regulations apply to all antenna facilities and antennas located within any district:

(1) Applicability

Except as specifically provided, all new Telecommunications Towers or Antennas in the City of Buda shall be subject to the regulations contained in this Ordinance. Preexisting Towers or Antennas lawfully in existence at the time of the enactment of this ordinance shall not be required to meet the requirements of this Ordinance, other than those contained in Subsections i and k below.

<b>Type of Facility</b>	<b>Building Permit Required</b>	<b>Special Exception Required</b>
Satellite Receive Only < 1 meter	No	No
Satellite Antenna > 1 meter in Commercial Area	Yes	No
Satellite Antenna > 1 meter in Residential Area	Yes	Yes
Amateur Radio Antenna Complying with Height Limits	Yes	No
Amateur Radio Antenna Exceeding Height Limits	Yes	Yes
Television Antennas	No	No
Level 1 Stealth Facility in FC, UR, WC or DR District	Yes	No
Level 2 Stealth Facility in FC, UR or WC District	Yes	No
Level 2 Stealth Facility in DR District	Yes	Yes
Level 3 Stealth Facility in FC, UR or WC District	Yes	No
Level 3 Stealth Facility in DR District	Yes	Yes
Level 4 Stealth Facility in FC or UR District	Yes	No
Level 4 Stealth Facility in WC or DR District	Yes	Yes
Monopole Tower up to 120 Feet in Height in FC, UR or WC District	Yes	Yes

Monopole Towers In DR Districts or Over 120 Feet Tall	Prohibited	Prohibited
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- a. **Equipment Storage Building**  
An Equipment Storage Building associated with an Antenna Facility or an Antenna shall be screened and landscaped as described in other sections of this ordinance, or be incorporated into the stealth treatment so that it is consistent and complementary with the existing structures and uses on the premises. All Equipment Storage Buildings or cabinets must be made of masonry material or enameled metal. Alternative materials may be permitted upon approval by the City Council and recommended by the Planning and Zoning Commission. The base of all tower facilities must be screened with a masonry wall that will completely screen the Equipment Storage Building.
- b. **Driveway Surfaces**  
All Telecommunication Tower Facilities must have an access drive that is constructed of asphalt or concrete. One (1) off-street parking space must be provided at each telecommunication tower facility.
- c. **Lights:** No outdoor lighting shall be allowed on any Antenna Facility except lights or lighting that is by required by the Federal Aviation Administration or the Federal Communications Commission.
- d. **Antenna Facility Capacity:** All new Antenna Facilities must be structurally designed to allow for at least two (2) sets of antennas.
- e. **Tower Types:** Only monopole, alternative mounting structures or stealth towers are permitted in the City.
- f. **Prohibited in Easements:** Antenna facilities shall not be placed in easements unless authorized by the easement holder.
- g. **Construction Standards:** A building permit must be obtained prior to the construction or installation of any Antenna Facility. An Antenna Facility must be installed according to the manufacturer’s recommendations and under the seal of a professional engineer registered in the State of Texas. Additionally, all Antenna Facilities shall comply with applicable state and local building codes.
- h. **Building Codes / Safety Standards:** To ensure the structural integrity of Antenna Facilities, the owner of an Antenna Facility must ensure that it is maintained in compliance with all provisions of the City of Buda building code and zoning regulations. If upon inspection, the City of Buda concludes that an Antenna Facility fails to comply with such codes and regulations and/or constitutes a danger to persons or property, then upon written notice to the owner of the Antenna Facility, the owner shall have thirty (30) days to bring such tower into compliance with applicable standards. Failure to bring such tower into compliance shall constitute grounds for the removal of the Antenna Facility at the owner’s expense. This notice requirement shall not preclude immediate action by the Building Official as allowed by law if public safety requires such action.
- i. **Contained on Property:** No part of an Antenna Facility, antennas, or other attachment may extend beyond the property lines or required building lines of the lot on which the antenna or Antenna Facility is located.

- j. State or Federal Requirements: All Antenna Facilities must meet or exceed current standards and regulations of the FAA, the FCC, and any other agency of the state or federal government with the authority to regulate towers and antennas. If such standards and regulations are changed, and if the controlling state or federal agency mandates compliance, then the owners of the towers and antennas governed by this Ordinance shall bring such towers and antennas into compliance with such revised standards and regulations within six (6) months of the effective date of such standards and regulations, unless a different compliance schedule is mandated by the controlling state or federal agency.
- k. Variance Requirement: A variance granted by the Board of Adjustment, pursuant to Chapter 3, Section 3.9(10) of the Unified Development Code, is required for an antenna or Antenna Facility which will not comply with the requirements of this section unless otherwise specified herein.
- l. Height Limitations: Unless otherwise stated herein, the maximum height of any antenna or Antenna Facility shall not exceed ten feet (10') above the maximum height limitation applicable for the zoning district.

#### **Section 11.4 Amateur Radio Antenna and TV Antennas**

Amateur Radio Antenna and TV Antennas are allowed as accessory uses in the AG, LR, MR, HR, DR, MFR, MHR, or any residentially zoned Planned Development district. Amateur Radio Antennas and TV Antennas must comply with the following regulations:

- (1) Antenna Location: Amateur Radio Antennas and TV Antennas can only be located on a roof or in the back yard of a residence.
- (2) Number of Facilities Per Lot: No more than one (1) TV Antenna and one (1) Amateur Radio Antenna are permitted on each lot. Amateur Radio Antennas are only permitted for operators that have an amateur radio operator license from the FCC and the operator must provide the City of Buda proof of a current FCC license before an Amateur Radio Antenna is installed or maintained on a lot.
- (3) Height Limitations: An Amateur Radio Antenna or TV Antenna can not extend more than eight (8) feet above the maximum height limitation applicable for the zoning district.
- (4) Setbacks: Amateur Radio Antennas or TV Antennas are not permitted within any required setback area.

#### **Section 11.5 Satellite Receive Only Antennas Less Than One Meter in Diameter**

Satellite dish receiving antennas, one (1) meter or less in diameter shall be permitted as an accessory use in the AG, LR, MR, HR, DR, MFR, MHR, or any residentially zoned Planned Development district. Satellite Receive Only Antenna must comply with the following regulations:

- (1) Antenna Location: Satellite Receive Only Antenna less than one (1) meter in diameter can only be located on a roof or in the back yard of a residence.
- (2) Number of Facilities Per Lot: No more than one (1) Satellite Receive Only Antenna less than one (1) meter in diameter is permitted on each lot.
- (3) Height Limitations: A Satellite Receive Only Antenna less than one (1) meter in diameter can not extend more than eight (8) feet above the maximum height limitation applicable for the zoning district.
- (4) Setbacks: Satellite Receive Only Antennas less than one (1) meter in diameter are not permitted within any required setback area.

### **Section 11.6 Satellite Antennas Greater Than One Meter in Diameter**

A Satellite Antenna greater than one (1) meter in diameter is permitted as an accessory use under the following conditions:

- (1) Nonresidential Zoning Districts: Satellite Antennas greater than one (1) meter in diameter is an accessory use permitted by right in nonresidential zoning districts.
- (2) Residential Zoning Districts: Satellite Antennas greater than one (1) meter in diameter are only allowed in residential zoning districts upon the approval of a Special Exception granted by the Board of Adjustment.
- (3) Height: Satellite Antennas greater than one (1) meter in diameter shall not exceed ten feet in height above the base of their mount.
- (4) Location: Satellite Antennas greater than one (1) meter in diameter can not be erected in any required setback or in the front of residential structures.
- (5) Screening: Satellite Antennas greater than one (1) meter in diameter that are mounted on the ground shall be screened from view from adjoining properties by solid fencing or evergreen plants to a height of a least six (6) feet.

### **Section 11.7 Placement of Antenna Facilities**

This section does not apply to amateur radio, TV, and satellite receive-only antennas. For the purpose of determining the appropriate locations for the placement of antenna facilities, the City of Buda is divided into land use threshold areas that establish different regulations pertaining to height, location, and type of Antenna Facility. These land use thresholds are defined as follows:

- (1) Full Commercial ("FC"): Property within the R1, R2, R3, C1, C2, C3, I1, I2 or non-residential Planned Development zoning districts.
- (2) Undeveloped Residential ("UR"): Property within AG, LR, MR, HR, DR, MFR, MHR, or any residentially zoned Planned Development districts, that:

- a. Is not a part of a recorded subdivision; or
  - b. Is a part of a recorded subdivision but has not had a building permit issued for a residential structure; and
  - c. Not located within the calculated limits of the Developed Residential ("DR") threshold.
- (3) Wireless Corridors ("WC"): Property within, and 150 feet either side of, the right-of-way of a freeway or a major or minor arterial roadway, as indicated on the City of Buda Thoroughfare Plan.
- (4) Developed Residential ("DR"): Property within the AG, LR, MR, HR, DR, MFR, MHR, or any residentially zoned Planned Development districts, which:
- a. Is a recorded subdivision that has had at least one building permit for a residential structure; or
  - b. Is within 600 feet of areas described in paragraph 4a.

**Section 11.8 Antenna Facility Impact Levels**

For the purpose of determining appropriate locations for antenna facilities, the Town recognizes differing levels of impact for antenna facilities depending upon physical location, aesthetics, and land use compatibility. These Antenna Facility impact levels are described as follows:

- (1) Monopole: A monopole tower requires a Special Exception. The antenna equipment may not extend more than 5 feet above the highest point on the monopole.
- (2) Level 4 Stealth Facility: The antenna on a Level 4 Stealth facility is located on an existing structure (other than a telecommunications tower) including, but not limited to, a building, water tower, utility tower, steeple, or light pole. The antenna is neither screened nor hidden. For the purpose of this level, a pole or tower may be reconstructed to structurally hold the antenna but the height of the structure can not be increased.
- (3) Level 3 Stealth Facility: The antenna on a Level 3 Stealth facility is located on an existing structure (other than a telecommunications tower) including, but not limited to, a building, water tower, utility tower, steeple, or light pole. The antenna shall be aesthetically



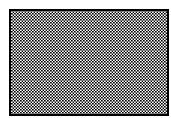
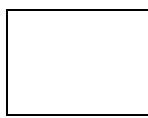
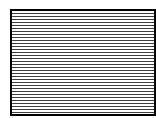
painted, constructed, or applied with material so that it is incorporated into the pattern, style, and material of the structure to effectively render the antenna unnoticeable. A new structure may be constructed to hold or house the antenna or equipment; however, the structure must be consistent with the overall architectural features of the primary buildings

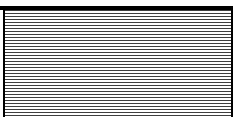
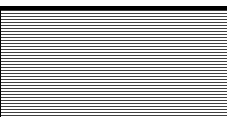
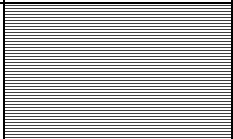
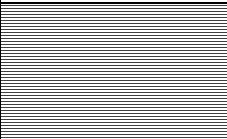
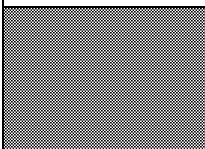
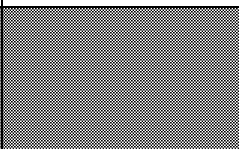
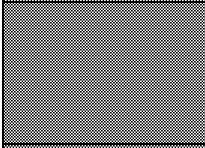

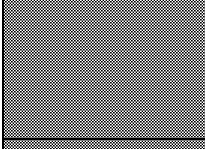
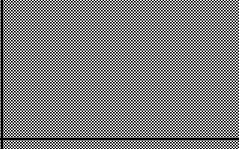
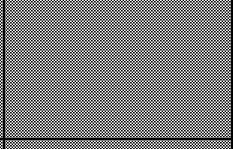
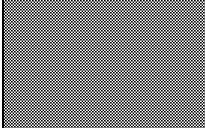
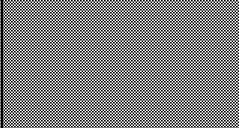
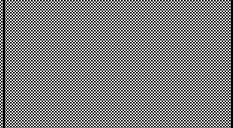
- (4) Level 2 Stealth Facility: The antenna on a Level 2 stealth facility is attached to the structure in such a manner that if it is seen it appears unrecognizable as an antenna, and the structure in which or on which the antenna is attached is an integral part of an overall development.
- (5) Level 1 Stealth Facility: The antenna on a Level 1 stealth facility is attached to the structure in such a manner that the antenna is completely unseen and the structure in which or on which the antenna is attached is an integral part of an overall development.

### **Section 11.9 Antenna Facility Siting Matrix**

Antenna facilities shall be located in accordance with the following siting matrix. This matrix provides for areas where antenna facilities may be located as permitted uses, areas where they may be located with a Special Exception, and areas where they are prohibited.

**Antenna Facility Siting Matrix**

 Permitted Use
  Requires a Special Exception
  Prohibited

<b>Monopole over 120 ft.</b>				
<b>Monopole up to 120 ft.</b>				
<b>Level 4 Stealth Facility</b>				
<b>Level 3 Stealth Facility</b>				
<b>Level 2 Stealth Facility</b>				
<b>Level 1 Stealth Facility</b>				
	<b>FC</b>	<b>WC</b>	<b>UR</b>	<b>DR</b>

**Section 11.10 Special Exception**

When a Special Exception is required by this section for the location of an Antenna Facility or an antenna, the applicant must submit an application in accordance with the procedure established in this ordinance. Special Exceptions to this section are granted by the Board of Adjustment in accordance with Chapter 3, Section 3.9(10) of the UDC.

- (1) Application: In order to properly evaluate an application to locate an Antenna Facility or an antenna that requires a Special Exception, the applicant must provide the following information:

- a. A Special Exception application and appropriate application fee.
- b. A narrative detailing the proposed Antenna Facility. The narrative must indicate the following:
  - i. Whether the proposed structure is a co-location, a new monopole tower or a new alternate mounting structure.
  - ii. The height of the proposed tower.
  - iii. Why the Antenna Facility is necessary at the proposed location.
  - iv. The name(s) of the telecommunications providers or other users of the antenna or tower and describe the use to be made by each user;
  - v. Whether the applicant has made an effort to co-locate the facilities proposed for this Antenna Facility on existing antenna facilities in the same general area. Identify the location of these existing sites, and describe in detail these efforts and explain in detail why these existing sites were not feasible.
  - vi. Attach all studies or tests performed which demonstrate why the existing sites will not provide sufficient signal coverage.
  - vii. Provide written documentation from existing sites' owners and/or operators which confirm the statements provided.
  - viii. Indicate whether the existing sites allow/ promote co-location and, if not, describe why not.
  - ix. Whether co-location will be allowed to other telecommunications providers at the requested site. If they are not allowed, state every reason and the basis of each reason.
- c. Provide a site plan of the proposed Antenna Facility at a scale of 1" = 30'. The site plan should be on a single 24" X 36" sheet and include:
  - i. A survey and legal description of the proposed Antenna Facility;
  - ii. A detail on how access to the site is to be achieved;
  - iii. A plan view layout of the proposed Antenna Facility clearly showing:
  - iv. The location of the facility,
  - v. All equipment and structures in the proposed Antenna Facility,
  - vi. The required off street parking space,
  - vii. Distances to property lines,
  - viii. Required setbacks,
  - ix. Adjacent land uses and zoning designations,
  - x. Existing structures on the site,
  - xi. Required landscaping or screening of the base of the tower,
  - xii. All recorded and proposed easements, and
  - xiii. Natural features, such as water courses and trees.
- d. Elevation drawings showing:
  - i. The design and height of the proposed Antenna Facility
  - ii. Detailed drawings of all structures and equipment, including Photo-Simulation
  - iii. Screening requirements
  - iv. All requirements specified in Wireless Antenna Facility Special Exception Request Site Plan Check List
- e. If the requested location is in a residential district the applicant must provide evidence that they have made an effort to locate the facility in a nonresidential district. Identify the location of these nonresidential district sites, describe in detail these efforts, and explain in detail why these nonresidential sites were not feasible. Attach all studies or tests performed



- which demonstrate why the nonresidential sites will not provide sufficient signal coverage.
- f. Provide a map showing the proposed provider's current coverage area for the City of Buda. The map must show the roadway network and be labeled. The applicant must also provide propagation analysis showing the areas the proposed provider's existing antenna currently covers, the areas the applicant's existing sites and the requested site would cover. The propagation analysis must be labeled and have a legend.
  - g. Describe the applicant's master antenna facilities plan for the City of Buda. Attach maps and other related documentation. Provide information indicating each phase of the plan.
- (2) Consideration of Application: In considering whether to grant a Special Exception, the Board of Adjustment shall consider the following:
- a. The appropriateness of the location and design of the Antenna Facility;
  - b. The potential for interference with the enjoyment of the use surrounding properties;
  - c. Aesthetics; Impact, including but not limited to, the surrounding topography, surrounding tree coverage and foliage; proposed buffering; and the design of the Antenna Facility, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness;
  - d. The proposed height of the Antenna Facility relative to surrounding structures;
  - e. The zoning district and the adjoining zoning districts of the property for which Special Exception is sought;
  - f. The compliance with the City of Buda regulations; and
  - g. The availability of suitable alternative sites. Suitable alternative site(s) shall mean a location or locations that would provide the same or better signal coverage than the proposed site for which a Special Exception is requested. The applicant shall provide documentation supporting his contention that alternative site(s) are not suitable and/or available.
- (3) Procedures for Consideration of Special Exception: The procedures for consideration of an application for a Special Exception requested under this section of the ordinance shall be in accordance with Chapter 3, Section 3.8(7) of the UDC.

### **Section 11.11 Written Report**

Denial of an application for a Special Exception under this section must be documented in writing in accordance with the requirements of the Telecommunications Act of 1996 as amended.

### **Section 11.12 Appeal**

An applicant may appeal the decision of the Board of Adjustment to the District Court by filing a written Notice of Appeal within ten (10) days following the date the Administrator notifies the applicant of his decision. A decision not timely appealed in accordance with this section shall be final.

## Chapter 12 Compliance and Enforcement

### Section 12.1 Compliance

#### (1) General

- a. It shall be unlawful for any person to begin, continue, or complete any development on any land within the territorial jurisdiction of the City to which the provisions of this Code apply, except in accordance with and upon compliance with the provisions of this Code.
- b. The City and its agents shall enforce and ensure compliance with the provisions of this Code and shall take necessary and appropriate actions to prevent or cease any violations of the provisions of this Code.
- c. Interpretation and Conflict
  - (i) Minimum requirements. The standards and provisions of this Code shall be interpreted as the minimum requirements necessary for any person to comply with the Code.
  - (ii) Private restrictions. Whenever this Chapter imposes a higher standard than that required by easements, deed restrictions, covenants or agreements, the provisions of this subchapter shall govern to the extent permitted by law. In the case of a conflict between two standards, the more restrictive shall apply.
  - (iii) Other requirements. Wherever this Code imposes a higher standard than that required by any other ordinance or requirement, the provisions of this Code shall govern to the extent permitted by law. In cases where state or federal laws supersede the City's requirements, then the applicable state or federal requirements shall apply.
  - (iv) If the City Council determines that the condition of a party's development or action of another party violates a higher standard than that required by this Code, the provisions of the applicable state or federal statute shall govern.

#### (2) Violations

The following shall be deemed violations under this Code and constitute sufficient grounds for the City to take enforcement actions and pursue the penalties as specified below.

##### a. Development Without Permit

To engage in any development, use, construction, remodeling, or other activity of any nature upon any area or to make improvements thereon subject to the jurisdiction of this Code without all required permits, certificates, or other forms of authorization as set forth in this Code.

##### b. Development Inconsistent with Permit

To engage in any development, use, construction, remodeling, or other activity of any nature in any way inconsistent with any approved plan, plat, permit, certificate, or other form of authorization granted by the City for such activity.

##### c. Violation by Act or Omission

To violate, by act or omission, any term, variance, modification, condition, stipulation or qualification imposed by the City Council or its authorized agents upon any required permit, plat, certificate, or other form of authorization for the use, development, or other activity upon land or improvements thereon.

d. Use in Violation

To erect, construct, reconstruct, alter, repair, convert, maintain, or use any building, structure, property, or to use any land in violation or contravention of these regulations or any other regulation established under any other applicable legal authority.

e. Continue a Violation

The continuation of any of the above violations is a distinct offense, and each day such violation continues shall be considered a separate offense.

f. Complaints Regarding Violations

Whenever a violation of this Code occurs, or is alleged to have occurred, any person who witnessed the violation may file a written complaint with the City Secretary or City Administrator. Such complaint shall state fully the causes and basis thereof and the date on which the violation began or was first observed. The complaint shall also include a description of the property on which the violation occurred and the names and addresses of the parties involved. The City shall record the complaint, investigate within a reasonable time, and take action thereon, as provided by these requirements. The City Administrator may also act upon violations that otherwise become known during the normal performance of his/her duties. A public record of the disposition shall be made and maintained in the appropriate City records.

g. Fire Access Violations

(i) A person commits an offense if the person intentionally alters, defaces, injures, knocks down, or removes or attempts to do so, any sign designating a fire lane which has been erected under the terms of this Code section.

(ii) A summons or notice to appear in answer to a charge of parking, standing or stopping in violation of this section shall be issued on the official form prescribed by the City of Buda. The summons or notice shall require the appearance of the violator before the Municipal Court of the City and all fines paid by the violator shall be paid to the Municipal Court Clerk.

(iii) A summons or notice to appear in answer to a charge of parking, standing or stopping in violation of this section must specify the location of the fire lane or accessible space in which the violation occurred. A summons or notice may be issued by any police officer or code enforcement officer employed by the City of Buda, an employee designated by the Fire Marshall, or an employee of the City authorized to issue tickets for parking violations.

(iv) A person authorized to issue citations for violations as provided in this section may cause to be removed any vehicle found to be in violation.

(v) When a vehicle is towed, the owner shall be liable for the wrecker and the storage fees in addition to the fine for the violation of this Code section.

(3) Roles and Responsibilities Concerning Compliance

- a. Generally  
It shall be the duty of the City Council and the City Administrator, acting on behalf of the City Council, to enforce the requirements of this Code. The City Administrator may call upon officials of the City, including the City Engineer, City Building Inspector, or other appropriate City employees, to furnish him with such information or assistance as he may deem necessary for compliance with and enforcement of this Code.
- b. Land Use and Planning Matters
  - (i) The City shall not issue a building permit or certificate of occupancy required by any City ordinance for any land located within the jurisdictional limits to which this Code applies, until and unless the owner of the property, or its agent, is in compliance with the requirements of this Code.
  - (ii) The City shall not provide or connect City water, sewer, or other utility owned or licensed by the City to any property to which the provisions of this Code apply, unless and until the owner of the property, or its agent, is in compliance with the provisions of this Code.
- c. Health and Sanitation Matters
  - (i) Whenever a user has violated or continues to violate any provision of this Code pertaining to water and wastewater infrastructure, an industrial wastewater discharge permit or order issued hereunder, or any other applicable waste pretreatment standard or health and sanitation requirement, water service to the user may be discontinued. Service will only be reconnected, at the user's expense, after the user has ceased the violation and satisfactorily demonstrated and established his ability to comply with this Code.
  - (ii) A violation of any provision of this Code that is dangerous to human life or health; that renders the ground, the water, the air or any food or drink unwholesome and a hazard to human life and health; that may injure or affect the public health or comfort in any manner; or a violation of a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, is hereby declared a public nuisance and illegal, and shall be abated by any procedure authorized by law; further, the City shall be entitled to recover its damages, attorney fees, and expenses of litigation for enforcement or cessation of such violation.
- d. Responsible parties
  - (i) The owner or tenant of any building, structure, premises, or any part thereof, and any architect, engineer, builder, contractor, agent or other person who knowingly commits, participates in, permits, assists with or maintains such violation may each be found guilty of a separate offense and suffer the penalties provided in this Chapter; in addition, each party may also be subject to civil penalties as provided in this Chapter or applicable law.
  - (ii) Any person who opposes, obstructs, or resists any City official or any person authorized by the City Council in the discharge of his or her duties as provided by this Code shall be in violation of this Code and may be prosecuted for a Class "C" misdemeanor.
- e. Continuing or Repeat Violations

If an owner, occupant, or other person repeats the same violation, within a five-year period from the date of the initial violation, it shall be considered to be a repeat of the initial violation and shall be subject to additional penalties and remedies. Payment of a fine shall be considered admission of a violation for the purposes of a repeat violation.

### **Section 12.2 Enforcement**

- (1) Generally
  - a. The City may refuse to authorize or make utility connections on the grounds set forth in Tex. Loc. Govt. Code Ann. Section 2 12.012 (Vernon 1988 & Supp. 1994), as amended.
  - b. Notice of Intent to Suspend or Revoke
    - (i) Before the City initiates the process for suspension or revocation of a permit or other form of approval pursuant to this Code, the City Administrator or Building Official or another designee of the City Council shall give written notice of intent to suspend or revoke via certified mail, return receipt requested. The notice may specify a reasonable time for compliance with this Code.
    - (ii) If notice of intent is given, suspension or revocation shall not occur before the time for compliance has expired.
    - (iii) The City Administrator, Building Official, or another designee of the City Council shall not be required to provide notice of intent to suspend or revoke for violations of this Code that cause imminent destruction of property or injury to persons.
- (2) Suspension and Revocation of a Variance or Special Use Permit
  - a. When the City Council determines there is a failure to comply with any term, condition, or requirement that was a condition of the approval of a variance or special use permit, the City Council may direct the City Administrator, City Attorney, or another agent or official to suspend the variance or special use permit pending compliance with the terms, conditions, or requirements under which the variance or special use permit was approved.
  - b. Notice of suspension or revocation of a variance or special use permit shall be sent by certified mail, return receipt requested, to the permit holder of the variance or special use permit.
  - c. The City Council shall, if requested in writing by the permit holder, hold a public hearing no later than forty five (45) days after notification is sent to the permit holder of the variance or special use permit of its intent to suspend. If the City Council determines there is a failure to comply with any term, condition, or requirement made a condition of the variance or special use permit, the City Council may revoke the variance or special use permit or take such action as it considers necessary to ensure compliance.
  - d. A decision to revoke a variance or special use permit shall be effective immediately. Notice of the decision by the City Council shall be sent by certified mail, return receipt requested to the permit holder of the variance or the special use permit.

## (3) Stop work orders

The City Administrator, City Inspector or other City official duly authorized by the City Council may order all work, including site clearing or other site preparation, stopped on any site where a significant violation of this Code or a subdivision plat or approved site plan is found. Any person, including a workman on the site, who fails to comply with a stop work order, shall be guilty of a misdemeanor, punishable as provided in this Chapter of the Code. Upon receiving an application to resume work and a declaration from the landowner or developer that any claimed violations of this Code have ceased and that the landowner or developer is currently in compliance, the City Administrator shall determine, within ten (10) working days of receipt of said application, whether the work is in compliance. If the City Administrator determines that the work or site is in compliance, he may authorize the work to proceed in writing.

**Section 12.3 Penalties**

## (1) Generally

- a. Except where otherwise provided therein, the maximum fine for violating any provision of this Code, or any ordinance, rule or police regulation that governs fire safety, zoning or public health and sanitation, including dumping of refuse, shall not exceed two thousand dollars (\$2,000.00); for all other violations, the maximum fine shall not exceed five hundred dollars (\$500.00); provided, however, that no penalty shall be greater or less than the penalty provided for the same or a similar offense under the laws of the state.
- b. Each day a separate offense  
Each day any violation of this Code or of any ordinance of the City continues shall constitute a separate offense.
- c. Penalties are cumulative  
The penalties in this section shall be cumulative and are not exclusive of any other rights or remedies the City may have or pursue.

## (2) Assessment of Expenses

In addition to any other remedy provided in this Code or any other ordinance of this City and cumulative thereof, the City shall have the power by resolution of the City Council to cause any of the work or improvements required to be completed by the owner or applicant under the provisions of this Code to be undertaken by the City on the account of the owner of the property on which work or improvements are done; and the City shall cause the expense thereof to be assessed upon the real estate or lot upon which such expense is incurred and/or shall place a lien on said property.

## (3) Land Use and Zoning

- a. If the City Council finds, after notice and hearing, that a significant violation of an approved site plan has occurred, the Council may revoke its approval of such site plan. It shall be unlawful for any person to perform any work on the site pursuant to the site plan unless and until a new application for site plan approval has been filed and processed in accordance with the provisions of this Code and the City Council grants approval of a new final site plan that remedies the violations of the original site plan.

- b. Any person who violates any provision of this Code or any order issued under the authority of this Code, or who causes or permits any such violation, or who fails to perform any act required under this Code, or who performs any prohibited act or takes any action contrary to the final plats or site plans approved by the City Council, or who fails to take any action required by such approved plat or site plan, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine of not more than two thousand dollars (\$2,000.00). Each and every day that the violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such.

(4) Signs

- a. The City Administrator or his/her designee shall have the authority to issue a sign violation notice and shall be empowered to enter upon the premises of any person within the City or its extraterritorial jurisdiction for the purpose of enforcing the provisions herein.
- b. When a sign requiring a permit under Chapter 6 of this Code is erected without a sign permit, the City Administrator shall use the following procedures.
  - (i) The City shall give written notice of violation to the responsible party or to the occupant of the premises if the responsible party is not known. The notice shall include a description of the violation, the date such violation was noted, instructions to contact the City Administrator to apply for a permit for the sign, if applicable, and the fine schedule if the notice is not heeded, refused or unclaimed. The notice is deemed delivered when deposited in the United States Postal mail, with postage paid to the last known address of the party responsible for such sign.
  - (ii) If the City is unable to deliver written notice to the responsible party, a telephone call shall be made by the City Administrator or his designee, date and time recorded, informing the owner of the premises on which the sign is located that on a set day, a fine shall commence to be assessed to the owner of the sign for each day of the violation until the sign(s) are removed.
  - (iii) If, within fourteen (14) days, the responsible party fails to contact the City Administrator in writing, bring the sign into conformance with this Code, or apply for a permit for the sign, the City Administrator shall have the sign removed or impounded without further notice, and/or shall fine the owner on a daily basis as set forth within this Code.
  - (iv) The party responsible for the sign shall, upon conviction, be guilty of a misdemeanor and shall (a) forfeit both the sign and any permit associated with the sign; and (b) pay the fines set by the court, not to exceed the fines specified by this Code for each violation. Each day of the continued violation shall constitute a separate violation.
- c. Impoundment of Signs
  - (i) The City Administrator shall have the authority to remove all signs, without notice to the owners thereof, placed within any street or highway right-of-way, or attached to trees, telephone and utility poles, other natural features or signs otherwise prohibited or not authorized by this Code, and to impound them for a period of fourteen (14) days.

- (ii) The owner of an impounded sign may recover the same upon payment of an impoundment fee for each sign, and all costs associated with the removal of the sign, prior to the expiration of the fourteen (14) day impoundment period; in the event the sign is not claimed and retrieved from the City's possession within fourteen (14) days, the City Administrator shall have authority to dispose of such sign. The owner shall be responsible for all costs associated with removal and disposal of the sign.

### **Section 12.4 Civil remedies**

#### (1) Civil action

- a. In addition to the penalties otherwise provided, any condition caused or permitted to exist in violation of any provision of this Code or any ordinance, which provision is intended for the protection of the public health, safety or welfare, may be determined to constitute a public nuisance and may be abated by the City as provided by law.
- b. Prior to taking civil action, the City shall notify the defendant of the provisions of the Code that are being violated. Upon initiation of the civil action, the City shall demonstrate that the defendant was actually notified of the provisions of the Code; and that after receiving notice, the defendant committed acts in violation of the Code or failed to take action necessary for compliance with the Code.

#### (2) Injunction and other remedies

Any structure erected or used, or any development that is implemented, contrary to any of the provisions of this Code or to any of the requirements contained in a final plat or site plan approved by the City Council, is hereby declared to be unlawful and shall constitute a violation of this Code. The City Council may initiate the legal process to obtain an injunction, mandamus, abatement or any other action available in law or equity to prevent, enjoin, abate, correct or remove such unlawful structure, use, or development, or otherwise ensure compliance with this Code.

#### (3) Civil penalties

Any person who violates any provision of this Code is subject to a civil penalty of up to one thousand dollars (\$1,000.00) and not less than one hundred dollars (\$100.00), or more as permitted by law, for each act of violation and for each day of violation.

#### (4) Penalties are cumulative

The penalties in this section shall be cumulative and not exclusive of any other rights or remedies the City may have.

### **Section 12.5 Fiscal Surety and Assurance of Construction and Maintenance**

#### (1) Payment of Taxes



The landowner or developer shall provide the City Manager with a certified receipt showing that all taxes have been paid in conjunction with the submittal of an application for final plat approval or site development permit issuance.

(2) Letter of Credit or Performance Bond

- a. Before any development or project can proceed, the City Manager must be satisfied that the landowner or developer will be in a financial position to install or cause to be installed at his own cost, risk, and expense, all of the improvements required by this Code.
- b. If the landowner or developer elects to construct the required improvements prior to recording of a subdivision plat, after such plat has been approved, all such construction shall be inspected while in progress; in addition, the construction must receive approval upon completion by the City Manager or his designee. A certificate by the City Manager or his designee that the construction conforms to the plans and specifications and the standards contained in or referred to in this Code must be presented to the City Council by the landowner or developer prior to approval of the final plat.
- c. If the landowner or developer does not elect to construct the required improvements prior to recording of a subdivision plat, the landowner or developer of a site development shall post fiscal surety, as provided below, to assure completion of all construction required under this Code following issuance of the site development permit. If the landowner or developer of a subdivision decides or elects to post fiscal surety in lieu of completing construction prior to final plat approval, the landowner or developer may utilize one of the following methods of posting fiscal surety. If the landowner or developer elects to post fiscal surety for subdivision or site development related construction, the plat shall not be approved or the permit shall not be issued unless the landowner or developer has done the following:
  - (i) The landowner's or developer's engineer shall provide the City an estimate of the total cost of all uncompleted or unaccepted improvements as may be required by this Code; and the estimate shall be acceptable to the City Manager or his designee.; and,
  - (ii) The City Manager shall require sufficient fiscal surety to insure the orderly development within any subdivision or site development in the form of either (1) a performance bond or (2) an irrevocable letter of credit, equal to 110% of the estimated total cost of the improvements not yet completed and/or accepted as complete. Such letter of credit or bonds shall be issued by a financial institution authorized to do business in the State of Texas. Furthermore, the financial institution shall be reviewed and approved in advance and the letters of credit or bonds shall conform to forms or criteria approved in advance by the City Council.
  - (iii) The fiscal surety shall be for the purpose of securing the estimated cost of completing such improvements, should the City find it necessary to complete the improvements in lieu of the landowner or developer. The landowner or developer shall complete all such improvements specified or referenced in the subdivision plat or site development permit and the construction plans for the same, within two (2) years from the date of final plat approval or site development permit issuance unless granted an extension by the City. Failure to do so shall authorize the

City to complete the improvements using the fiscal surety provided by the landowner or developer.

- d. It is expressly understood that, as a condition to the approval of said subdivision or site development, no sale of any lot may be completed until all utilities are installed and all other improvements required by this Code are made within the block in which said lot is contained.
- (3) Requirements Prior to Final Acceptance for Maintenance
- a. The landowner or developer shall ensure that all of the facilities constructed in accordance with the requirements of this Code will perform and remain in good working order and in accordance with the design performance criteria of each such facility, for two (2) years commencing on the date of approval of final completion by the City Manager or his designee.
  - b. Prior to final acceptance for maintenance of the completed improvements by the City Manager, the landowner or developer shall require any construction contractors with whom he contracts for furnishing materials and for installation of the improvements required under this Code, to provide written guarantees to the City, and shall himself be required to furnish to the City, a written guarantee, that all workmanship and materials shall be free of defects for a period of two (2) years from the date of acceptance by the City Manager.
    - i. The guarantee shall be either in the form of a two (2) year warranty bond executed by a corporate surety licensed to do business in the State of Texas, conditioned that the improvements are free from defects in materials and workmanship, or an irrevocable letter of credit from a financial institution authorized to do business in Texas, and approved by the City Manager, committing funds for the correction and repair of any defects in materials or workmanship. Said bonds or letters of credit shall be in the amount of at least twenty (20) percent of the total construction cost.
    - ii. The financial institution shall be reviewed and approved in advance and the letters of credit or bonds shall conform to forms or criteria approved in advance by the City Council.
    - iii. The two (2) year assurance period shall commence on the date of approval of final completion of the improvements by the City Manager or his designee.
- (4) Acceptance of Improvements
- a. During the course of installation and construction of the required improvements, the City Manager or his designee shall make periodic inspections of the work to insure that all improvements comply with the requirements of this Code. Upon completion of installation and construction of all required improvements, the landowner or developer may seek acceptance of all public improvements by the City by submitting the required number of copies of as-built plans and a two (2) year maintenance bond as specified in the terms and conditions above. In addition, the landowner or developer shall provide a certified statement signed by a registered professional engineer that all improvements have been installed and constructed in accordance with the submitted as-built plans.
  - b. After final inspection, the City Manager shall notify the landowner or

developer and the City Attorney in writing as to its acceptance or rejection. The City Manager shall reject such construction only if it fails to comply with the standards and specifications contained or referred to herein. No release of any posted fiscal surety shall occur until the City has formally accepted the constructed improvements that are the subject of such surety.

- c. If the City Manager rejects such construction, the City Attorney shall, upon direction of the City Council, proceed to enforce the guarantees provided in this Chapter.
- d. When good cause exists, the City Manager may extend the period of time for completion. Such extension of time shall be reported to the City Council and recorded in the minutes. No such extension shall be granted unless fiscal surety, as set forth above, has been provided by the landowner or developer covering the extended period of time.

(5) Maintenance and Supervision

Where a subdivision contains sewers, sewage treatment facilities, water supply systems, water quality protection facilities, streets and other transportation related improvements, parks and grounds held in common, park and recreation improvements, drainage easements and/or drainage improvements, landscape improvements or other physical facilities necessary or desirable for the welfare of the area, or that are of common use or benefit which are not or cannot be satisfactorily maintained by an existing public agency, provision shall be made, which is acceptable to the City Council, for the proper and continuous operation, maintenance, and supervision of such facilities. A copy of the agreements providing for the proper and continuous operation, maintenance and supervision of such facilities shall be presented to the City Manager and approved as to form by the City Attorney prior to the time of final plat approval or site development permit issuance and shall be filed of record with the plat or permit.

**Appendix A  
City of Buda Ordinances**

<b>I.</b>	<b>Water Quality Ordinance</b>	<b>A-2</b>
<b>II.</b>	<b>Flood Damage Control Ordinance</b>	<b>A-14</b>
<b>III.</b>	<b>Dangerous Building Ordinance</b>	<b>A-33</b>

## Water Quality Ordinance

AN ORDINANCE TO PRESERVE AND PROTECT WATER QUALITY IN THE BARTON SPRINGS SEGMENT OF THE EDWARDS AQUIFER AND TO PROMOTE THE PUBLIC HEALTH, SAFETY AND WELFARE BY PRESERVING THE REGION'S DRINKING WATER SUPPLY, AND IMPOSING A FINE OF NOT LESS THAN \$50.00 NOR MORE THAN \$2000.00 FOR EACH SEPARATE OFFENSE, AND DECLARING THAT EACH DAY A PERSON PERFORMS AN ACT PROHIBITED BY THE ORDINANCE OR FAILS TO PERFORM AN ACT REQUIRED BY THE ORDINANCE IS A SEPARATE OFFENSE

### 1-1 Definitions

- (A) ARTERIAL STREET is a street designed to carry high volumes of through traffic. Access is usually limited to intersections and major driveways. Arterial streets serve as a link between major activity centers within urban areas.
- (B) BARTON SPRINGS SEGMENT of the EDWARDS AQUIFER is the water-bearing substrata also known as the Edwards and Associated Limestones Aquifer and includes the stratigraphic rock units known as the Edwards Formation and Georgetown Formation and is bounded on the north by the Colorado River and on the south by a groundwater divide running approximately parallel with FM 150 in Hays County.
- (C) BLUFF is limited to a bluff with a vertical change in elevation of more than 40 feet and an average gradient greater than 400 percent.
- (D) COLLECTOR STREET means that the function is to intercept traffic from intersecting local streets and expedite the movement of this traffic in the most direct route to an arterial street or other collector street.
- (E) CRITICAL ENVIRONMENTAL FEATURES are features that are of critical importance to the protection of environmental resources, and include bluffs, canyon rimrocks, caves, sinkholes, springs, and wetlands.
- (F) EDWARDS AQUIFER RECHARGE ZONE means all land over the Edwards Aquifer that recharges the aquifer, as determined by the surface exposure of the geologic units comprising the Edwards Aquifer, including the areas overlain with quaternary terrace deposits, as currently mapped by the Texas Natural Resource Conservation Commission (TNRCC).
- (G) IMPERVIOUS COVER means roads, parking areas, buildings, swimming pools, rooftop landscapes and other impermeable construction covering the natural land surface.
- (H) IMPERVIOUS LINER indicates a liner that fluids may not pass through. The liner may be constructed of concrete or geomembrane. If geomembrane is used, suitable geotextile fabric shall be placed on the top and bottom of the membrane for puncture protection.
- (I) LOCAL STREET indicates a street that serves abutting land use and traffic within a neighborhood, commercial development, or limited residential district.

A local street is not generally continuous through several districts.

- (J) NET SITE AREA includes only the portions of a site that lie in an uplands zone and have not been designated for wastewater irrigation. Net site area is also the aggregate of: 100 percent of the land with a gradient of 15 percent or less; 40 percent of the land with a gradient of more than 15 percent and not more than 25 percent; and 20 percent of the land with a gradient of more than 25 percent and not more than 35 percent.
- (K) ONION CREEK WATERSHED means the land area that drains to Onion Creek.
- (L) POINT RECHARGE FEATURE means a cave, sinkhole, fault, joint, or other natural feature that lies over the Edwards Aquifer recharge zone and that may transmit a significant amount of surface water into the subsurface strata.
- (M) UPLAND ZONES includes all land and waters not included in a critical water quality zone or a water quality transition zone.
- (N) WATER QUALITY CONTROL means a structure, system, or feature that provides water quality benefits by treating stormwater run-off. These are also referred to as best management practices or BMP5.
- (O) WETLAND means a transitional land between terrestrial and aquatic systems where the water table is usually at or near the surface or the land is covered by shallow water, and conforms to the Army Corps of Engineers' definition.

### **1-2 Declaration of Intent**

The City of Buda declares its intent to preserve a clean and safe drinking water supply, to prevent degradation of the water quality in the Barton Springs segment of the Edwards Aquifer, and to promote the public health, safety, and welfare by preserving the region's drinking water supply. The City recognizes that the Barton Springs segment of the Edwards Aquifer is more vulnerable to pollution from development than any other major groundwater supply in Texas, and that the measures set out in this article are necessary to protect this irreplaceable natural resource.

Persons who develop their property in compliance with the rules set forth in the remainder of this ordinance should note that their compliance may forgo the need for a consultation with the US Fish and Wildlife Service, regarding water quality for protection of the Barton Springs Salamander, as the model for this ordinance was developed in coordination with the aforementioned agency. Any revisions to or variances from this ordinance would require additional review by the US Fish and Wildlife Service.

### **1-3 Amendment**

This article shall not be repealed or amended by City Council until two years after the effective date of the ordinance. Thereafter, this article may be repealed or amended only by an affirmative vote of a majority of the City Council.

### **1-4 Adoption of Water Quality Measures**

The adoption of this article is not intended to preclude the adoption, at any time, by a majority vote of the City Council of stricter water quality requirements upon development in the Barton Springs segment of the Edwards Aquifer Recharge or Contributing Zones or of further measures to restore and protect water quality.

### **1-5 Recharge Zone Impervious Cover Limitations and Pollution Prevention Requirements**

- (A) In the Barton Springs Segment of the Edwards Aquifer Recharge Zone (hereafter referred to as Recharge Zone) no development nor any revision, extension, or amendment thereof, may be approved unless it is designed, carried out, and maintained on a site-by-site basis to meet the water quality requirements set forth below for the life of the project. Official maps locating areas within the Recharge Zone are available at the Buda City Hall.
- (B) The impervious cover limits shall be calculated on a net site area basis. In order to prevent pollution, impervious cover for all such development shall be limited to a maximum of 15 percent in the Recharge Zone.
- (C) Runoff from such development shall be managed through water quality controls (best management practices) and onsite pollution prevention with the goal that no increases occur in the respective average annual loadings of total suspended solids, total phosphorus, total nitrogen, chemical oxygen demand, and oil and grease from the site.

### **1-6 Waterways**

This section classifies significant waterways according to drainage area.

- (A) a sub-minor waterway has a drainage area of at least 5 acres and not more than 64 acres;
- (B) a minor waterway has a drainage area of at least 64 acres and not more than 320 acres;
- (C) an intermediate waterway has a drainage area of more than 320 acres and not more than 640 acres; and
- (D) a major waterway has a drainage area of more than 640 acres.

### **1-7 Critical Water Quality Zones**

A critical water quality zone is established along each waterway defined under section 1-6 (Waterways).

- (A) The boundaries of a critical water quality zone coincide with the boundaries of the 100 year flood plain as delineated by the Federal Emergency Management Agency (FEMA), except:
  - (1) for a sub-minor waterway, the outer boundaries of the critical water quality zone are located not less than 25 feet and not more than 50 feet from the centerline of the waterway;

- (2) for a minor waterway, the outer boundaries of the critical water quality zone are located not less than 50 feet and not more than 100 feet from the centerline of the waterway;
  - (3) for an intermediate waterway, the outer boundaries of the critical water quality zone are located not less than 100 feet and not more than 200 feet from the centerline of the waterway;
  - (4) for a major waterway, the outer boundaries of the critical water quality zone are located not less than 200 feet and not more than 400 feet from the centerline of the waterway; and
- (B) Notwithstanding the provisions of Subsections (A)(1), (2), and (3), a critical water quality zone does not extend beyond the crest of a bluff.

### **1-8 Critical Water Zone Quality Development**

The following types of development are permitted in the Critical Water Quality Zone:

- (A) A fence that does not obstruct flood flows.
- (B) Public or private parks, playing fields, or open spaces, other than a parking lot, are permitted if the City approves a program of fertilizer, pesticide, and herbicide use.
  - (1) park development is limited to hiking, jogging, or walking trails and outdoor facilities, and excludes stables and corrals for animals.
- (C) A pedestrian bridge, or bicycle or golf cart path.
- (D) A utility line may cross a critical water quality zone with approval from the City.
- (E) Street crossings are permitted as follows:
  - (1) A major water way critical water quality zone may be crossed by an arterial street.
  - (2) An intermediate waterway critical water quality zone may be crossed by a collector street, except:
    - (a) a collector street crossing must be at least one mile from a collector or arterial street crossing on the same waterway.
  - (3) A minor waterway critical water quality zone may be crossed by an arterial and collector streets, except:
    - (b) a collector street crossing must be at least 2,000 feet from a collector or arterial street crossing on the same waterway.
  - (4) A local street may cross any critical water quality zone if necessary to provide access to property that cannot otherwise be safely accessed.



**1-9 Water Quality Transition Zones**

- (A) A water quality transition zone is established adjacent and parallel to the outer boundary of each critical water quality zone.
- (B) The width of a water quality transition zone is:
  - (1) for a minor waterway, 100 feet;
  - (2) for an intermediate waterway, 200 feet; and
  - (3) for a major waterway, 300 feet.

**1-10 Water Quality Transition Zone Development**

- (A) Development is prohibited in a water quality transition zone, except for development described in section 1-8 (Critical Water Quality Zone Development).
- (B) Water quality controls for development in an uplands zone or water quality transition zone may be located in a water quality transition zone.
- (C) A utility line may be located within a water quality transition zone.

**1-11 Critical Environmental Features**

- (A) Drainage patterns for proposed development must be designed to protect critical environmental features from the effects of runoff from developed areas, and to maintain the catchment areas of recharge features in a natural state. Special controls must be used where necessary to avoid the effects of erosion, or sedimentation, or high rates of flow.
- (B) Within a platted subdivision, a residential lot less than 1.62 acres may not include a critical environmental feature or be located within 50 feet of a critical environmental feature.
- (C) This subsection mandates the requirements for critical environmental feature buffer zones.
  - (1) A buffer zone is established around each critical environmental feature described in this subchapter.
    - (a) Except as provided in Subsection (C)(1)(b), the width of the buffer zone is 150 feet from the edge of the critical environmental feature.
    - (b) For a point recharge feature, the buffer zone coincides with the topographically defined catchment basin, except that the width of the buffer zone from the edge of the critical environmental feature is:
      - (i) not less than 150 feet; and
      - (ii) not more than 300 feet.
  - (2) Within a buffer zone described in this subsection:

- (a) the natural vegetative cover must be retained to the maximum extent practicable;
  - (b) construction is prohibited; unless it is specifically designed to improve recharge or protect the feature; and
  - (c) wastewater disposal or irrigation is prohibited.
- (3) If located at least 50 feet from the edge of the critical environmental feature, the prohibition of Subsection (C)(2)(b) does not apply to:
- (a) a yard or hiking trail; or
  - (b) a recharge basin approved under Section 1-13 (Water Quality Control Standard(s) that discharges to a point recharge feature.

### **1-12 Water Quality Control Standards**

- (A) A water quality control must be designed in accordance with the City of Austin Environmental Criteria Manual, a copy of which is kept for reference at the City office, or any other method approved by the City of Buda (see section 1-14 Innovative Management Practices).
- (1) The control must provide at least the treatment level to ensure that no increases occur in the respective average annual loadings as described in section 1-5-C (Recharge and Contributing Zone Impervious Cover Limitations and Pollution Prevention Requirements). Approval by the City is required for a proposed water quality control that is not described in the City of Austin Environmental Criteria Manual. The applicant must substantiate the pollutant removal efficiency of the proposed control with published literature or a verifiable engineering study.
  - (2) Water quality controls must be placed in sequence if necessary to remove the required amount of pollutant. The sequence of controls must be:
    - (a) based on the City of Austin Environmental Criteria Manual or generally accepted engineering principles; and
    - (b) designed to minimize maintenance requirements.
  - (3) An impervious liner is required. If controls are located in series, liners are not required for the second or later in the series following sedimentation, extended detention, or sedimentation/filtration.
- (B) A water quality control must capture, isolate, and treat the water draining to the control from the contributing area. The minimum required capture volume is:
- (1) the first one-half inch of runoff, or the 2-yr storm runoff volume, whichever is greater; and
- (C) The location of a water quality control:
- (1) must avoid recharge features to the greatest extent possible;

- (2) must be shown on the slope map, preliminary plan, site plan, or subdivision construction plan, as applicable; and
- (3) may not be located in a buffer zone of a critical environmental feature, unless the control is located to maximize overland flow and recharge in the undisturbed remainder of the buffer zone.

### **1-13 Innovative Management Practices**

- (A) An innovative runoff management practice is a practice that is designed to address the requirements of Sections 1-12 (Water Quality Control Requirements) and 1-13 (Water Quality Control Standards), enhance the recharge of groundwater and the discharge of springs, and maintain the function of critical environmental features. The City encourages the use of innovative management practices.
- (B) An innovative management practice proposal must be reviewed and approved by the City. Review and approval is based on:
  - (1) technical merit;
  - (2) compliance with the requirements for water quality protection and improvement;
  - (3) resource protection and improvement;
  - (4) advantages over standard practices; and
  - (5) anticipated maintenance requirements

### **1-14 Water Quality Control Maintenance and Inspection**

- (A) For a commercial or multifamily development, the owner will maintain a required water quality control in accordance with the maintenance standards in the City of Austin Environmental Criteria Manual. Documentation will be provided by the owner of the facility that ensures that sufficient annual funding exists to properly maintain any water quality controls. The City or its designated representative shall inspect each water quality control at least once a year.
  - (1) If noncompliance is found during an inspection, the City will request in writing that the property owner comply. This notice will describe the measures to be taken. If, within 30 days of notice, the maintenance required is not accomplished, the City may impose fines as established in section 1-21 Penalty, or bring action in a court of competent jurisdiction to require the property owner to accomplish necessary maintenance. Necessary maintenance is that maintenance needed to bring the facility and/or improvement into compliance with this chapter or other ordinances, laws or regulations. The City hereby declares that any failure to maintain a water quality control in accordance with City standards is a public nuisance subject to all remedies, legal and equitable, to abate that nuisance.
- (B) For a single-family or duplex residential development, the City will maintain a required water quality control if the water quality control has been accepted by the City. For a water quality control to be accepted by the City, it must meet the

requirements of section 1-13 (Water Quality Control Standards).

### **1-15 Additional Erosion and Sedimentation Control Requirements in the Recharge Zone.**

This section provides additional erosion and sedimentation control requirements for development in the Recharge Zone.

- (A) A temporary erosion and sedimentation control plan and a water quality plan certified by a registered professional engineer and approved by the City is required for each new development project.
  - (1) The plans must describe the temporary structural controls, site management practices, or other approved methods that will be used to control off-site sedimentation until permanent revegetation is certified to be complete.
  - (2) The temporary erosion control plan must be phased to be effective at all stages of construction. Each temporary erosion control method must be adjusted, maintained, and repaired as necessary.
- (B) The City may require a modification of the temporary erosion control plan after determining that the plan does not adequately control off-site sedimentation from the development. Approval by the City and the engineer who certified the plan is required for a major modification of the plan.
- (C) The owner shall designate a project manager who is responsible for compliance with the erosion and sedimentation control and water quality plan requirements during development.
- (D) The length of time between clearing and final revegetation of development may not exceed 18 months, unless extended by the City Council.
- (E) If an applicant does not comply with the deadline in Subsection (D), or does not adequately maintain the temporary erosion and sedimentation controls, the City shall notify the applicant in writing that the City will repair the controls or revegetate the disturbed area at the applicant's expense unless the work is completed or revegetation is begun not later than the 15th day after the date of the notice.
- (F) A person commits an offense, punishable under Section 1-21 hereof, if the person allows sediment from a construction site to enter a waterway by failing to maintain erosion controls or failing to follow the approved sequence of construction.

### **1-16 Stop Work Order**

- (A) If the City or its designated representative determines that a person has not complied with a requirement of this ordinance, the City may order the person to stop the development of or transportation of construction material to the site until the person complies with the requirements of this ordinance.
- (B) While a stop work order is in effect:
  - (1) a City inspection may not be performed, and work requiring an inspection

may not be approved; and

- (2) a person may not connect any City owned utility at the site.
- (C) If a stop work order is based on a failed inspection, a person may not further develop the site until the development passes a reinspection.
- (D) A City employee shall post a stop work order on the site and mail a copy of the order to the record owner.

### **1-17 Appeal of a Stop Work Order**

- (A) A person may appeal a stop work order issued under this ordinance by giving written notice to the City Manager not later than the third day after the stop work order is posted.
- (B) The notice of appeal must contain:
  - (1) the name and address of the appellant;
  - (2) a statement of facts;
  - (3) the decision being appealed; and
  - (4) the reasons the decision should be set aside.
- (C) The City Council shall hear the appeal not later than the next regularly scheduled council meeting after the appeal is filed. The appellant, the appellant's expert, and representatives of the City may offer testimony to the City Council.
- (D) A stop work order, remains in effect during the pendency of an appeal under this section.

### **1-18 Low Impact Development Design**

Low-impact development design is a philosophy of development planning, engineering design and construction, and tenant occupation that reduces the impact upon the surrounding environment. A source of guidance for such design may be obtained from Low-Impact Development Design Manual, Department of Environmental Resources, Prince George's County, Maryland, November 1997 (A copy will be kept at the City office for reference). Site specifics will affect the applicability of the measures to the Central Texas area.

Preservation of large, undisturbed upland areas through the use of innovative site design techniques (for example - cluster development) is encouraged. Cluster development should also incorporate design principles that: reduce roadway widths; reduce residential street lengths using alternate street layouts that increase the number of homes per unit length; reduce residential street right-of-way widths; minimize the use of residential street cul-de-sacs using alternative turnaround designs; use vegetated channels instead of curb and gutters; and use subdivision designs that incorporate, where appropriate, narrower lot frontages. Additional recommendations for low impact designs include the use of non-toxic building

materials, water conservation, rainwater harvesting, wastewater recycling, and xeriscaping.

### **1-19 Transfer of Development Intensity**

- (A) Onsite development intensity may be increased if additional land, conservation easement, or development rights are acquired offsite. Development should not exceed a maximum of 30% on-site impervious cover of the upland zone when sufficient off site land is provided.
- (1) Offsite mitigation land used for transfer of intensity must be located in the same watershed and aquifer zone as the development.
  - (2) Offsite mitigation land being used to offset higher development on a project will not include areas that would be part of a Critical Water Quality Zone, or Critical Environmental Feature buffer.
  - (3) Offsite mitigation land will be maintained in a low impervious cover condition (2 percent or less) in perpetuity. Conservation easements or deed restrictions will be used to ensure permanent protection.
  - (4) Offsite mitigation lands shall also have provisions made for appropriate long term management, which could include a property owner, home-owners association, river authority, county, land trust, or the City.
  - (5) Offsite land shall be in large (25 acres or larger) contiguous areas and used to augment existing conservation efforts, to the greatest extent practical.
  - (6) Golf course areas receiving fertilizer, pesticide, and herbicide applications will be excluded from the upland area calculation and will not be used to calculate allowable impervious cover. The offsite acreage may also be reduced when additional land within the Recharge Zone can be preserved. This consideration will be made on a case-by-case basis by the City Council.

### **1-20 Variances**

- (A) The City Council may grant a variance from the terms of this article only if an applicant requests in writing and the City Council finds that, because of special circumstances applicable to the property involved, a strict application deprives the property of privileges or safety enjoyed by other similarly situated property with similarly timed development. Where these conditions are found, the variance permitted shall be the minimum departure from the terms of this article necessary to avoid deprivation of privileges enjoyed by other property and to facilitate a reasonable use and which will not create significant probabilities of harmful environmental consequences. The city council may not grant a variance if it would provide the applicant with any special privileges not enjoyed by other similarly situated properties with similarly timed development or if based on a special or unique condition which was created as a result of the method by which a person voluntarily subdivides land after the effective date of the ordinance from which this article derives.
- (B) The City Council shall prepare written findings of fact justifying its grant or denial of a variance under this section.

**1-21 Application to Existing Tracts and Platted Lots.**

(A) This ordinance does not apply to development on a single platted lot or a single tract of land that is not required to be platted before development if the lot or tract existed on and the development is either:

(1) construction, renovation, additions to, repair, or development of a single family, single-family attached, or a duplex structure used exclusively for residential purposes, and construction of improvements incidental to that residential use; or

(2) there will be no more than 8,000 square feet of impervious cover, provided that the total impervious cover on the tract is less than 20% of the net site area.

**1-22 Penalty.**

(A) A person commits an offense if the person performs an act prohibited by this ordinance or fails to perform an act required by this ordinance.

(B) A separate offense is committed each day that a violation of this ordinance continues. Each instance of a violation of this ordinance is a separate offense.

(C) An offense under this ordinance is a class C misdemeanor, punishable by a fine of not less than \$50 per day per violation and not to exceed \$2,000.00 per day per violation. Prosecution of an offense under Subsection (A) of this section does not preclude other enforcement remedies under this ordinance. The enforcement of other remedies under this chapter does not prevent prosecution for a violation of this ordinance under Subsection (A) of this section.

(D) The city's authority to seek injunctive or other civil relief available under the law is not limited by this section.

**1-23 Civil Remedy.**

In the event any provision of this ordinance is violated within the limits of the city, or outside the corporate lines but within the area of its extraterritorial jurisdiction, the city may institute any appropriate action or proceedings in district court or another court of competent jurisdiction to restrain and enjoin the violation of this ordinance.

**1-24 Conflict with Other Laws and Ordinances**

(A) This ordinance is not intended to conflict with the United States Constitution or the Texas Constitution or to be inconsistent with federal or state statutes that may preempt a municipal ordinance.

(B) The terms of this ordinance shall be applied consistently and uniformly. If a three- quarters majority of the City Council concludes, or a court of competent jurisdiction renders a final judgment concluding that this ordinance, as applied to a specific development project or proposal violates a law described in Subsection (A) of this section, the City Council may, after a public hearing, adjust the application of this ordinance to that project to the minimum extent required to comply with the conflicting law. Any adjustment shall be structured

to provide the maximum protection of water quality.

- (C) This ordinance is intended to be cumulative of other City ordinances. In case of irreconcilable conflict in the application to a specific development proposal between a provision of this ordinance and any other ordinance, the provision that provides stronger water quality controls on development shall govern.

### **1-25 Severability**

If any provision, section, subsection, sentence, clause, or phrase of this ordinance, or the application of the same to any person, property, or set of circumstances is for any reason held to be unconstitutional, void, or otherwise invalid, the validity of the remaining portions of this ordinance shall not be affected by that invalidity; and all provisions of this article are severable for that purpose.

Signed into effect on the 7th day of August 2001.



**FLOOD DAMAGE PREVENTION ORDINANCE****ARTICLE I****STATUTORY AUTHORIZATION, FINDINGS OF FACT, PURPOSE AND METHODS****SECTION A. STATUTORY AUTHORIZATION**

The Legislature of the State of Texas has in the Texas Water Code, Section 16.315, delegated the responsibility of local governmental units to adopt regulations designed to minimize flood losses; and

WHEREAS, the Legislature of the State of Texas has in the Texas Water Code Section 16.315, delegated the responsibility of local government units to adopt regulations designed to minimize flood losses; and

WHEREAS, the City of Buda adopted Ordinance Number 02-02-12-1 and submitted it to the Federal Emergency Management Agency (FEMA) for review and approval; and

WHEREAS, FEMA required certain technical corrections and additions be made to the Ordinance; and

WHEREAS, the following Ordinance completely replaces Buda Ordinance 02- 02- 12- 1.

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

**SECTION B. FINDINGS OF FACT**

- (1) The flood hazard areas of Buda are subject to periodic inundation, which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, and extraordinary public expenditures for flood protection and relief, all of which adversely affect the public health, safety and general welfare.
- (2) These flood losses are created by the cumulative effect of obstructions in floodplains which cause an increase in flood heights and velocities, and by the occupancy of flood hazard areas by uses vulnerable to floods and hazardous to other lands because they are inadequately elevated, floodproofed or otherwise protected from flood damage.

**SECTION C. STATEMENT OF PURPOSE**

It is the purpose of this ordinance to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

- (1) Protect human life and health;

- (2) Minimize expenditure of public money for costly flood control projects;
- (3) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (4) Minimize prolonged business interruptions;
- (5) Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in floodplains;
- (6) Help maintain a stable tax base by providing for the sound use and development of flood-prone areas in such a manner as to minimize future flood blight areas;
- (7) Insure that potential buyers are notified that property is in a flood area; and,
- (8) Completely supersede and replace Buda Ordinance Number 02-02-121.

#### **SECTION D. METHODS OF REDUCING FLOOD LOSSES**

In order to accomplish its purposes, this ordinance uses the following methods:

- (1) Restrict or prohibit uses that are dangerous to health, safety or property in times of flood, or cause excessive increases in flood heights or velocities;
- (2) Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- (3) Control the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of flood waters;
- (4) Control filling, grading, dredging and other development which may increase flood damage;
- (5) Prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands.

### **ARTICLE 2**

#### **DEFINITIONS**

Unless specifically defined below, words or phrases used in this ordinance shall be interpreted to give them the meaning they have in common usage and to give this ordinance it's most reasonable application.

**ALLUVIAL FAN FLOODING** - means flooding occurring on the surface of an alluvial fan or similar landform which originates at the apex and is characterized by high-velocity flows; active processes of erosion, sediment transport, and deposition; and unpredictable flow paths.

**APEX** - means a point on an alluvial fan or similar landform below which the flow path of the major stream that formed the fan becomes unpredictable and alluvial fan flooding can occur.

**APPURTENANT STRUCTURE** - means a structure which is on the same parcel of property as the principal structure to be insured and the use of which is incidental to the use of the principal structure

**AREA OF FUTURE CONDITIONS FLOOD HAZARD** - means the land area that would be inundated by the 1-percent-annual chance (100 year) flood based on future conditions hydrology.

**AREA OF SHALLOW FLOODING** - means a designated AO, AH, AR/AO, AR/AH, or VO zone on a community's Flood Insurance Rate Map (FIRM) with a 1 percent or greater annual chance of flooding to an average depth of 1 to 3 feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

**AREA OF SPECIAL FLOOD HAZARD** - is the land in the floodplain within a community subject to a 1 percent or greater chance of flooding in any given year. The area may be designated as Zone A on the Flood Hazard Boundary Map (FHBM). After detailed rate making has been completed in preparation for publication of the FIRM, Zone A usually is refined into Zones A, AO, AH, A1-30, AE, A99, AR, AR/A1-30, AR/AE, AR/AO, AR/AH, AR/A, VO, V1-30, VE or V.

**BASE FLOOD** - means the flood having a 1 percent chance of being equaled or exceeded in any given year.

**BASEMENT** - means any area of the building having its floor subgrade (below ground level) on all sides.

**BREAKAWAY WALL** - means a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces, without causing damage to the elevated portion of the building or supporting foundation system.

**CRITICAL FEATURE** - means an integral and readily identifiable part of a flood protection system, without which the flood protection provided by the entire system would be compromised.

**DEVELOPMENT** - means any man-made change to improved and unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

**ELEVATED BUILDING** - means, for insurance purposes, a non-basement building, which has its lowest elevated floor, raised above ground level by foundation walls, shear walls, posts, piers, pilings, or columns.

**EXISTING CONSTRUCTION** - means for the purposes of determining rates, structures for which the "start of construction" commenced before the effective date of the FIRM or before January 1, 1975, for FIRMs effective before that date. "Existing construction" may also be referred to as "existing structures."

**EXISTING MANUFACTURED HOME PARK OR SUBDIVISION** - means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community.

**EXPANSION TO AN EXISTING MANUFACTURED HOME PARK OR SUBDIVISION** - means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

**FLOOD OR FLOODING** - means a general and temporary condition of partial or complete inundation of normally dry land areas from:

- (1) the overflow of inland or tidal waters.
- (2) the unusual and rapid accumulation or runoff of surface waters from any source,

**FLOOD ELEVATION STUDY** - means an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudslide (i.e., mudflow) and/or flood-related erosion hazards.

**FLOOD INSURANCE RATE MAP (FIRM)** - means an official map of a community, on which the Federal Emergency Management Agency has delineated both the special flood hazard areas and the risk premium zones applicable to the community.

**FLOOD INSURANCE STUDY (FIS)** - see *Flood Elevation Study*

**FLOODPLAIN OR FLOOD-PRONE AREA** - means any land area susceptible to being inundated by water from any source (see definition of flooding).

**FLOODPLAIN MANAGEMENT** - means the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works and floodplain management regulations.

**FLOODPLAIN MANAGEMENT REGULATIONS** - means zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a floodplain ordinance, grading ordinance and erosion control ordinance) and other applications of police power. The term describes such state or

local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

**FLOOD PROTECTION SYSTEM** - means those physical structural works for which funds have been authorized, appropriated, and expended and which have been constructed specifically to modify flooding in order to reduce the extent of the area within a community subject to a "special flood hazard" and the extent of the depths of associated flooding. Such a system typically includes hurricane tidal barriers, dams, reservoirs, levees or dikes. These specialized flood modifying works are those constructed in conformance with sound engineering standards.

**FLOOD PROOFING** - means any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

**FLOODWAY** - see *Regulatory Floodway*

**FUNCTIONALLY DEPENDENT USE** - means a use, which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

**HIGHEST ADJACENT GRADE** - means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

**HISTORIC STRUCTURE** - means any structure that is:

- (1) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- (2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- (3) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
- (4) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
  - (a) By an approved state program as determined by the Secretary of the Interior or;

- (b) Directly by the Secretary of the Interior in states without approved programs.

**LEVEE** - means a man-made structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control, or divert the flow of water so as to provide protection from temporary flooding.

**LEVEE SYSTEM** - means a flood protection system which consists of a levee, or levees, and associated structures, such as closure and drainage devices, which are constructed and operated in accordance with sound engineering practices.

**LOWEST FLOOR** - means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking or vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirement of Section 60.3 of the National Flood Insurance Program regulations.

**MANUFACTURED HOME** - means a structure transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. The term "manufactured home" does not include a "recreational vehicle".

**MANUFACTURED HOME PARK OR SUBDIVISION** - means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

**MEAN SEA LEVEL** - means, for purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

**NEW CONSTRUCTION** - means, for the purpose of determining insurance rates, structures for which the "start of construction" commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, "new construction" means structures for which the "start of construction" commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.

**NEW MANUFACTURED HOME PARK OR SUBDIVISION** - means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by a community.

**RECREATIONAL VEHICLE** - means a vehicle which is (i) built on a single chassis; (ii) 400 square feet or less when measured at the largest horizontal projections; (iii) designed to be self-propelled or permanently towable by a light duty truck; and (iv)

designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

**REGULATORY FLOOD DATUM (RFD)** - means an established plane of reference from which elevations and depth of flooding may be determined for specific locations of the floodplain. It is the water level of the base flood plus a freeboard factor of two feet. Base flood plus freeboard equals Regulatory Flood Datum.

**REGULATORY FLOODWAY** - means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

**RIVERINE** - means relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

**SPECIAL FLOOD HAZARD AREA** - see *Area of Special Flood Hazard*

**START OF CONSTRUCTION** - (for other than new construction or substantial improvements under the Coastal Barrier Resources Act (Pub. L. 97-348)), includes substantial improvement and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

**STRUCTURE** - means, for floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.

**SUBSTANTIAL DAMAGE** - means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the fair market value of the structure before the damage occurred. Substantial damage is cumulative of the total value of restorations from all flood events to that structure.

**SUBSTANTIAL IMPROVEMENT** - means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before "start of construction" of the improvement. This term includes structures which have incurred "substantial damage" regardless of

the actual repair work performed. The term does not, however, include either: (1) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions or (2) Any alteration of a "historic structure", provided that the alteration will not preclude the structure's continued designation as a "historic structure."

**VARIANCE** - means a grant of relief by a community from the terms of a floodplain management regulation. (For full requirements see Section 60.6 of the National Flood Insurance Program regulations.)

**VIOLATION** - means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in Section 60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4), or (e)(5) of the National Flood Insurance Program is presumed to be in violation until such time as that documentation is provided.

**WATER SURFACE ELEVATION** - means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929 (or other datum, where specified), of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

### **ARTICLE 3**

#### **GENERAL PROVISIONS**

##### **SECTION A. LANDS TO WHICH THIS ORDINANCE APPLIES**

The ordinance shall apply to all areas of special flood hazard within the jurisdiction of the City of Buda.

##### **SECTION B. BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD**

The areas of special flood hazard identified by the Federal Emergency Management Agency in the current scientific and engineering report entitled, "The Flood Insurance Study (FIS) for Hays County, Texas dated September 2, 2005, with accompanying Flood Insurance Rate Maps dated September 2, 2005. Any revisions thereto are hereby adopted by reference and declared to be a part of this ordinance.

##### **SECTION C. ESTABLISHMENT OF DEVELOPMENT PERMIT**

A Development Permit shall be required to ensure conformance with the provisions of this ordinance. The City shall charge a fee for the issuance of the permit, which shall be set from time to time by the City Council. The initial Fee shall be \$ 100.00. The fee shall be payable at the time the application is submitted.

##### **SECTION D. COMPLIANCE**



No structure or land shall hereafter be located, altered, or have its use changed without full compliance with the terms of this ordinance and other applicable regulations.

#### **SECTION E. ABROGATION AND GREATER RESTRICTIONS**

This ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance and another ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

#### **SECTION F. INTERPRETATION**

In the interpretation and application of this ordinance, all provisions shall be; (1) considered as minimum requirements; (2) liberally construed in favor of the governing body; and (3) deemed neither to limit nor repeal any other powers granted under State statutes.

#### **SECTION G. WARNING AND DISCLAIMER OR LIABILITY**

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. On rare occasions greater floods can and will occur and flood heights may be increased by man-made or natural causes. This ordinance does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This ordinance shall not create liability on the part of the City or any official or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decisions lawfully made hereunder.

### **ARTICLE 4**

#### **ADMINISTRATION**

#### **SECTION A. DESIGNATION OF THE FLOODPLAIN ADMINISTRATOR**

The City Manager is hereby appointed the Floodplain Administrator to administer and implement the provisions of this ordinance and other appropriate sections of 44 CFR (Emergency Management and Assistance -National Flood Insurance Program Regulations) pertaining to floodplain management.

#### **SECTION B. DUTIES & RESPONSIBILITIES OF THE FLOODPLAIN ADMINISTRATOR**

Duties and responsibilities of the Floodplain Administrator shall include, but not be limited to, the following:

- (1) Maintain and hold open for public inspection all records pertaining to the provisions of this ordinance, including all permit applications and the action taken thereon under Article 4, Section C.

- (2) Review permit application to determine whether the proposed building site project, including the placement of manufactured homes, will be reasonably safe from flooding.
- (3) Review, approve or deny all applications for development permits required by adoption of this ordinance.
- (4) Review permits for proposed development to assure that all necessary permits have been obtained from those Federal, State or local governmental agencies (including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334) from which prior approval is required.
- (5) Where interpretation is needed as to the exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions) the Floodplain Administrator shall make the necessary interpretation.
- (6) Notify, in riverine situations, adjacent communities and the State Coordinating Agency which is the Texas Commission on Environmental Quality, prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency.
- (7) Assure that the flood carrying capacity within the altered or relocated portion of any watercourse is maintained.
- (8) When base flood elevation data has not been provided in accordance with Article 3, Section B, the Floodplain Administrator shall obtain, review and reasonably utilize any base flood elevation data and floodway data available from a Federal, State or other source, in order to administer the provisions of Article 5.
- (9) When a regulatory floodway has not been designated, the Floodplain Administrator must require that no new construction, substantial improvements, or other development (including fill) shall be permitted within Zones A1-30 and AE on the community's FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.
- (10) Under the provisions of 44 CFR Chapter 1, Section 65.12 regulations regarding Revision to the FIRM of the National Flood Insurance Program, a community may approve certain development in Zones A1-30, AE, AH, on the City's FIRM which increases the water surface elevation of the base flood by more than 1 foot, provided that the City first completes all of the provisions required by Section 65.12 regulations regarding Revision to the FIRM.

### **SECTION C. PERMIT PROCEDURES**

- (1) Application for a Development Permit shall be presented to the Floodplain

Administrator on forms furnished by him/her and may include, but not be limited to, plans in duplicate drawn to scale showing the location, dimensions, and elevation of proposed landscape alterations, existing and proposed structures, including the placement of manufactured homes, and the location of the foregoing in relation to areas of special flood hazard. Additionally, the following information is required:

- (a) Elevation (in relation to mean sea level), of the lowest floor (including basement) of all new and substantially improved structures;
  - (b) Elevation in relation to mean sea level to which any nonresidential structure shall be floodproofed;
  - (c) A certificate from a registered professional engineer or architect that the nonresidential floodproofed structure shall meet the floodproofing criteria of Article 5, Section B (2);
  - (d) Description of the extent to which any watercourse or natural drainage will be altered or relocated as a result of proposed development;
  - (e) Maintain a record of all such information in accordance with Article 4, Section (B)(1);
- (2) Approval or denial of a Development Permit by the Floodplain Administrator shall be based on all of the provisions of this ordinance and the following relevant factors:
- (a) The danger to life and property due to flooding or erosion damage;
  - (b) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
  - (c) The danger that materials may be swept onto other lands to the injury of others;
  - (d) The compatibility of the proposed use with existing and anticipated development;
  - (e) The safety of access to the property in times of flood for ordinary and emergency vehicles;
  - (f) The costs of providing governmental services during and after flood conditions including maintenance and repair of streets and bridges, and public utilities and facilities such as sewer, gas, electrical and water systems;
  - (g) The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site;

- (h) The necessity to the facility of a waterfront location, where applicable;
- (i) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use; and
- (j) The relationship of the proposed use to the comprehensive plan for that area.

#### **SECTION D. VARIANCE PROCEDURES**

- (1) The City Council shall hear and render judgment on requests for variances from the requirements of this ordinance.
- (2) The City Council shall hear and render judgment on an appeal only when it is alleged there is an error in any requirement, decision, or determination made by the Floodplain Administrator in the enforcement or administration of this ordinance.
- (3) Any person or persons aggrieved by the decision of the City Council may appeal such decision in the courts of competent jurisdiction.
- (4) The Floodplain Administrator shall maintain a record of all actions involving an appeal and shall report variances to the Federal Emergency Management Agency upon request.
- (5) Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in the remainder of this ordinance.
- (6) Variances may be issued for new construction and substantial improvements to be erected on a lot of 1/ 2 acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing the relevant factors in Section C (2) of this Article have been fully considered. As the lot size increases beyond the 1/ 2 acre, the technical justification required for issuing the variance increases.
- (7) Upon consideration of the factors noted above and the intent of this ordinance, the City Council may attach such conditions to the granting of variances as it deems necessary to further the purpose and objectives of this ordinance (Article 1, Section C).
- (8) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
- (9) Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.

(10) Prerequisites for granting variances:

- (a) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- (b) Variances shall only be issued upon:
  - (i) showing a good and sufficient cause;
  - (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and
  - (iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
- (c) Any application to which a variance is granted shall be given written notice that the structure will be permitted to be built with the lowest floor elevation below the base flood elevation, and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

(11) Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that

- (i) the criteria outlined in Article 4, Section D (1)-(9) are met, and
- (ii) the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

## **ARTICLE 5**

### **PROVISIONS FOR FLOOD HAZARD REDUCTION**

#### **SECTION A. GENERAL STANDARDS**

In all areas of special flood hazards the following provisions are required for all new construction and substantial improvements:

- (1) If a building or structure is damaged or destroyed to an extent of less than 50% of its fair market value by flood, restoration shall be permitted. If destruction is greater than 50% of its fair market value, restoration of such building or structure shall not be permitted. Substantial damage is cumulative of the total value of restorations from all flood events to that structure.
- (2) All new construction or substantial improvements shall be designed (or modified) and adequately anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;

- (3) All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damage;
- (4) All new construction or substantial improvements shall be constructed with materials resistant to flood damage;
- (5) All new construction or substantial improvements shall be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;
- (6) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
- (7) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system and discharge from the systems into flood waters; and,
- (8) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

#### **SECTION B. SPECIFIC STANDARDS**

In all areas of special flood hazards where base flood elevation data has been provided as set forth in (1) Article 3, Section B, (ii) Article 4, Section B (8), or (iii) Article 5, Section C (3), the following provisions are required:

- (1) **Residential Construction** - new construction and substantial improvement of any residential structure shall have the lowest floor (including basement), elevated to or above the regulatory flood datum. A registered professional engineer, architect, or land surveyor shall submit a certification to the Floodplain Administrator that the standard of this subsection as proposed in Article 4, Section C (1) a., is satisfied.
- (2) **Nonresidential Construction** - new construction and substantial improvements of any commercial, industrial or other nonresidential structure shall either have the lowest floor (including basement) elevated to or above the regulatory flood datum or, together with attendant utility and sanitary facilities, be designed so that below the regulatory flood datum, the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered professional engineer or architect shall develop and/or review structural design, specifications, and plans for the construction, and shall certify that the design and methods of construction are in accordance with accepted standards of practice as outlined in this subsection. A record of such certification which includes the specific elevation (in relation to mean sea level) to which such structures are

floodproofed shall be maintained by the Floodplain Administrator.

(3) **Enclosures** - new construction and substantial improvements, with fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria:

(a) A minimum of two openings on separate walls having a total net area of not less than 1 square inch for every square foot of enclosed area subject to flooding shall be provided.

(b) The bottom of all openings shall be no higher than 1 foot above grade.

(c) Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

(4) **Manufactured Homes** -

(a) Require that all manufactured homes to be placed within Zone A on a community's FHBM or FIRM shall be installed using methods and practices which minimize flood damage. For the purposes of this requirement, manufactured homes must be elevated and anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces.

(b) Require that manufactured homes that are placed or substantially improved within Zones A1-30, AH, and AE on the community's FIRM on sites

(i) outside of a manufactured home park or subdivision,

(ii) in a new manufactured home park or subdivision,

(iii) in an expansion to an existing manufactured home park or subdivision,  
or

(iv) in an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as a result of a flood, be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated to or above the regulatory flood datum and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

(c) Require that manufactured homes be placed or substantially improved on sites in an existing manufactured home park or subdivision with Zones A1-

30, AH and AE on the community's FIRM that are not subject to the provisions of paragraph (4) of this section be elevated so that either:

- (i) the lowest floor of the manufactured home is at or above the regulatory flood datum, or
  - (ii) the manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.
- (5) **Recreational Vehicles** - Require that recreational vehicles placed on sites within Zones A1-30, AH, and AE on the community's FIRM either
- (i) be on the site for fewer than 180 consecutive days, or
  - (ii) be fully licensed and ready for highway use, or
  - (iii) meet the permit requirements of Article 4, Section C (1), and the elevation and anchoring requirements for "manufactured homes" in paragraph (4) of this section.

A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions.

- (6) **Critical Facilities** - Critical facilities, such as EMS, fire department, and police department, must be constructed above the 500-year floodplain elevation.
- (7) **Hazardous Materials** - Hazardous materials storage must be constructed above the 500-year floodplain elevation.
- (8) **Certificate of Elevation** - A Certificate of Elevation is required for all new development.

### **SECTION C. STANDARDS FOR SUBDIVISION PROPOSALS**

- (1) All subdivision proposals including the placement of manufactured home parks and subdivisions shall be consistent with Article 1, Sections B, C, and D of this ordinance.
- (2) All proposals for the development of subdivisions including the placement of manufactured home parks and subdivisions shall meet Development Permit requirements of Article 3, Section C; Article 4, Section C; and the provisions of Article 5 of this ordinance.
- (3) Base flood elevation data shall be generated for subdivision proposals and other proposed development including the placement of manufactured home parks and subdivisions which is greater than 50 lots or 5 acres, whichever is lesser, if not otherwise provided pursuant to Article 3, Section B or Article 4, Section B (8) of this ordinance.
- (4) All subdivision proposals including the placement of manufactured home parks



and subdivisions shall have adequate drainage provided to reduce exposure to flood hazards.

- (5) All subdivision proposals including the placement of manufactured home parks and subdivisions shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize or eliminate flood damage.

#### **SECTION D. STANDARDS FOR AREAS OF SHALLOW FLOODING (AWAH ZONES)**

Located within the areas of special flood hazard established in Article 3, Section B, are areas designated as shallow flooding. These areas have special flood hazards associated with flood depths of 1 to 3 feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow; therefore, the following provisions apply:

- (1) All new construction and substantial improvements of residential structures have the lowest floor (including basement) elevated to or above the base flood elevation or the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM (at least 3 feet if no depth number is specified).
- (2) All new construction and substantial improvements of non-residential structures;
  - (a) have the lowest floor (including basement) elevated to or above the base flood elevation or the highest adjacent grade at least as high as the depth number specified in feet on the City's FIRM (at least 3 feet if no depth number is specified), or
  - (b) together with attendant utility and sanitary facilities be designed so that below the base specified flood depth in an AO Zone, or below the Base Flood Elevation in an AH Zone, level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads of effects of buoyancy.
- (3) A registered professional engineer or architect shall submit a certification to the Floodplain Administrator that the standards of this Section, as proposed in Article 4, Section C are satisfied.
- (4) Require within Zones AH or AO adequate drainage paths around structures on slopes, to guide flood waters around and away from proposed structures.

#### **SECTION E. FLOODWAYS**

Floodways located within areas of special flood hazard established in Article 3, Section B, are areas designated as floodways. Since the floodway is an extremely hazardous

area due to the velocity of flood waters which carry debris, potential projectiles and erosion potential, the following provisions shall apply:

- (1) Encroachments are prohibited, including fill, new construction, substantial improvements and other development within the adopted regulatory floodway unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in flood levels within the community during the occurrence of the base flood discharge.
- (2) If Article 5, Section E (1) above is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Article 5.
- (3) Under the provisions of 44 CFR Chapter 1, Section 65.12 regulations regarding Revision to the FIRM of the National Flood Insurance Program, a community may permit encroachments within the adopted regulatory floodway that would result in an increase in base flood elevations, provided that the community **first** completes all of the provisions required by Section 65.12 regulations regarding Revision to the FIRM.
- (4) A final site plan may not be approved unless the proposed development will not result in additional identifiable adverse flooding on other property.

#### **SECTION F. SEVERABILITY**

In the event any section, paragraph, subdivision, clause, phrase, provision, sentence, or part of this Ordinance or the application of the same to any person or circumstance shall for any reason be adjudged invalid or held unconstitutional by a court of competent jurisdiction, it shall not affect, impair, or invalidate this Ordinance as a whole or any part or provision hereof other than the part declared to be invalid or unconstitutional; and the City Council of the City of Buda, Texas, declares that it would have passed each and every part of the same notwithstanding the omission of any such part thus declared to be invalid or unconstitutional, or whether there be one or more parts.

#### **SECTION G. PENALTIES FOR NON COMPLIANCE**

No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this ordinance and other applicable regulations. Violation of the provisions of this ordinance by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a misdemeanor.

- (1) Any person who violates this court order or fails to comply with any of its requirements shall upon conviction thereof be fined not more than \$200.00 per day for each day of noncompliance and in addition shall pay all costs and expenses involved in the case. Nothing herein contained shall prevent the City of Buda from taking such other lawful action as is necessary to prevent or

remedy any violation.

- (2) The City Administrator shall have the power to enforce this ordinance by injunction or any other remedy provided at law or equity, and the pursuit of any remedy shall not be a bar to the pursuit of any other remedy.
- (3) Any ordinance or any part of any ordinance inconsistent or in conflict herewith, is hereby repealed.

**SECTION H. CERTIFICATION OF ADOPTION**

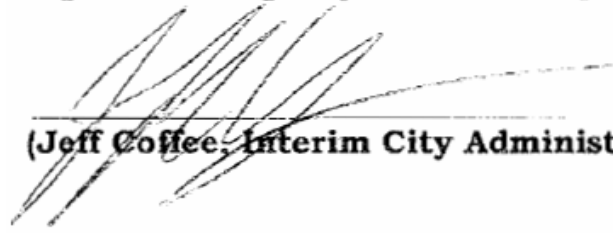
It is hereby found and declared by the City of Buda, that severe flooding has occurred in the past within its jurisdiction and will certainly occur within the future; that flooding is likely to result in infliction of serious personal injury or death, and is likely to result in substantial injury or destruction of property within its jurisdiction; in order to effectively comply with minimum standards for coverage under the National Flood Insurance Program; and in order to effectively remedy the situation described herein, it is necessary that this ordinance become effective immediately.

**APPROVED:** \_\_\_\_\_  
  
**(John Trube, Mayor)**

**PASSED:** 8-16-05  
**(adoption date)**

**ORDINANCE BECOMES EFFECTIVE:** 9-2-05  
**(effective date)**

I, the undersigned, Jeff Coffee, do hereby certify that the above is a true and correct copy of an ordinance duly adopted by the Buda City Council, at a regular meeting duly convened on {date}. 8-16-05

  
**(Jeff Coffee, Interim City Administrator)**

**ORDINANCE NO. 070821-3**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BUDA, TEXAS, DECLARING DANGEROUS BUILDINGS TO BE ILLEGAL IN THE CITY; DEFINING WHAT CONSTITUTES A DANGEROUS BUILDING; PROVIDING FOR NOTICE AND A PUBLIC HEARING; PROVIDING FOR THE CREATION OF A BUILDING STANDARDS COMMISSION TO ENFORCE THIS ORDINANCE; PROVIDING FOR ENFORCEMENT AND CIVIL PENALTIES AND A SEVERABILITY CLAUSE.**

WHEREAS, the City of Buda has determined that dangerous buildings are a threat to the health, safety, and welfare of the citizens of Buda, Texas; and

WHEREAS, Chapter 214 of the Texas Local Government Code specifically authorizes a city to protect its citizens from the effects of dangerous buildings; and

WHEREAS, the City has determined that the provisions of this ordinance are consistent with the powers authorized in Chapter 214 of the Texas Local Government Code; and

WHEREAS, the City finds that this ordinance was adopted at a public meeting held in strict compliance with the Texas Open Meetings Act at which a quorum of the Council was present and voting.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BUDA, TEXAS:**

1. That the provisions attached as Exhibit "A" hereto related to dangerous buildings are hereby adopted and shall be published in the Buda Code of Ordinances.
2. If any sentence, section, subsection, clause, phrase, part or provision of this Ordinance be declared by a court of competent jurisdiction to be invalid, the same shall not affect the validity of the Ordinance as a whole, or any part thereof, other than the part declared to be invalid.
3. This ordinance shall become effective and in full force immediately after its passage and publication as required by law.

PASSED AND APPROVED this 21st day of August, 2007.



THE CITY OF BUDA, TEXAS,  
a Municipal Corporation

By: Bobby Lane  
Bobby Lane, Mayor Pro-Tem

ATTEST:

Toni Milam  
Toni Milam, City Secretary

Clients\Buda\Ordinances 2007\Dangerous Building Ordinance

**EXHIBIT "A"****Section 1. Dangerous Buildings Prohibited**

Pursuant to the authority granted to the City in Texas Local Government Code, Chapter 214, the City adopts this ordinance to require the vacation, relocation of occupants, securing, repair, removal, or demolition of a building which has any or all of the conditions or defects hereinafter described:

(1) dilapidated, substandard, or unfit for human habitation and a hazard to the public health, safety, and welfare;

(2) regardless of its structural condition, unoccupied by its owners, lessees, or other invitees and is unsecured from unauthorized entry to the extent that it could be entered or used by vagrants or other uninvited persons as a place of harborage or could be entered or used by children; or

(3) boarded up, fenced, or otherwise secured in any manner if:

(A) the building constitutes a danger to the public even though secured from entry; or

(B) the means used to secure the building are inadequate to prevent unauthorized entry or use of the building in the manner described in subparagraph (2) above.

(4) all buildings described in subparagraphs (1) through (3) above are hereby declared illegal and shall be abated by repair, rehabilitation, or by demolition.

**Section 2. Building Standards**

(1) The standards set forth below apply to all buildings in the City regardless of the date of their construction and these standards shall be used by the Building Standards Commission in determining whether a building should be declared unsafe and ordered vacated, secured, repaired, removed, demolished, and/or the occupants relocated:

- (A) The building, structure, or any part thereof is liable to partially or fully collapse.
- (B) The structure or any part thereof was constructed or maintained in violation of any provision of the City's building code, or any other applicable ordinance or law of the City, county, state or federal government.
- (C) Any wall or other vertical structural members list, lean, or buckle to such an extent that a plumb line passing through the center of gravity falls outside of the middle third (1/3) of its base.
- (D) The foundation or the vertical or horizontal supporting members are twenty-five (25) percent or more damaged or deteriorated.
- (E) The nonsupporting coverings of walls, ceilings, roofs, or floors are fifty (50) percent or more damaged or deteriorated.
- (F) The structure has improperly distributed loads upon the structural members, or they have insufficient strength to be reasonably safe for the purpose used.
- (G) The structure or any part thereof has been damaged by fire, water, earthquake, wind, vandalism, or other cause to such an extent that it has become dangerous to the public health, safety, or welfare.
- (H) The structure or any part thereof has inadequate means of egress as required by the City's building code.
- (I) The structure does not have adequate light, ventilation, or sanitation facilities as required by the City's building code and plumbing code.

(J) The structure has parts thereof which are so attached that they may fall and injure persons or property.

(2) Minimum Standards. The minimum standards that shall determine the suitability of a building for continued use or occupancy, regardless of the date of construction, are those found in the City's adopted standard building, electrical, plumbing, gas, mechanical, existing buildings and fire prevention codes.

**Section 3. Notice of Violation**

In the event the City's Building Inspector determines that there are reasonable grounds to believe that a building or any part thereof violates the standards set forth above, he shall take the following acts:

(1) Notify the owner of the building and any interested lienholder or mortgagee of his determination in reasonable detail to enable the owner to commence repairs as may be needed. The notice shall be sent certified mail with return receipt requested, using signature confirmation service, or by personal delivery, to the owner at the address as shown on the City tax records and to any person who holds a lien or mortgage on the property in question.

(2) He shall request a public hearing before the Building Standards Commission (herein referred to as the Commission) to determine whether there exists a violation of this ordinance;

(3) He shall include in his notice the date, time, and location of the hearing before the Commission; and

(4) He shall include in the notice sent to the owner, lienholder and mortgagee a statement that the owner, lienholder or mortgagee shall be required to submit at the public hearing proof of the scope of any work that may be required to comply with this ordinance and the time it will take to reasonably perform the work.

(5) The Building Inspector may seek voluntary compliance with this Chapter with the owner, lienholder or mortgagee of the building or structure before seeking a

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hearing before the Commission. If the Building Inspector receives voluntary  
compliance from the owner, lienholder or mortgagee, the Building Inspector need not  
seek a public hearing from the Commission.

**Section 4. Compliance**

In conducting a hearing authorized under this section, the Commission shall  
require the owner, lienholder, or mortgagee of the building to within 30 days:

- (A) secure the building from unauthorized entry; or
- (B) repair, remove, or demolish the building, unless the owner or  
lienholder establishes at the hearing that the work cannot  
reasonably be performed within 30 days.

If the Commission allows the owner, lienholder, or mortgagee more than 30  
days to repair, remove, or demolish the building, the Commission shall establish  
specific time schedules for the commencement and performance of the work and shall  
require the owner, lienholder, or mortgagee to secure the property in a reasonable  
manner from unauthorized entry while the work is being performed.

**Section 5. Time to Comply**

The Commission may not allow the owner, lienholder, or mortgagee more than  
90 days to repair, remove, or demolish the building or fully perform all work required  
to comply with the order unless the owner, lienholder, or mortgagee:

- (A) submits a detailed plan and time schedule for the work at the  
hearing; and
- (B) establishes at the hearing that the work cannot reasonably be  
completed within 90 days because of the scope and complexity of  
the work.

**Section 6. Progress Reports**

If the Commission allows the owner, lienholder, or mortgagee more than 90  
days to complete any part of the work required to repair, remove, or demolish the



building, the Commission shall require the owner, lienholder, or mortgagee to regularly submit progress reports to the City Administrator to demonstrate compliance with the time schedules established for commencement and performance of the work. The order may require that the owner, lienholder, or mortgagee appear before the Commission or the Commission's designee to demonstrate compliance with the time schedules.

**Section 7. Security for Performance**

If the owner, lienholder, or mortgagee owns property, including structures or improvements on property, within the City that exceeds \$100,000 in total value, the Commission may require the owner, lienholder, or mortgagee to post a cash or surety bond in an amount adequate to cover the cost of repairing, removing, or demolishing a building under this subsection. In lieu of a bond, the Commission may require the owner, lienholder, or mortgagee to provide a letter of credit from a financial institution or a guaranty from a third party approved by the Commission. The bond must be posted, or the letter of credit or third party guaranty provided, not later than the 30th day after the date the Commission issues the order.

**Section 8. Burden of Proof**

In a public hearing to determine whether a building complies with the standards set out in this ordinance, the owner, lienholder, or mortgagee has the burden of proof to demonstrate the scope of any work that may be required to comply with this ordinance and the time it will take to reasonably perform the work.

**Section 9. Commission Order**

(1) After the public hearing, if the building is found in violation of the standards set out above, the Commission may:

- (A) order that the building be vacated, secured, repaired, removed, or demolished by the owner within a reasonable time;

- (B) order that all occupants of the building be relocated within a reasonable time.

(2) After the public hearing at which a building is found in violation of this ordinance, the City Administrator shall personally deliver, or send by certified mail, return receipt requested, or deliver by United States Postal Service using signature confirmation service, to each identified mortgagee and lienholder a notice stating:

- (A) an identification, which is not required to be a legal description, of the building and the property on which it stands;
- (B) a description of the violation of the standards set forth above that is present at the building; and
- (C) a statement that the City will vacate, secure, remove, or demolish the building or relocate the occupants of the building if the ordered action is not taken within a reasonable time.

**Section 10. Publication and Service of Order**

Within 10 days after the date that the order is issued, the Commission shall:

- (A) file a copy of the order in the office of the City secretary; and
- (B) publish in a newspaper of general circulation in the City of Buda a notice containing:
  - (i) the street address or legal description of the property;
  - (ii) the date of the hearing;
  - (iii) a brief statement indicating the results of the order; and
  - (iv) instructions stating where a complete copy of the order may be obtained.

After the hearing, the City Administrator shall promptly mail by certified mail, return receipt requested, or personally deliver a copy of the order to the owner of the building and to any lienholder or mortgagee of the building. The City Administrator

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shall use its best efforts to determine the identity and address of any owner,  
lienholder, or mortgagee of the building.

**Section 11. Failure to Comply**

If the building is not vacated, secured, repaired, removed, or demolished, or the occupants are not relocated within the allotted time, the City may vacate, secure, remove, or demolish the building or relocate the occupants at its own expense. This section does not limit the ability of the City to collect on a bond or other financial guaranty that may be required by Section 7.

**Section 12. Lien**

If the City incurs expenses under Sections 10 and/or 11, the City may assess the expenses on, and the City has a lien against, unless it is a homestead as protected by the Texas Constitution, the property on which the building was located. The lien is extinguished if the property owner or another person having an interest in the legal title to the property reimburses the City for the expenses. The lien arises and attaches to the property at the time the notice of the lien is recorded and indexed in the office of the county clerk of Hays County, Texas. The notice must contain the name and address of the owner if that information can be determined with a reasonable effort, a legal description of the real property on which the building was located, the amount of expenses incurred by the City, and the balance due.

If the notice is given and the opportunity to relocate the tenants of the building or to repair, remove, or demolish the building is afforded to each mortgagee and lienholder as authorized by Sections 3, 9, and 10, the lien is a privileged lien subordinate only to tax liens.

**Section 13. Effort to Locate Interested Parties**

The City's agents satisfy the requirements of this section to make a diligent effort, to use their best efforts, or to make a reasonable effort to determine the identity

and address of an owner, a lienholder, or a mortgagee if they search the following records:

- (A) county real property records of the county in which the building is located;
- (B) appraisal district records of the appraisal district in which the building is located;
- (C) records of the secretary of state;
- (D) assumed name records of the county in which the building is located;
- (E) city tax records; and
- (F) city utility records.

When an agent of the City mails a notice in accordance with this section to a property owner, lienholder, or mortgagee and the United States Postal Service returns the notice as "refused" or "unclaimed," the validity of the notice is not affected, and the notice is considered delivered.

**Section 14. Appeals**

Any appeal of a Commission order must be filed with a court of competent jurisdiction within 20 days after the notice of the order is either personally delivered or deposited in the United States mail addressed to the owner, lienholder, or mortgagee by certified mail, return receipt requested.

**Section 15. Civil Penalties for Failure to Comply**

In addition to the authority granted to the Commission above, the Commission may assess a civil penalty against the property owner for failure to repair, remove, or demolish the building. To secure the payment of the civil penalty, there is hereby imposed a lien against the land on which the building stands or stood, unless it is a homestead as protected by the Texas Constitution. Promptly after the assessment of

the civil penalty, the City Administrator must file for record, in recordable form in the office of the county clerk of the county in which the land is located, a written notice of the imposition of the lien. The notice must contain a legal description of the land.

**Section 16. Lien Priority**

Except as provided above, the City's lien to secure the payment of a civil penalty is inferior to any previously recorded bona fide mortgage lien attached to the real property to which the City's lien attaches if the mortgage lien was filed for record in the office of the county clerk of the county in which the real property is located before the date the civil penalty is assessed. The City's lien is superior to all other previously recorded judgment liens.

**Section 17. Interest**

Any civil penalty or other assessment imposed under this section accrues interest at the rate of 10 percent a year from the date of the assessment until paid in full.

**Section 18. Amount of Civil Penalty**

The Commission by order may assess and recover a civil penalty against a property owner at the time of an administrative hearing on violations of an ordinance, in an amount not to exceed \$1,000 a day for each violation or, if the owner shows that the property is the owner's lawful homestead, in an amount not to exceed \$10 a day for each violation, if the City proves:

- (A) the property owner was notified of the requirements of the ordinance and the owner's need to comply with the requirements; and
- (B) after notification, the property owner committed an act in violation of the ordinance or failed to take an action necessary for compliance with the ordinance.

**Section 19.** Effect of Assessment

An assessment of a civil penalty under this ordinance is final and binding and constitutes prima facie evidence of the penalty in any suit brought by the City in a court of competent jurisdiction for a final judgment in accordance with the assessed penalty.

**Section 20.** Filing Order Assessing Civil Penalty

Promptly after the assessment of the civil penalty, the City Secretary must file with the District Clerk of Hays County a certified copy of an order issued under Section 18 stating the amount and duration of the penalty. No other proof is required for a district court to enter a final judgment on the penalty.

**Section 21.** Building Standards Commission

There is hereby created a Building Standards Commission that is granted jurisdiction to conduct public hearings, issue orders, assess penalties, and take all action authorized in this ordinance. The members of the Planning and Zoning Commission shall sit as the Building Standards Commission unless otherwise appointed by the City Council. The Chairman of the Planning and Zoning Commission shall be the presiding officer at hearings conducted under this ordinance.

## **Appendix B Glossary**

### **Acceleration/Deceleration Lane**

A portion of a roadway designed to allow vehicles to safely decelerate for turns onto intersecting streets or safely accelerate to merge with the prevailing traffic flow.

### **Accessory Dwelling Unit**

A residential use, structure, or building incidental to the principal permitted or conditionally approved use on a site, whether comprising a portion of the principal structure on the site or located within an accessory structure or building.

### **Accessory Structure, Building, or Use**

A building or use that is all of the following: a) constructed or located on the same zoning as the main building, or use served, except as may be specifically provided elsewhere in this Ordinance; b) clearly incidental to, subordinate in purpose to, and serving the principal use; and c) either in the same ownership as the principal structure, building or use or is clearly operated and maintained solely for the comfort, convenience, necessity, or benefit of the occupants, employees, customers, or visitors of the principal use.

### **Adequate Service**

An approved construction plan demonstrating that all required public facilities and services will be constructed.

### **Adjacent**

Abutting and directly connected to or bordering.

### **Adjoining Properties**

Property that touches or is directly across a street from the subject property.

### **Administrator**

That person designated by the City Council to administer and enforce the provisions of this Unified Development Code.

### **Administrative Decisions**

Those decisions that are made by the City Administrator.

### **Adult-Oriented Business**

An adult arcade, adult bookstore, adult cabaret, adult lounge, adult novelty shop, adult service business, adult theater or other business that offers merchandise or entertainment emphasizing specified sexual activities or specified anatomical areas, and in which at least thirty five (35) percent of the retail gross floor area is devoted to offering merchandise described in above.

### **Affordable Housing**

Residential development designated for residents between thirty-one percent (31%) and eighty percent (80%) of the HUD-Adjusted Median Family Income.

### **Agriculture**

The use of land for the production and primary processing of food and fibers for sale, including cultivating, dairying, horticulture, pasturing, floriculture, silviculture, viticulture, animal and poultry husbandry, and such incidental accessory facilities as greenhouses and nurseries, provided that the operation of such accessory facilities shall be clearly secondary to normal agricultural activities. Agriculture includes, but is not limited to, the related activities of tillage, fertilization, pest control, harvesting, and marketing. It also includes, but is not limited to, the activities of feeding, housing, and maintaining of animals such as cattle, dairy cows, sheep, goats, hogs, horses, and poultry and handling their by-products.

**Agricultural Land**

Land carried on the Hays County Appraisal District tax rolls as agricultural land, or which is used for the purpose of conducting agricultural activities.

**Annexation**

The act of incorporating an area into the domain of the City.

**Apartment Building**

A multi-family dwelling with a common entrance and common amenities, such as garages, yards, and utilities.

**Aperture**

Opening in a wall for access, the admission of light or air (or both), or for defence or aesthetic reasons. Its sides are jambs, its top a head, lintel, or arch; and its bottom the cill.

**Bank (or Financial Service)**

Establishment primarily engaged in the provision of financial and banking services as permitted as commercial uses, including savings and loan institutions, loan and lending activities, and similar services.

**Bar (or Tavern)**

Establishment or places of business engaged in the preparation and retail sale of alcoholic beverages for consumption on the premises, including taverns, bars cocktail lounges, and similar uses other than a restaurant as that term is defined herein.

**Bed and Breakfast**

A house that is used as a lodging facility for paying guests. A Bed and Breakfast is generally a smaller lodging facility than a hotel.

**Board of Adjustment (BOA)**

The BOA reviews and makes recommendations of on an appeal of an Administrative Decision and Administrative Exception or Variance to a zoning decision.

**Bikeway**

Right-of-way with a primary function to carry bicycle traffic.

**Block**

An area of land bounded by streets, or by a combination of streets and public parks, cemeteries, railroad rights-of-way, banks of waterways, or municipal boundary lines.



**Block face**

The properties abutting on one side of a street and lying between two nearest intersecting or intercepting streets, or nearest intersecting or intercepting street, non-subdivided land, watercourse, or municipal boundary.

**BSEACD**

Barton Springs Edwards Aquifer Conservation District

**Buffer**

A strip or area of land, identified on a site plan or in a zoning ordinance, established to separate one type of land use from another land use. Normally, the area is landscaped or kept in open space use.

**Building Footprint**

That portion of a lot covered by the total area within a building's perimeter measured from the outside of all exterior walls, supporting columns, or other features at ground level. In the absence of surrounding exterior walls, the building footprint shall be the area under the horizontal projection of the roof.

**Build-to Line**

The line on which the front of the building must be located.

**Building Permit (or Development Permit)**

A written authorization to construct, erect, or alter a structure or building as issued by the City Administrator.

**Building Official**

An agent of the City who inspects building construction for plan/permit compliance.

**Caliper**

The diameter of a tree trunk measured at four feet above the root collar.

**Campground**

Campground facilities providing camping and/or parking areas and incidental services for travelers in recreational vehicles or tents.

**Canopy**

A roof-like structure of a permanent nature which may be freestanding or projected from a wall of a building or its supports.

**Canopy, Tree**

The area covered or shaded by a tree.

**Cemetery**

Land used for the burial of the dead, and dedicated for cemetery purposes, including columbarium's, crematories, mausoleums, memorial parks, and mortuaries, when operated in conjunction with and within the boundary of such cemetery.

**City Council**

The Mayor and City Council for the City of Buda.

**Club, Private**

A use providing meeting, recreational, or social facilities for a private or nonprofit association, primarily for use by members and guests.

**Cluster Development**

A development concept which encourages and permits variations in residential developments by allowing deviation in lot size, type of dwelling, lot coverage and open space from that which is normally required in the applicable zoning district. Dwelling units are concentrated in the selected area(s) of the development tract in order to provide natural habitat, agriculture, or other open space uses on the remainder.

**Co-location**

The location of multiple units of a particular use on a single site or structure, often by lease or license agreement. Co-location is often used to locate Wireless Transmission Facilities.

**Common Areas**

Locations in a subdivision that are not maintained by the homeowner such as and include but are not limited to parks, medians, greenbelts, and drainage areas

**Community Service Use**

A use that may be allowed in a residential area with a special use permit including volunteer service organizations, church services, and other similar services for the benefit of the community (not necessarily a City service).

**Comprehensive Plan**

The Comprehensive Plan of The City of Buda, as approved by the City Council, including any amendments. or extensions.

**Comprehensive Drainage Plan**

The adopted City of Buda Drainage Master Plan.

**Comprehensive Utility Plan**

The adopted City of Buda Utility Plan.

**Competent Court of Record**

A court having the jurisdiction or power to hear a case.

**Conditional Use**

A permitted use of property authorized by this Code, but not permitted unless certain stated conditions have been met.

**Convenience Store**

A small retail self-service store selling a limited line of fast-moving food and nonfood items, usually with extended hours of operation.

**County**

Hays County, Texas.

**Court**

An open, unoccupied space, bounded on more than two (2) sides by the walls of a building. An inner court is a court entirely surrounded by the exterior walls of a building. An outer court is a court having one (1) side open to a street, alley, yard or other permanent space.

**Culvert**

A drainage structure placed beneath an embankment typically with a span of less than twenty (20) feet.

**Damage, Substantial**

Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged-condition would equal or exceed 50% of the market value of the structure before the damage occurred.

**Day**

Calendar day, unless otherwise specified.

**Day Care Center (or Child Care Center)**

Any place, home or institution that receives nine (9) or more children under the age of fourteen (14) years, and not of common parentage, for care apart from their natural parents, legal guardians, or custodians, when received for regular periods of time for compensation, provided that this definition shall not include public or private schools organized, operated, or approved under Texas laws, custody of children fixed by a court of competent jurisdiction, children related by blood or marriage within the third degree to the custodial person, or to churches or other religious or public institutions caring for children within the institutional building while their parents or legal guardians are attending service, activities, or meetings.

**Day Care Center, Family**

A private residence where eight (8) or fewer children receive care and supervision for periods of less than 24 hours per day.

**Dedication**

The setting aside of certain land by the owner and declaring it to be for public use, for example, streets, sidewalks and parks.

**Density**

The allowable, proposed or existing number of dwelling units per acre within a defined and measurable area.

**Density, Allowable**

The total number of units permitted by the City for a tract of land. Allowable Density is based on the Gross Density, lot standards found in Table 5.1, and restrictions imposed by non-subdivided land, watercourse, or municipal boundary.

**Density, Gross**

The number of dwelling units allowed per the base zoning district multiplied by the total site acreage. [Gross Density = Gross Site Area \* Allowable Density]

**Density, Maximum Development**

The maximum number of units per acre that may be placed on a tract in a particular zoning district under specified development conditions, not to exceed 120% of the allowable density for that district.

**Department Store**

A large retail store that sells a variety of merchandise, organized into departments according to the kind of merchandise.

**Detached Building**

A building surrounded by an open space on the same lot.

**Detention Services**

A publicly operated use providing housing and care for individuals legally confined.

**Developer (or Subdivider)**

A person with freehold, possessor, or contractual interest in land proposed for development.

**Development (or Improvement)**

The construction or substantial alteration of open lands, or agricultural, residential, commercial, industrial, institutional, or transportation facilities or structures including any man-made change to improved or unimproved real estate, including, but not limited to buildings and other structures, dredging, fill, grading, paving, clearing, excavation, dumping, extraction, or storage of equipment or materials. Development includes the process of subdivision.

**Development Applications**

Applications submitted to the City for consideration of a permit for construction.

**Development Project Completion**

The release of the development bond, if required; or the acceptance of the project's streets, utilities, and public services by the responsible Department(s); or the designation by the City Council (Planning and Zoning Commission) that a development project has been completed, or a particular stage of a staged development project, including a planned unit development, has been completed.

**Dormant Project**

Project on which no progress has been made towards completion in the permitted period of time, as defined by the Texas Local Government Code § 245.005

**Drip Line**

The perimeter of a tree canopy.

**Drive-Through Facility**

Facility provided by an establishment or place of business for the purpose of allowing a customer or patron to transact business, whether it be to pick-up, drop-off, ordering, or service, from a motor vehicle.

**Driveway**

A private access road, drive, or lane to an individual residence or building, which is contained within the lot or parcel and is not intended to serve any other lot or parcel of land.

**Dwelling**

A building, or portion thereof, designed or used exclusively for residential occupancy, including single-family dwellings, two-family dwellings, and multiple-family dwellings, but not including hotels and motels.

**Dwelling, Attached**

A dwelling that is located on its own lot but joined to another dwelling on one or more sides by a wall or part of a wall.

**Dwelling, Detached**

A dwelling that is entirely surrounded by open space on the same lot.

**Dwelling Unit**

One room, or rooms connected together, constituting a separate, independent housekeeping establishment for human occupancy, or rental or lease on a weekly, monthly or longer basis, and physically separated from any other rooms or dwelling units which may be in the same structure, and containing independent cooking and sleeping facilities.

**Easement**

A right to land, generally established in a real estate instrument or on a recorded plat, to permit the use of land by the public, a legal entity, or particular persons for specified uses.

**Eating Establishment (or Restaurant)**

A use engaged in the preparation and retail sale of food and beverages, including sale of alcoholic beverages when conducted as an accessory or secondary feature and producing less than fifty (50) percent of the gross income. A general restaurant may include live entertainment with amplified sound. Typical uses include restaurants, coffee shops, dinner houses, dinner theater, and similar establishments with incidental alcoholic beverage service.

**Educational Facility**

A public or private school (not a day care) for primary or secondary education, or other educational services such as driver's education, beauty school, etc.

**Edwards Aquifer Contributing Zone**

All land generally to the west and upstream of the Edwards Aquifer Recharge Zone that provides drainage into the Edwards Aquifer Recharge Zone.

**Edwards Aquifer Recharge Zone**

The boundaries of the recharge zone shall encompass all land over the Edwards Aquifer, recharging the same, as determined by the Texas Commission on Environmental Quality (TCEQ formerly TNRCC) and the Barton Springs Edwards Aquifer Conservation District (BSEACD).

**Efficiency Unit**

A dwelling unit consisting of 1 principal room, exclusive of bathroom, kitchen, hallway, closets, or dining alcove directly off the principal room, providing such dining alcove does not exceed 125 sq. ft. in area.

**Engineer**

Unless otherwise specified, any mention of “Engineer” refers to the City Engineer.

**Entertainment, Indoor**

Predominantly spectator uses conducted within an enclosed building. Typical uses include motion picture theaters, meeting halls, and dance halls.

**Entertainment, Outdoor**

Predominantly spectator uses conducted in open or partially enclosed or screened facilities. Typical uses include sports arenas, racing facilities, and amusement parks.

**Estoppels**

A bar preventing one from making an allegation or a denial that contradicts what one has previously stated as the truth.

**Excavation**

Any act by which soil or rock is cut into, dug, quarried, uncovered, removed, displaced, or relocated including the conditions resulting there from.

**Exterior Features**

The architectural style, design, and general arrangement of the exterior of a historic resource, including the color, nature, and texture of building materials, and the type and style of all windows, doors, light fixtures, signs, or other similar items found on, or related to, the exterior of a historic resource.

**Extraterritorial Jurisdiction (ETJ)**

The unincorporated area that is contiguous to the corporate boundaries of the municipality and that is located within one-half mile of those boundaries (in the case of a municipality with fewer than 5,000 inhabitants). The ETJ increases as population increases.

**Façade**

The entire building wall (including street wall face, parapet, fascia, windows, doors, canopy and roof) on any completed building.

**Façade Easement**

Applies to a Certificate of Design Compliance. In the case of a request of a Demolition of a Historical Site, the Front Façade of said historic building may remain after demolition as an easement to protect the façade in perpetuity.

**Façade, Articulated**

Wall face that is visually divided into smaller components.

**Family**

An individual or group of two (2) or more persons related by blood, marriage, adoption or guardianship including foster children, exchange students, and servants together

with not more than two (2) additional persons not related by blood, marriage or adoption to the previously identified individual or group, living together as a single housekeeping unit in a dwelling unit or a Family Home for the Disabled as defined by the Community Homes for Disabled Persons Location Act, Article 1011n of V.A.C.S., as it presently exists or may be amended in the future, but not including household care or rehabilitation care facilities.

**Family Home**

A community-based residential home operated by either the State of Texas, a nonprofit corporation, a community center organized pursuant to State statute, or an entity which is certified by the State as a provider for a program for the mentally retarded. Family homes provide care for persons who have mental and/or physical impairments that substantially limit one or more major life activities. To qualify as a family home, a home must meet the following requirements:

Not more than six (6) disabled persons and two (2) supervisory personnel may reside in a family home at the same time. The home must provide food and shelter, personal guidance, care, rehabilitation services, or supervision. All applicable licensing requirements must be met.

**Fence**

A barrier made of wire, wood, metal, masonry, or other material used as a screen or enclosure for a yard or open space. It includes a wall, gate, or structure which that functions to enclose an open space or yard; however, a retaining wall, freestanding sign, or landscape structure is not considered a fence except for that portion which that functions as a fence.

**Fill**

A deposit of materials of any kind placed by artificial means.

**Fiscal Surety**

Fiscal surety is for the purpose of securing the estimated cost of completing capital improvements, should the City find it necessary to complete the improvements instead of the landowner or developer. Fiscal surety can be in the form of a line of credit or Assurance of Bonds.

**Floodplain**

Land typically adjacent to a body of water with ground surface elevations that are inundated by the base flood.

**Floodplain, 100-Year**

An area along or adjacent to a stream or body of water that is capable of storing or conveying floodwaters during a 100-year frequency storm event, or a 100- year flood.

**Floor Area, Gross.**

The total area of all floors of a building measured to the outside surfaces of the exterior walls.

**Floor to Area Ratio (FAR)**

The gross floor area of the building or buildings on a zoning area divided by the total area of such zoning area. The "floor area ratio" requirements, as set forth under each

zoning district, shall determine the maximum floor area allowable for the building or buildings (total floor area of both principal and accessory buildings) in direct ratio to the gross area of the zoning area.

**Food Market**

Establishment or place of business primarily engaged in the retail sale of food (with incidental sale of beer and wine) or household products for home consumption, such as groceries, delicatessens, meat markets, retail bakeries, and candy shops. Restaurants are specifically excluded from this definition.

**Frontage**

The length of all the property fronting on one side of a street between the two nearest intersecting streets, measured along the line of the street; or if dead-ended, then all of the property abutting on one side between an intersection street and dead end of the same.

**Fuel Service Station (or Service Station)**

Use providing fuel, lubricants, parts and accessories, and incidental services to motor vehicles.

**Funeral Home**

Establishment engaged in undertaking services such as preparing the human dead for burial and arranging and managing funerals, and permitted as a commercial use.

**Garden Home**

A residential dwelling located on a high density lot and utilizing zero-lot line development standards.

**Geographic Information System (GIS)**

The City will maintain an electronic mapping system in National Geodetic Vertical Datum (NGVD) of 1929 elevation. Surveys and plats submitted for review and Flood Elevation Certificates are required to be referenced to NGVD. The GIS interface for the City is ArcView (an ESRI Product).

**Global Positioning System (GPS)**

A technology used to identify exact geographical coordinates for use in surveying and planning.

**Government Facility**

A use owned and operated by a government entity.

**Grade Elevation**

A measurement determined by averaging the elevations of the finished ground at all corners and/or other principal points in the perimeter wall of the building.

**Grade, Existing**

The vertical location of the existing ground surface prior to excavating or filling.

**Grade, Finished**

The final grade or elevation of the ground surface conforming to the proposed design.



**Grading**

Any stripping, excavating, filling, including hydraulic fill, stockpiling or any combination thereof. Grading does not include plowing, disking and cultivating for lawn establishment or renovation.

**Greenbelt**

A continuous area of open land.

**Guarantee of Performance**

A credit guarantee that a prospective developer provides to the City of Buda to provide assurances to the City that the work on the development (particularly infrastructure improvements) will be made according to original plans as approved.

**Health Officer**

Health Officer for Hays County.

**Height**

The vertical dimension measured from finished grade to the highest point of the thing being measured.

**Height, Building**

The vertical distance measured from finished grade to the highest point on a flat roof or a mansard or the midpoint between the cornice and the eave on a pitched roof.

**Historic District**

A historic resource comprised of two (2) or more properties which that are significant as a cohesive unit and contribute to historical, architectural, archeological, or cultural values, which has been identified by the Historic Preservation Commission and duly classified pursuant to the procedures of the Texas Historical Commission. A historic district includes all property within its boundaries, and may overlay any zoning district.

**Historic Landmark**

Any individual historic resource that is significant and contributes to historical, architectural, archeological, or cultural values, which has been identified by the Texas Historical Commission and duly classified.

**Historic Resource**

An area of land, building, structure, or object, or a group or combination thereof, including appurtenances and environmental setting which that may be significant in national, state, or local history, architecture, archeology, or culture.

**Home Occupation**

An accessory use of a dwelling as a personal service or profession use that shall constitute all or some portion of the livelihood of a person or persons living in the dwelling, and which does not change the residential character of the dwelling.

**Hospital**

A facility providing medical, psychiatric, or surgical service for sick or injured persons, on an in-patient or out-patient basis, and including emergency treatment, diagnostic services, training, research, administration, and services to patients, employees, or visitors. Permitted as a Medical Facility.

**Hotel (or Motel)**

A use in which lodging or meals and lodging are offered to the general public for compensation and may contain such accessory services and facilities as newsstands, personal grooming facilities and restaurants. Use is permitted as Overnight Accommodation.

**Hydrazone**

A distinct area of landscaping or vegetation requiring a similar intensity of irrigation throughout, or a landscaped area designed as a plant grouping with an appropriate irrigation system.

**IH-35 Corridor**

The area of the city that is within five hundred (500) feet of the IH-35 frontage road within the city limits and extraterritorial jurisdiction (ETJ) of the city.

**Impervious Material**

A material that does not allow infiltration.

**Impervious Surface**

Any building, road, parking, driveway, paving, patio, deck, stoop, porch, steps, walkway, pier, swimming pool, or other improvement constructed on a lot which reduces the infiltration capacity of the land or results in increased storm water runoff. Wooden decks and walkways (or portions thereof) shall be credited by fifty (50) percent of their total square footage.

**Impracticable**

Not capable of being put into practice or of being done or accomplished.

**Improvement, Substantial**

Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds fifty percent (50%) of the market value of the structure (less land value) either: (a) before the improvement or repair is started; or (b) if the structure has incurred substantial damage and been restored, before the damage occurred. Substantial improvement occurs when the first alteration of any wall, ceiling, floor, or other structural part of the building commences. The minimum repairs needed to correct previously identified violations of local health, safety, or sanitary codes, and alterations to historic structures which that do not preclude their continued designation as historic structures are not considered substantial improvements.

**Industrial, Heavy**

A use engaged in the basic processing and manufacturing of materials or products predominately from extracted or raw materials, or a use engaged in storage, or manufacturing processes utilizing flammable or explosive materials, or storage or manufacturing processes which potentially involve hazardous or commonly recognized offensive conditions.

**Industrial, Light**

A use engaged in the manufacture, predominantly from previously prepared materials, of finished products or parts, including processing, fabrication, assembly, treatment, and packaging of such products, and incidental storage, sales, and distribution of

such products, but excluding basic industrial processing. Typical uses include winery, sheet metal shop, welding shop and machine shop.

**Infiltration**

The passage or movement of water into the soil surface. Also means, potable or non-potable water from dripping or leaking pipes, valves, plumbing or fixtures, or seep water, rain water or storm water entering in sewer lateral lines on private property through cracks, pipe joints, openings or other defects in the lateral line

**Irrigation Efficiency**

The measurement of water lost to evaporation and run-off from an irrigated area, derived from the ratio between the plant water requirement and the irrigation requirement.

**Junk (or Salvage) Yard**

An open area where waste or scrap materials (including but not limited to scrap iron and other metals, paper, rags, rubber tires, and bottles) are bought, sold, exchanged, stored, baled, packed, disassembled, or handled. A "junk or salvage yard" includes an auto wrecking yard, but does not include uses established entirely within enclosed buildings.

**Kennel**

Boarding and care services for dogs, cats and similar small animals.

**Land Clearing (or Disturbance)**

The removal of trees and vegetative ground cover from the land, not including the ordinary mowing of grass.

**Land Clearing, Selective**

The careful and planned removal of trees, shrubs, and plants using specific standards and protection measures under an approved forest conservation plan.

**Landscape**

Any combination of trees, ground cover, shrubs, vines, flowers, or lawn planted in the ground or in ground level-containers.

**Landscaping Plan**

A plan showing dimensions and details for planting in a landscaped area.

**Loading Space or Loading Zone**

A space within or on the same lot as the principle building which provides for the standing, loading, or unloading of trucks or other vehicles.

**Loading Facilities, Off-street**

A site or portion of a site located off of a public road devoted to the loading or unloading of motor vehicles or trailers, including loading berths, aisles, access drives, and landscaped areas.

**Lot**

A portion of a subdivision or tract of land having frontage on a street or road which that is intended for development and which meets the requirements as a legal building site per this Ordinance Code.

**Lot Area**

The total horizontal area included within the lot lines of a site.

**Lot Area, Gross**

The area of a horizontal plane bounded by the front, side, and rear lot lines, but not including any area occupied by the waters of a recorded river or stream segment

**Lot, Corner**

A lot situated at the intersection of two (2) or more streets. On a corner lot, the front lot line is defined as that lot line which contains the narrowest of all street frontages abutting a public street or public/private right-of-way. However, for lots abutting any street designated as minor collector or higher in classification, all lot lines abutting such higher order streets shall be deemed front lot lines.

**Lot Coverage**

The total land area of a lot covered by all principal and accessory structures on a site, including projections but excluding eaves projecting less than 2.5 feet from a building, trellises and similar structures which that do not have solid roofs, and uncovered and unenclosed decks, porches, landings, balconies, and stairways, the portion of which is less than thirty [30] inches above grade.

**Lot Depth**

The horizontal distance from the midpoint of the front lot line to the midpoint of the rear lot line or to the most distant point on any other lot line where there is no rear lot line.

**Lot, Interior**

A lot other than a corner or reversed corner lot.

**Lot, Legal (or Lot of Record)**

A parcel of land which that has been legally subdivided and recorded in the official public records of Hays County.

**Lot, Reversed Corner**

A corner lot, the street side lot line of which is substantially a continuation of the front lot line of the first lot to its rear.

**Lot, Through**

A lot having a pair of opposite lot lines along two (2) more or less parallel public streets, and which is not a corner lot. On a "through lot", both street lines shall be deemed front lot lines.

**Lot Width**

The horizontal distance measured at the front building line.

**Lot Line, Front**

That boundary of a lot that is along an existing or dedicated public street, or, where no public street exists, is along a public way.

**Lot Line, Rear**

Any boundary of a lot that is not a front lot line or a side lot line but generally running parallel to, and opposite of, a front lot line.

**Lot Line, Side**

Any boundary of a lot that is not a front lot line or a rear lot line but generally running perpendicular to the front or rear lot lines.

**Majority, Simple**

The next whole number beyond fifty percent of the members present and voting (e.g., three out of either four or five; four out of either six or seven)

**Majority, Absolute**

The next whole number beyond fifty percent of all members authorized to vote, including those not present or present but not voting.

**Majority, Super**

The next whole number beyond a specified percent greater than fifty percent (e.g., two-thirds or three-fourths). A supermajority requirement may be either simple or absolute

**Manufactured Home, HUD Code**

A structure constructed after June 15, 1976, according to the rules of the United States Department of Housing and Urban Development, transportable in one (1) or more sections which, in the traveling mode, is eight (8) body feet or more in width or forty (40) body feet or more in length, or, when erected on site, is three hundred twenty (320) or more square feet, and which is built on a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning and electrical systems and bears a seal issued in accordance with Vernon's T.C.S Section 5521f. All references in this Code to manufactured housing or manufactured home(s) shall be references to HUD Code Manufactured Housing, unless otherwise specified.

**Masonry**

An exterior construction material consisting of brick, stone, split face concrete masonry units and faux stone or brick.

**Medical Clinic (or Medical Office)**

A use providing consultation, diagnosis, therapeutic, preventative or corrective personal treatment services by doctors, dentists, medical and dental laboratories, physical therapists, optometrists, and similar practitioners of medical and healing arts for humans licensed for such practice by the State of Texas. A clinic shall not include in-patient care (i.e., no overnight accommodation of patients).

**Mixed Use Development**

A development project that includes two or more types of uses.

**Mobile Home**

A structure constructed before June 15, 1976, transportable in one or more sections which, in the traveling mode, is eight (8) body feet or more in width or forty (40) body

feet or more in length, or, when erected on site, is three hundred twenty (320) or more square feet, and which is built on a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning and electrical systems.

**Modular Home (or Industrialized Housing)**

A dwelling that is manufactured in two or more modules at a location other than the home site and which is designed to be used as a residence when the modules are transported to the home site and joined together and installed on a permanent foundation system in accordance with the appropriate Building Codes of the City including plumbing, heating/air conditioning and electrical systems to be contained in the structure. The term modular home shall not mean nor apply to a mobile home as defined in the Texas Manufactured Housing Standards Act (Article 5221f V.T.C.S), nor is it to include building modules incorporating concrete or masonry as a primary component.

**Monumentation**

Markers and control points placed by a licensed land surveyor to indicate property lines.

**Natural Features**

Components and processes present in or produced by nature, including but not limited to, soil types, geology, slopes, vegetation, surface water, drainage patterns, aquifers, recharge areas, climate, floodplains, aquatic life, and wildlife.

**NGVD**

National Geodetic Vertical Datum of 1929 elevation reference points set by the National Geodetic Survey based on mean sea level. Surveys submitted for review and Flood Elevation Certificates are required to be referenced to NGVD.

**Nonconforming Structure**

A structure that was lawfully erected but which does not conform with the currently applicable requirements and standards prescribed in the regulations for the district in which the structure is located by reason of adoption or amendment of this Code.

**Nonconforming Use**

Any use of land, buildings, or structures, lawfully existing at the time of the enactment of this Code, or of any amendment hereto, governing use for the zoning district in which such use is located, which does not comply with all regulations of this its amendments.

**Non-point Source Pollution**

Pollution generated by diffuse land use activities rather than from an identifiable or discrete source or facility, and conveyed to waterways through natural processes, such as rainfall, storm runoff, or groundwater seepage, rather than by deliberate discharge. Non-point source pollution is not generally corrected by “end-of-pipe treatment,” but rather, by changes in land management practices.

**Nuisance**

A use of property or course of conduct that interferes with the legal rights of others by causing damage, annoyance, or inconvenience.

**Nursing Home (or Convalescent Home)**

A use providing bed care and in-patient services for persons requiring regular medical attention, but excluding facilities providing surgical or emergency medical services, facilities providing care for alcoholism, drug addiction, mental disease, or communicable disease.

**Occupancy**

Any use of, or activity upon, the premises.

**Occupancy, Certificate of**

The certificate issued by the City Administrator or designee that permits the use of a building or premises in accordance with the approved plans or permits and the provisions of law for the use and occupancy of the building in its several parts, together with any special stipulations or conditions of the building permit.

**Office**

An office or private firm or organization which is primarily used for the provision of executive, management, or administrative services. Typical uses include administrative offices, and services including real estate, insurance, property management, investment, personal, travel, secretarial services, telephone answering, photocopy and reproduction, and business offices of public utilities, organizations and associations, or other use classifications when the service rendered is that customarily associated with administrative office services.

**Offsets**

Structures or actions that compensate for undesirable impacts.

**Open Space**

Any land developed or undeveloped, reserved or dedicated, as yards, parks, landscaped green areas, and recreational areas, and is exclusive of areas developed for off-street parking, structures and streets.

**Open Space, Private**

An open area outside of a building adjoining and directly accessible to a dwelling unit, reserved for the exclusive use of residents of the dwelling unit and their guests.

**Outdoor Display**

Any merchandise, material or equipment situated outdoors and actively for sale.

**Parcel**

Any legally described area.

**Parking, Commercial**

Parking of motor vehicles on a temporary basis within a privately owned off-street parking facility, other than accessory to a principal use.

**Parking, Off-Street**

The space located off of a public road, designed, intended, used or required to park one passenger vehicle.

**Parking Space**

A concrete or asphalt surfaced area used for parking a vehicle, not on a public street or alley, together with a concrete or asphalt surfaced driveway connecting the area with a street, permitting free ingress and egress without encroachment on the street.

**Parapet**

A vertical false front or wall extension above the roof line.

**Performance Bond**

A type of Fiscal Surety that can be used to guarantee site improvements.

**Person**

The federal government, the State, a county, municipal corporation, or other political subdivision of the State, or any of their units, or an individual, receiver, trustee, guardian, executor, administrator, fiduciary, or representative of any kind, or any partnership, firm, association, public or private corporation, or any of their affiliates, or any other entity.

**Personal Service**

Establishment or place of business primarily engaged in providing frequently or recurrently needed services of a personal nature. Typical uses include beauty salons, barber shops, seamstresses, tailors, shoe repair shops, tanning salons, dry cleaning pick-up station services, and coin operated laundries.

**Phased Project**

A project developed pursuant to a subdivision or site plan, proposed to be developed in sections.

**Place of Worship**

A use, permitted as a Community Service Use, located in a permanent or temporary building and providing regular organized religious worship and religious education incidental thereto, but excluding private primary or private secondary educational facilities, community recreational facilities, and parking facilities. A property tax exemption obtained pursuant to Property Tax Code of the State of Texas shall constitute prima facie evidence of religious assembly use.

**Planning and Zoning Commission**

The duly appointed Planning and Zoning Commission of the City of Buda.

**Plat**

As used in this Ordinance Code, plat shall be a map of a tract of land showing boundaries of individual lots, parcels, streets, easements and rights-of-way prepared in accordance with this Ordinance Code as an instrument for recording in the official Public Records of Hays County.

**Plat, Administrative**

A minor plat, amending plat, replat, or development plat reviewed by the City Administrator

**Plat, Amending**



Any changes made to an approved preliminary plan or final plat. An amended plat is used to correct errors or omissions and does not remove covenants.

**Plat, Development**

Plat required for development of any property previously unsubdivided or unplatted which will not be divided into separate parcels for development

**Plat, Final**

A plat prepared by a licensed surveyor or registered engineer and submitted to the City for final approval which that is duly acknowledged by the owners or proprietors of the land, or by some duly authorized agent of such owners or proprietors, in the manner required for the acknowledgement of deeds and which that is to be filed for record in the office of the county clerk of Hays County.

**Plat, Minor**

A subdivision involving four (4) or fewer ~~not more than five (5)~~ lots fronting on an existing street, and not requiring any new street, extension of public sewage or water lines, or other dedication of land to the City.

**Plat, Replat**

A new plat that alters the restrictions of a previously adopted final plat

**Plan, General Development**

A map or plat designed to illustrate the general design features and street layout of a proposed subdivision which is proposed to be developed and platted in sections. Also called a Concept Plan or Bubble Plan.

**Plan, Construction**

The maps, drawings, and specifications indicating the proposed location and design of improvements to be installed in a subdivision/site plan.

**Plan, Preliminary**

A tentative drawing made by a licensed surveyor or registered engineer for inspection purposes only, showing the entire tract of land for which subdivision is sought. The drawing shall accurately describe all of said subdivision or addition by metes and bounds, locating the same with respect to an original corner of the original survey of which it is a part and giving dimensions thereof of said subdivision or addition, and dimensions of all streets, alleys, squares, parks, or other portions of same intended to be dedicated to public use, or for the use of purchasers or owners of lots fronting thereon or adjacent to

**Planned Development or Planned Unit Development (PUD)**

A parcel of land or contiguous parcels of land of a size sufficient to create its own environment, controlled by a single landowner or by a group of landowners in common agreement as to control, to be developed as a single entity, the environment of which is compatible with adjacent parcels and the intent of the zoning district or districts in which it is located; the developer or developers may be granted relief from specific land use regulations and design standards, and may be awarded certain premiums in return for assurance of any overall quality of development, including any special feature which that will be of exceptional benefit to the community as a whole and which that would not otherwise be required by this Ordinance Code.

**Point of Curvature**

The point where a circular curve begins.

**Point of Tangency**

The point where a circular curve ends.

**Postal Facility**

Postal service, including post offices and bulk mail processing or sorting centers, operated by the United States Postal Service, and permitted as a Government Facility.

**Preexisting**

In existence prior to the effective date of a specific regulation or Ordinance Code.

**Premises**

A zoning location, together with all buildings and structures thereon.

**Principal Structure (or Building)**

Any structure which houses a primary or principal use of the land on which it is located. Lots with multiple principal uses may have multiple principal structures. Storage structures, garages, and other clearly accessory uses shall not be considered principal structures.

**Principal Use**

A main or primary use of land, as distinguished from an “accessory use”. More than one principal use may exist on a tract if done so completely in accordance with this Ordinance Code.

**Project**

Any proposal for new or changed use, or for new construction, alteration, or enlargement of any structure, that is subject to the provisions of this Ordinance Code.

**Property Lines**

The lines bounding a zoning area.

**Public Infrastructure Facility**

Facility necessary to provide public utility services, such as generating plants, electrical switching facilities and primary substations, refuse collection or disposal facilities, water and wastewater treatment plants, and similar facilities, and the minor structures such as lines and poles which are necessary to support the principal development.

**Recreational Vehicle**

A vehicle built on a single chassis that is four hundred (400) square feet or less at the longest horizontal projection, self propelled or tow-able, and designed primarily for temporary living while traveling or camping.

**Recycling Facility**

An enclosed building where recyclable materials separated from other waste materials, including, but not limited to, scrap metals, paper, textiles, glass, and plastics, are received for the purpose of processing for upgrading, particle size reduction, volume

reduction, removal of undesired materials, baling, packing, disassembly, handling, or storage.

**Redevelopment**

The process of developing land which that is or has been developed.

**Repair Service, Consumer**

Establishments primarily engaged in the provision of repair services to individuals and households rather than firms, but excluding automotive and heavy equipment repair. Typical uses include appliance repair shops, watch or jewelry repair shops, or musical instrument repair shops.

**Research Facility**

Establishment primarily engaged in research of an industrial or scientific nature but excluding product testing. Typical uses include electronics research laboratories, space research and development firms, and pharmaceutical research.

**Residential use**

The occupancy of living accommodations on a wholly or primarily non-transient basis.

**Residential, Duplex**

The use of site for two dwelling units within a single building, other than a mobile home or modular home.

**Residential, Group**

The use of a site for residential occupancy of living accommodations by groups of persons not defined as a family, on a weekly or longer basis.

**Residential, Manufactured Home**

The use of a site for residential occupancy of a manufactured home (or mobile home) on a weekly or longer basis.

**Residential, Multi-family**

The use of a site for three or more dwelling units, within one or more buildings.

**Residential, Single-family**

The use of a site for only one dwelling unit, other than a mobile home or modular home.

**Residential, Townhouse**

The use of a site for two or more dwelling units, constructed with common or abutting walls each located on a separate ground parcel within the total development site, together with common area serving all dwelling units.

**Resource Extraction**

A use involving the on-site extraction of surface or subsurface mineral products or natural resources, such as quarries, borrow pits, sand and gravel operations, oil and gas extraction, and mining operations.

**Retail Sales**

Sale or rental of commonly used goods, and merchandise for personal or household use.

**Retirement Center**

A place of residence intended for the elderly which generally includes individual living units and facilities for meals, gathering, recreation, and some form of limited medical care.

**Right-of-Way**

Any dedicated area where a street, highway, thoroughfare, parkway, road, avenue, alley or other vehicular use facility is or will be constructed for public use.

**Screening**

A method of visually obscuring nearby structures or land uses (i.e. parking, vehicle use areas, outdoor storage) from another land use by use of one or a combination of fencing, walls, dense vegetation, and berming.

**Sediment**

Soils or other materials transported by wind or surface water as a product of erosion.

**Setback**

The minimum distance specified by this Code from the front, rear, and side lot lines, and extending across the full width of the lot, on which no building or structure may be erected.

**Sewerage System, Community**

Any system, whether publicly or privately owned, serving multiple lots, dwelling units, businesses, commercial or industrial establishments for the collection, transportation and disposal of sewage or industrial wastes of liquid nature, including various devices for the treatment of such sewage and industrial wastes.

**Sewerage System, Public**

The entire system of sewage collection, treatment, and disposal. Also applies to all effluent carried by sewers whether it is sanitary sewage, industrial wastes, or stormwater runoff.

**Shopping Center**

A grouping of retail business and service uses on a single site with common parking facilities.

**Sign**

An object, device, display, or structure, or part thereof, displayed outdoors or visible from a public way, which is used to advertise, identify, display, direct or attract attention to an object, person, institution, organization, business, product, service, event or location; or to express a point of view, by any means including words, letters, figures, design, symbols, advertising flags, fixtures, colors, illuminations or projected images. Each substantially different face of a sign shall constitute a separate sign.

**Sign Area**

The square foot area enclosed by the perimeter of the sign. Sign area shall include all lettering, wording, and accompanying designs and symbols, together with the background on which they are displayed, any frame around the sign and “cutouts” or extensions.

**Site**

Any tract, lot or parcel of land or combination of tracts, lots or parcels of land, which are in one ownership, or are contiguous and in diverse ownership and where development is to be performed as part of a unit, subdivision, or project as shown on an application.

**Site Area, Gross**

The total amount of acreage of raw land.

**Site Area, Net**

The portions of the site that exclude floodplain and wastewater irrigation area and the aggregate of 100% of land with a gradient of 15% or less; 50% of the land with a gradient of more than 15% but less than 25%; and floodplain, outside the Edwards Aquifer Recharge Zone, dedicated for public use

**Soil Stabilization**

The prevention of soil movement by any of various vegetative and/or structural means of soil movement.

**Special Use Permit**

A permit issued for a specific use that would not be appropriate generally or without restriction, the granting of which shall be based upon a finding by the Planning and Zoning Commission that certain conditions governing the proposed specific use as detailed in this Ordinance Code exist, that the use conforms to the Comprehensive Plan and that it is compatible with the existing neighborhood.

**Start of Construction**

The date of issue of the building permit for any development, including new construction and substantial improvements, provided that the actual start of the construction or improvement was within three hundred and sixty five (365) days of permit issuance. The actual start of construction is the placement of slab or footings, piles, columns, or actual placement of a manufactured home. For substantial improvement, the start of construction is the first alteration of any structural part of the building.

**Storage, General Outdoor**

All forms of outdoor storage not classified as outdoor display or limited outdoor storage, including items stored in shipping containers, and semi-trailers not attached to a truck.

**Storage, Limited Outdoor**

The temporary storage of goods in individual packaging and not in storage containers.

**Storage, Self**

Storage services primarily for personal effects and household goods within enclosed storage areas having individual access, but excluding uses such as workshops, hobby shops, manufacturing, or commercial activity. Typical uses include mini-warehousing and mini-storage units.

**Steep Slope**

A slope of over fifteen percent (15%) grade or greater incline, which is characterized by increased runoff, erosion and sediment hazards for slopes.

**Stormwater Management**

For quantitative control, a system of vegetative and structural measures that controls the increased volume and rate of surface runoff caused by man-made changes to the land; and for qualitative control, a system of vegetative, structural, and other measures that reduce or eliminate pollutants that might otherwise be carried by surface runoff.

**Story**

Part of a building between any floor and the floor next above, and if there be no floor above, then the ceiling above. A basement is a story if its ceiling is five (5) feet or more above the finished grade, or if it is used for business purposes, or if it contains any dwelling units other than one (1) dwelling unit for the caretaker of the premises.

**Street**

A public or private right-of-way which that affords a primary means of vehicular access to abutting property, whether designated as a street, avenue, highway, road, boulevard, lane throughway, or however otherwise designated, but does not include driveways to buildings.

Access Road: A street which is parallel and adjacent to an arterial street. It is designed to provide access to abutting properties so that the properties are sheltered from the effects of the through traffic on the arterial street or so that the flow of traffic on the arterial street is not impeded by direct driveway access from abutting properties.

Alley: A narrow roadway for access to an area of commercial, multifamily or industrial structures.

Arterial: An interregional road conveying traffic between growth areas. Efficient movement is the primary function of arterial roads, hence private access and frontage should be controlled and limited to high-volume generators of vehicle trips.

Collector: A street whose main purpose is to collect and direct traffic from local streets to arterial streets, to carry traffic between arterial streets or to provide access to abutting commercial or industrial properties or higher intensity residential land uses.

Cul-de-sac: a short local street having but one end open for vehicular traffic, the opposite end being terminated with a permanent turn-around. Elbow (or Eyebrow): The location on a local street that has a partial cul-de-sac on one side, or the intersection of two streets where a partial cul-de-sac is at the outer side of the intersection.

Local: A street whose primary function is to serve abutting land use and traffic within a neighborhood or limited residential district.

Local Side: A street that is a secondary access from residential streets to collector streets or a secondary access from residential street to residential street.

Parkway: An arterial street with a landscaped median or with supplemental width in the landscaped right-of-way which does not have continuous frontage roads.

Private Street: A private access, drive, or lane to more than one residence which that is contained within the lot or parcel and which is not dedicated to the public.

County Road: A public road or street which that is part of the Highway Maintenance System of Hays County.

### **Structure**

Anything constructed or erected, other than a fence or retaining wall, which requires location on the ground or if attached to something having a location on the ground, including but not limited to, buildings, advertising boards, poster boards, mobile homes, manufactured homes, gas and liquid storage tanks, garages, barns, and sheds.

### **Structural Alteration**

Any change in the supporting members of a structure, such as bearing walls, columns, beams, or girders.

### **TCEQ**

Texas Commission on Environmental Quality (formerly Texas Natural Resources Conservation Commission TNRCC)

### **Telecommunication Service**

Establishment primarily engaged in the provision of broadcasting and other information relay services accomplished through the use of electronic and telephonic mechanisms but excluding those classified as Major Utility Facilities. Typical uses include television studios, telecommunication service centers, telegraph service offices, film recording, sound recording, and cable television operations.

### **Topography**

The existing configuration of the earth's surface including the relative relief, elevation, and position of land features.

### **Traffic Calming Device**

A change in street alignment, installation of barriers, or other physical measure to reduce the negative effects of motor vehicle use, alter driver behavior and improve conditions for non-motorized street users in the interest of street safety, livability, and other public purposes.

### **Transfer Station**

An outdoor facility or enclosed building that receives municipal solid waste and/or rubble from collection vehicles and reloads the materials into trailers or other containers for the purpose of transporting it to a processing or final disposal facility.

### **Transportation Facilities**

Anything that is built, installed, or established to facilitate or provide a means of transport from one place to another.

### **Transportation Terminal**

A facility for loading, unloading, and interchange of passengers, baggage, and incidental freight or package express between modes or transportation, including bus terminals, railroad stations, airport terminals, and public transit facilities.

**Use of Property**

The purpose or activity for which the land or building thereon is designed, arranged or intended, or for which it is occupied or maintained.

**Utility**

A public corporation, company or special district organized to provide a service to the subdivision, including but not be limited to electric, gas, or telephone companies and water and sanitation districts. Also any electric generating station, transmission, or service line providing water, sewer, electric, gas, telephone, and television or data cable service.

**Utility, Major**

Any manned utility that is not a minor utility.

**Utility, Minor**

An unmanned government facility or a facility located entirely in a linear easement or which requires 7500 sq ft or less.

**Utility Service**

A lot is "served" by city-owned water or sewer line if connection is required by this Code.

**Vehicle**

Every device, including major parts thereof, in, on, or by which any person or property is or may be transported or drawn on a transportation facility, except devices moved by human or animal power, or devices used exclusively on stationary rails or tracks.

**Vacation**

The termination of, or termination of an interest in, an easement, right-of-way, or public dedication of land.

**Variance**

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

**Variance, Judicial**

A grant of relief to a person from the requirements of this Code in matters considered judicial in nature, specifically lot area, setback, and height regulations.

**Variance, Legislative**

A grant of relief to a person from the requirements of this Code in matters related to all other development standards, considered legislative in nature.

**Vehicle, Motor**



Any passenger vehicle, truck, truck-trailer, or semi-trailer propelled or drawn by mechanical power.

**Vehicle, Abandoned**

Any motor vehicle, trailer or semi-trailer, or watercraft that is inoperative and left unattended on public or private property; or that has remained illegally on public or private property; or that has remained on public or private property and (a) does not display valid registration plates or (b) displays registration plates of another vehicle.

**Vehicle Sales and Service**

Establishments or places of business primarily engaged in automotive related or heavy equipment sales or services, including automotive and equipment repair, car washing, and vehicle storage.

**Vested Right**

The entitlement to develop enjoyed by a project because of the fact that the city issued a development order or permit for the project prior to the effective date of this Code.

**Veterinary Clinic and Services**

Veterinary services and hospitals for animals, such as pet clinics, dog and cat hospitals, and veterinary hospitals for livestock and large animals.

**Visible**

Capable of being seen (whether or not legible) by a person of normal height and visual acuity while walking or driving on a public road.

**Wall area**

Wall area shall be measured by calculating the continuous uninterrupted wall area (not including windows) on the elevation where a sign is to be placed.

**Warehousing and Freight Movement**

Establishments or places of business primarily engaged in wholesaling, storage, distribution and handling of materials and equipment other than live animals and plants.

**Waste**

Ashes, discarded wood, abandoned, discarded, or unused objects or equipment such as furniture, appliances, cans, or containers; garbage or refuse of any kind, whether liquid or solid; or any accumulation of any foul, decaying, or putrescent substances.

**Wastewater Gravity Facility**

Wastewater mains used to collect wastewater from residential, commercial, industrial, and institutional sources

**Wastewater Lift Station**

Wastewater facility used to pump wastewater from a lower elevation to a higher elevation

**Wastewater On-site Facility**

Wastewater facility used to collect and store wastewater within an individual lot and not connected to a public or community wastewater system.

**Water Supply System, Community**

A source of water and a distribution system, including treatment and storage facilities, whether publicly or privately owned, serving or providing potable water to multiple lots, dwelling units, businesses or commercial or industrial developments.

**Water Supply System, Public**

A system for the provision to the public of water for human consumption through pipes or other constructed conveyances. Such a system must have at least fifteen (15) service connections or serve at least twenty-five (25) individuals at least sixty (60) days out of the year. This term includes any collection, treatment, storage, and distribution facilities under the control of the operator of such system and used primarily in connection with such system, and any collection or pretreatment storage facilities not under such control which that are used primarily in connection with such system. Two (2) or more systems with each having a potential to serve less than fifteen (15) connections or less than twenty-five (25) individuals but owned by the same person, firm, or corporation and located on adjacent land will be considered a public water system when the total potential service connections by the combined systems are fifteen (15) or greater or if the total number of individuals served by the combined systems total twenty-five (25) or greater at least sixty (60) days out of the year. Without excluding other meanings of the terms "individual" or "served," an individual shall be deemed to be served by a water system if he lives in, uses as his place of employment, or works in a place to which drinking water is supplied from the system.

**Watershed**

All land lying within an area which that drains into a river, river system, or other water course.

**Wetlands**

Land transitional between terrestrial and aquatic systems where the water table is usually at or near the surface or the land is covered by shallow water. Classification of areas as wetlands shall follow the "Classification of Wetlands and Deep-water habitats of the United States" as published by the U.S. Fish and Wildlife Service (FWS/ OBS-79/ 31).

**Wholesale**

The selling of goods to merchants; usually in large quantities for resale to consumers.

**Yard**

Yards include the required setbacks and open space for individual lots. No yard for one lot shall be considered a yard for another lot as well, except in planned developments. Yards shall be measured from the property line of the site or street line to the nearest exterior wall of a structure.

**Yard, Front**

A yard extending along the full length of the front lot line of the zoning area.

**Yard, Rear**

A yard extending along the full length of the rear lot line of the zoning area.

**Yard, Side**

A yard extending along a side lot line measured from the front yard to the rear yard.

**Zero Lot Line**

Waiver of one side yard setback requirement for a single-family residential building as part of a subdivision. The minimum setbacks shall remain for at least one side of the lot.

**Zoning Area (or Zoning Lot)**

A single tract of land located within a block under contiguous ownership that meets the lot requirements for a permitted use as set forth in Chapters 4 and 5 of this Code.

**Zoning Overlay District**

A special district that is placed over the base zoning area which imposes additional restrictions.

**Zoning Floating Zone**

A district that is fixed on the base zoning area only upon City Council approval of a specific development application meeting the requirement of this Ordinance Code.

**Zoning Permit**

A written statement or certificate issued by the City Administrator (or his designee) authorizing buildings, structures, or uses in accordance with the provisions of this Ordinance Code.

**Sign Related Terms**

Abandoned Sign: A sign is an Abandoned Sign one year after the date the business, person or activity that the sign or sign structure identifies or advertises ceases to operate on the Lot on which the sign or structure is located. If the Lot containing the sign or sign structure is leased, the sign or sign structure shall become an Abandoned Sign on the second anniversary date after the date the most recent tenant ceases to operate on the Lot.

Animated Signs: Any sign or part of a sign that gives the visual impression of such movement by use of lighting or the exhibits intermittent or sequential flashing of natural or artificial light or color effects by any means whatsoever. A time and/or temperature sign shall not be considered an electronic graphics sign.

Banner: Any sign of lightweight fabric or similar material that is mounted to a building, poles, railings, or other structural parts of a building with or without frames. National flags, state or municipal flags, or the official flag of any institution or business shall not be considered banners.

Beacon: Any light with one or more beams directed into the atmosphere or directed at one or more points not on the same lot as the light source; also, any light with one or more beams that rotate or move.

Building Marker: Any sign indicating the name of a building and date incidental information about its construction, that sign is cut into a masonry surface or made of bronze or other permanent material.

Building Sign: Any sign attached to any part of a building, as contrasted to a freestanding sign.

Canopy Sign: Any sign that are part of or attached to an awning, canopy, or other fabric, plastic, or structural protective cover over a door, entrance, window, or outdoor service area. A marquee is not a canopy.

Commercial Message: Any sign wording, logo, or other representation that, directly or indirectly, advertises, or calls attention to a business, product, service, or other commercial activity.

Dilapidated Sign: Any sign that has become or has been caused to become partially ruined and in need of repairs, as through neglect.

Directional Sign: A sign erected and maintained by local officials within the public right-of-way, or on private property to indicate to the traveling public the route and distance to public accommodations, facilities, commercial services and points of scenic, historical, cultural, recreational, educational or religious interest. Such signs shall conform to all applicable state regulations regarding the placement of signs in public rights-of-way.

Electronic Reader Board: Signs whose alphabetic, pictographic, or symbolic informational content can be changed or altered on a fixed display screen composed of illuminated segments. A time and/or temperature sign shall not be considered an electronic graphics sign.

Existing Sign: Any sign erected, mounted, or displayed prior to the adoption or revision of Chapter 10 of the UDC.

Flag: Any fabric, banner, or bunting containing distinctive colors, patterns, or symbols, used as a symbol of a government, political subdivision, or other noncommercial entity.

Freestanding Sign: A sign self-supported by a pole or post and not attached to any building, wall, or fence, but in a fixed location. Types of freestanding signs include: monument and pole signs.

Illuminated Sign: Sign illuminated with lights that glare into or upon the surrounding area or any residential area or distract operators of vehicles or pedestrians in the public right-of-way.

Incidental Sign: A sign, generally informational, that has a purpose secondary to the use of the zone lot on which it is located, such as “no parking,” “entrance,” “loading only,” “telephone,” and other similar directives. No sign with a commercial message visible from off the zone lot on which the sign is located shall be considered incidental.

Inflatable Sign: A sign that is either expanded to its full dimensions or supported by gasses contained within the sign, or sign parts, at a pressure greater than atmospheric pressure.

Interior Sign: A sign displayed inside a building that is not within five feet of windows or doors.

Logo: A trademark or company name symbol.

Marquee: A sign painted on, attached to, or consisting of interchangeable letters on the face of a permanent overhanging shelter which projects from the face of a building. A minimum clearance of ten feet above the sidewalk level shall be required for pedestrians.

Monument Sign: An outside sign identifying a development, business, services, or homes (such as a shopping area or housing development) made of brick, masonry or stone, the bottom of which is attached directly and permanently to the ground and physically separated from any other structure.

Moving Sign: Any sign having visible moving revolving, or rotating parts, or visible mechanical movement of any kind, except for the movable hands on street clocks, or other apparent visible movement achieved by electrical, electronic, or mechanical means, except for time/temperature/date signs.

Multi-tenant Center: A commercial, office, or industrial development where there are located several separate business activities having appurtenant shared facilities, such as driveways, parking and pedestrian walkways

Multi-tenant Sign: A commercial sign identifying more than one business or organization located on the premises.

Non-Conforming Sign: Any sign that does not comply with the requirements of Chapter 10 of the UDC as it may be amended from time to time.

Obscene Sign: A sign displaying any matter in which the dominant theme of the material taken as a whole appeals to the prurient interest in sex, or is patently offensive because it affronts contemporary community standards relating to the description or representation of sexual matters, and is utterly without redeeming social value.

Off-Premise Sign: A sign that identifies goods, activities or services that are not sold or performed on the lot where the sign is located.

On-Premise Sign: A sign that identifies goods, services or activities that are sold or performed on the lot where the sign is located.

Permitted Sign: A sign for which a valid permit has been issued.

Pole Sign: A freestanding sign with the base of the actual sign area at least five feet above the ground supported by the vertical pole(s).

Political Sign: Any sign that advertises a candidate or an issue which is to be voted on in a local, state, or federal election process.

Portable Sign: Any sign not permanently attached to the ground or other permanent structure, or a sign designed to be transported, including, but not limited to: signs designed to be transported by means of wheels; signs converted to A- or T-frames; menu and sandwich board signs; balloons used as signs; and umbrellas used as advertising.

Projecting Sign: Any sign affixed to a building or wall in such a manner that its leading edge extends more than six inches beyond the surface of such building or wall.

Real Estate Sign: A temporary sign advertising the real estate upon which the sign is located as being for rent, lease or sale.

Residential Sign: Any sign located on a lot or in a district zoned for residential uses that contain no commercial message except the name and/or occupation of accessory uses that conform with all requirements of this code.

Roof Sign: Any sign erected and constructed wholly on and over the roof of a building, supported by the roof structure, and extending vertically above the highest portion of the roof.

Snipe Sign: A sign (made of any material) that is tacked, nailed, posted, pasted, glued or otherwise attached to trees, poles, stakes, fences, or other objects, with the subject matter appearing thereon not being applicable to the use of the premises upon which such sign is located.

Temporary Sign: A promotional sale sign, fund-raising sign, garage sale sign, or similar sign.

Time and Temperature Sign: An electrical sign utilizing lights going on and off periodically to display current time and temperature in the community.

Traffic Control Sign: A sign to regulate traffic that has been erected by municipal officers having jurisdiction over the public way.

Wall Sign: Any sign attached parallel to, but within six inches of, a wall, painted on the wall surface of, or erected and confined within the limits of an outside wall of any building or structure, that is supported by such wall or building, and that displays only one sign surface.

Window Sign: Any sign, picture, symbol, or combination thereof, designed to communicate information about an activity, business, commodity, event, sale, or service that is placed inside a window or upon the glass surface and is visible from the exterior of the window.

\*\* Any term not expressly defined in this section shall be defined by a common planning definition from the American Planning Association's, *A Planners Dictionary*. The City Administrator or his/her designee shall determine the appropriateness of a definition.

